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THE DOCUMENTARY HISTORY OF THE  
RATIFICATION OF THE CONSTITUTION

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Volume VIII

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Ratification of the Constitution  
by the States

VIRGINIA

[1]

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Editors

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

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

ARTICLE I.

*Sec't. 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't. 2.* The House of Representatives shall be composed of members chosen every second year by the people of the several states, and the electors in each state shall have the qualifications requisite for electors of the most numerous branch of the state legislature.

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

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



## RATIFICATION OF THE CONSTITUTION BY THE STATES

### Virginia

VIRGINIA (which also encompassed present-day Kentucky and West Virginia) was in 1787-1788 the largest, most populous, and most powerful state in the Union. From the earliest revolutionary incidents in 1765, Virginia had taken the lead. In 1765 and in 1774 Patrick Henry had voiced the determination to keep the freedom colonial Virginians had won over a 150-year period. Virginia delegate Richard Henry Lee moved for American independence in the Second Continental Congress and called for the creation of a form of confederation to bind the thirteen separate colonies together. Another Virginia delegate, Thomas Jefferson, drafted the document that declared and justified America's independence; yet another Virginian, George Washington, led the rag-tag American forces against the might of Great Britain. Nor did the Old Dominion relinquish its leadership in the subsequent movement to strengthen the central government of the Confederation which culminated in the Constitutional Convention of 1787.

This is the first of three volumes documenting the ratification of the Constitution by Virginia. It is the eighth volume in *The Documentary History of the Ratification of the Constitution*, an extraordinary library of manuscript and printed documents collected from hundreds of libraries, historical societies, and private collections. The Virginia documents have been compiled, annotated, indexed, and woven into a chronological whole which constitutes an unrivalled source for historical and legal scholars, librarians, and students of the United States Constitution.

This first Virginia volume contains an introduction explaining Virginia's role during the early years of independence, and documents the initial reaction in the state to the newly proposed Constitution. The documents describe the refusal of Governor Edmund Randolph and George Mason to sign the Constitution in the Federal Convention in Philadelphia; their cool reception back home; and the publication and impact of

*(continued on back endflap)*









THE DOCUMENTARY HISTORY OF THE  
RATIFICATION OF THE CONSTITUTION

VOLUME VIII

*Ratification of the Constitution by the States*

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

[1]



THE DOCUMENTARY HISTORY OF THE  
RATIFICATION OF THE CONSTITUTION

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Volume VIII

Ratification of the Constitution  
by the States

V I R G I N I A

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MADISON  
STATE HISTORICAL SOCIETY OF WISCONSIN

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## Organization

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

- (1) *Constitutional Documents and Records, 1776-1787* (1 volume),
- (2) *Ratification of the Constitution by the States* (13 volumes),
- (3) *Commentaries on the Constitution: Public and Private* (5 volumes),
- (4) *The Bill of Rights* (1 or 2 volumes).

### *Constitutional Documents and Records, 1776-87.*

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

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

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

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

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

The types of documents in the supplements are:

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

*Commentaries on the Constitution: Public and Private.*

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

*The Bill of Rights.*

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



## Editorial Procedures

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

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

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

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

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

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

## General Ratification Chronology, 1786-1791

### 1786

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

### 1787

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

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

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

## 1789

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

## 1790

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

## 1791

- 15 December Bill of Rights adopted.

# Calendar for the Years 1787-1788

## 1787

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

## 1788

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

## Introduction

### *The Declaration of Rights and the Constitution*

Virginia was one of the centers of opposition to British colonial rule, especially after 1774 when British policy became increasingly restrictive and non-conciliatory. In late March 1774 Parliament, angered by the Boston Tea Party, adopted the Boston Port Bill, closing the Port of Boston on 1 June. On 24 May the House of Burgesses resolved that 1 June be a day of fasting and prayer. On 26 May Lord Dunmore, the royal governor, dissolved the House. Some of the burgesses then issued a call for the members to meet in Williamsburg on 1 August. The burgesses met in the first revolutionary convention from 1 to 6 August, appointed delegates to the First Continental Congress, and adopted an association calling for complete non-importation. From this point, a succession of revolutionary conventions and the royal governor competed for control of the colony. Between March and August 1775 the second and third revolutionary conventions met and appointed delegates to the Second Continental Congress. Fighting broke out between British troops and the Virginia militia.

On 15 November 1775 Lord Dunmore, flushed with a victory over the patriot militia at Kemp's Landing, proclaimed martial law; freed slaves and indentured servants willing to fight for Great Britain; and established a loyalist association. The next day Robert Carter Nicholas, the president pro tempore of the third revolutionary convention, summoned that body to reconvene on 1 December. On 4 December the Second Continental Congress declared that Dunmore's action was equivalent to "tearing up the foundations of civil authority and government," and it urged Virginia "to resist to the utmost the arbitrary government intended to be established therein." Congress also recommended that if the convention of Virginia found it necessary to establish a new form of government, it should "call a full and free representation of the people, and that the said representatives, if they think it necessary, establish such form of government as in their judgment will best produce the happiness of the people, and most effectually secure peace and good order in the colony, during the continuance of the present dispute between Great Britain and these colonies." Although the second session of the third revolutionary convention (actually called the fourth revolutionary convention) probably received the congressional recommendations on 13 December, no action was taken for some time.

Many of the delegates to the fifth revolutionary convention, elected in April 1776, were instructed to urge Congress to declare indepen-

dence. The convention convened on 6 May and unanimously resolved on 15 May to instruct its delegates to Congress to propose independence, and that Congress form foreign alliances and a confederation of the colonies. It also resolved unanimously "that a Committee ought to prepare a Declaration of Rights and such a plan of government as will be most likely to maintain peace and order in this colony and secure substantial and equal liberty to the people." Convention President Edmund Pendleton appointed twenty-eight men to this committee which was eventually expanded to thirty-six. Included on this committee, in the order of their appointment, were Meriwether Smith, Patrick Henry, Edmund Randolph, William Cabell, Jr., Joseph Jones, John Blair, Cuthbert Bullitt, John Banister, Sr., Mann Page, Jr., James Madison, and George Mason. Mason took the lead in the committee, and within a few days he proposed a draft of the Declaration of Rights, which the committee revised and presented to the convention on 27 May. The convention debated and amended the revised draft, and on 12 June unanimously adopted the Declaration of Rights.

On 24 June the committee reported a draft constitution, also largely the work of George Mason. The convention amended the draft considerably and added a preface that congressman Thomas Jefferson included in his draft constitution that he forwarded from Philadelphia. The convention debated the draft constitution from 26 to 28 June and unanimously ratified it on the 29th. The new form of government went into operation immediately as the convention chose Patrick Henry governor and appointed a Council of State. The convention also ordered that an ordinance be prepared to divide Virginia into senatorial districts.

The Declaration of Rights codified the fundamental principles of government and the rights of a free people as they had developed in Great Britain and America. It also went beyond precedent in some provisions, as when it espoused the principle of separation of powers, prohibited general warrants, and guaranteed the freedom of the press. The Declaration omitted some important rights: the freedom of speech and assembly, the right of the writ of habeas corpus, and the right to legal counsel. Even so, it was an encompassing expression of the rights of freemen as they were understood in the late eighteenth century.

The Virginia constitution created a government divided into "legislative, executive, and judiciary" departments. The bicameral legislature, called the General Assembly, consisted of the House of Delegates and the Senate. Each county elected two delegates to the House, and the city of Williamsburg and the borough of Norfolk elected one each. The Senate consisted of one senator from each of twenty-four senatorial districts, elected for a four-year term. One-fourth of the senators

were elected annually. (For the qualifications of legislators and electors, see "The General Assembly Calls a State Convention," 25–31 October, notes 11 and 12, I below.) All bills had to originate in the House and had to pass both houses to become laws. The Senate could propose amendments to all bills, except money bills which it could only accept or reject in toto.

The governor was elected annually by joint ballot of the General Assembly, but he could not serve more than three successive terms. He exercised the executive powers of government with the advice and consent of an eight-member Council of State, which was also elected by joint ballot of the two houses. He could grant pardons and reprieves, but he had no veto power.

The state judiciary consisted of a Supreme Court of Appeals, a General Court, a Chancery Court, and an Admiralty Court. The judges of these courts were appointed by the General Assembly and continued in office during good behavior.

The most powerful institution on the local level was the county court, which exercised executive, legislative, and judicial functions. Justices of the peace, who served for life, were appointed by the governor on the recommendation of the county court, and were generally chosen from among the leading families. The sheriff, often the longest-serving justice, was nominated by the county court and approved by the governor.

Delegates to Congress were elected annually by joint ballot of the legislature. In 1777 and 1779 the legislature passed acts stating that seven delegates were to be elected annually, although, beginning in 1784, it restricted the number to five.

For the texts of the Declaration of Rights and the state constitution, see Appendix I.

#### *The Payment of the British Debts*

At the beginning of the Revolution, Virginians owed about £2,000,000 sterling to British creditors. In January 1778 the legislature suspended lawsuits for debts and permitted debtors to pay creditors by depositing money in the state loan office. Under this act, about 500 planters deposited paper money totalling £274,000, that, in 1786, had a value of only about £12,000 sterling. In 1780 the legislature repealed this act and the next year placed a moratorium upon the payment of foreign and domestic debts. In the spring of 1782 the legislature closed the state's courts to suits by British citizens.

On 30 November 1782 British and American commissioners signed the preliminary articles of peace. The fourth article stated that: "It is agreed that Creditors on either side, shall meet with no lawful Im-



pediment to the Recovery of the full value in Sterling Money of all bona fide Debts heretofore contracted." The fifth article called on Congress to recommend to the states that the confiscated property of British subjects and Loyalists be returned, while the seventh provided that the British would withdraw from all their posts on American soil and would not carry away the slaves in their possession when they evacuated. Congress received the preliminary articles on 12 March 1783 and soon after their contents were known in Virginia.

In the May 1783 session of the House of Delegates, a group of legislators, encouraged from outside the legislature by George Mason, wanted to see the debts paid. Consequently, Thomson Mason (George's brother) presented a bill for paying the domestic and foreign debts in five yearly installments, but the bill failed. The legislature, however, repealed the state laws that had authorized the confiscation of British property. By early 1784, reports circulated that Virginians would not pay their debts until the British compensated them for the slaves confiscated during the war and until the British abandoned their Northwest forts.

In the May 1784 session a group led by James Madison brought in a resolution calling for the repeal of legislation repugnant to the peace treaty, the final version of which had been signed in September 1783. The House defeated this measure and another one that proposed an installment plan to pay the debts. In the fall of 1784, in response to reports that the British were refusing to honor their treaty obligations in the Northwest, the House passed a bill providing for the payment of the debts in seven annual installments that were not to include interest payments for the years 1775 to 1783. The Senate amended the bill. A conference committee of the two houses then considered the bill, but by the time it reached agreement the House no longer had a quorum. In 1785 another effort was made, but the legislature adjourned before any action was taken.

By 1786 it had become increasingly apparent that the British would not evacuate the Northwest posts and that tension with the Indians on the frontier was mounting, in part, because of Britain's position. In October 1786 Secretary for Foreign Affairs John Jay sent Congress a long report concerning American infractions of the Treaty of Peace. The report proposed a resolution stating that treaties could not be interpreted or limited by the states because once "constitutionally made, ratified and published, they become, in virtue of the Confederation, part of the law of the land, and are not only independent of the will and power of such Legislatures, but also binding and obligatory on them." Another resolution proposed "That all *such* Acts or parts of Acts as may be now existing in either of the States, repugnant to the

treaty of peace, ought to be forthwith repealed," while a third urged that the states repeal all such laws. Congress unanimously adopted these resolutions on 21 March 1787 and sent them to the states on 13 April.

In the October 1787 session the House of Delegates linked the issue of debts to the proposed Constitution. Much of the opposition to the repeal of laws impeding the collection of British debts derived from "the danger of every defendant being hurried sooner or later to the seat of the federal government." Granting federal courts jurisdiction in this matter seemed to some "the most vulnerable and odious part of the constitution" (Edmund Randolph to James Madison, c. 29 October, I below). A vote on the debt question, then, might be a true test of the legislature's sentiments on the Constitution. On 14 November George Mason and George Nicholas moved that all laws repugnant to the peace treaty be repealed. Three days later, Mason and Nicholas agreed to a clause stating that the repeal law would be suspended until all of the states passed similar laws. Henry, however, moved to suspend the repeal law until Great Britain complied with the provisions of the peace treaty. The House defeated Henry's motion 75 to 42. William Ronald proposed an amendment providing that the debts be paid in installments, but this motion was defeated by Mason and his supporters by a vote of 69 to 48. The House then passed the original resolution (brought in earlier in the day) by a vote of 72 to 42 and appointed a committee to prepare a bill. The bill reported on 3 December was similar to the original resolution of 17 November. An amendment suspending the repeal act until the British complied with the treaty was again proposed. The House adopted the amendment by a vote of 80 to 31 and the bill became law on 12 December.

#### *Paper Money and Debtor Relief*

After the Revolution, Virginia redeemed much of its war debt by accepting its paper money in payment of taxes and for the sale of western lands and confiscated estates. When Virginia paper currency came into the treasury, it was destroyed, and the legislature refused to emit more paper money after 1781. Gold and silver payments for imports also reduced the amount of circulating currency, and fears of another government issue of paper money further contracted the circulation of gold and silver. This significant reduction of a medium of exchange contributed to the economic depression of 1785–87. During these years, petitions were received by the legislature calling for a new issue of state paper money to provide a circulating medium and a means to pay taxes. The feeling against paper money, however, was stronger than the sentiment for it; its considerable wartime deprecia-

tion was still remembered. On 1 November 1786 the creditor faction in the legislature, led by James Madison and allies of George Mason, overwhelmingly adopted a resolution charging that paper money "would be unjust, impolitic, and destructive of public and private confidence and of that virtue which is the basis of a republican government." The legislature also defeated some other debtor relief measures, although it passed a law permitting the payment of 1786 taxes in tobacco.

In the spring and summer of 1787 petitions for a variety of relief measures were circulated and articles on these subjects appeared in newspapers. John Marshall was worried that debtors would gain control of the legislature in the April elections. Some debtors, however, began to take more drastic actions. They tried to shut down county courts, and they threatened sheriffs who collected taxes. In May the courthouse was burned down in King William County, and in July the prison and county clerk's office in New Kent County were destroyed by fire. John Price Posey was arrested for the New Kent burning. In August an association was organized in Greenbrier County to oppose the payment of debts and taxes. In the same month, the office of the clerk of Westmoreland County was broken into and records and papers, dating back to 1776, were stolen. These activities were widely reported in newspapers and caused concern among Virginia's delegates to the Constitutional Convention.

When the legislature met in October 1787, it received a number of petitions for paper money and debtor relief. On 3 November George Mason presented a series of resolutions condemning paper money as "ruinous to Trade and Commerce, and highly injurious to the good People of this Commonwealth." He challenged its supporters to "come boldly forward, & explain their real Motives" (Mason to George Washington, 6 November, Rutland, *Mason*, III, 1011). No one came forward and the resolutions condemning paper money were adopted unanimously. Archibald Stuart referred to Mason's speech as the "funeral Sermon of Paper Money" (to John Breckinridge, 6 November, Breckinridge Family Papers, DLC). Again, some debtor relief measures were defeated, but two relatively minor ones were passed. The legislature amended the execution act so that it guaranteed that sales under execution would be postponed for a year if the property could not be sold for at least three-quarters of its appraised value. Another measure allowed tobacco to be used for the payment of 1787 taxes. Joseph Jones wrote James Madison that the execution bill was "calculated to give some relief to Debtors, without any direct interference with private contracts" (18 December, Rutland, *Madison*, X, 330). After exhausting the appeal process, the arsonist John Price Posey was hanged on 25 January 1788.

*The Navigation of the Mississippi River*

By provisions of its colonial charter, Virginia claimed all the land north of its southern border and west of the Allegheny Mountains. During the Revolution, Virginia sent an expeditionary force led by George Rogers Clark into the Illinois country. The success of this expedition solidified Virginia's claim to the West. In August 1779 Congress voted, with Virginia in the majority, to assert the American right to the free navigation of the Mississippi. In October the Virginia legislature instructed its delegates in Congress to defend American rights to the navigation of the river in diplomatic negotiations. The Treaty of Peace of 1783 established the Mississippi as the western boundary of the United States and it guaranteed Americans the right of free navigation. In June 1784 Spain closed the navigation of the river to Americans, thus infuriating westerners. The Virginia legislature was concerned that some westerners wanted war with Spain. Consequently, in November the legislature instructed its congressional delegates to urge Congress to secure as soon as possible the navigation of the Mississippi, which was "essential to the prosperity and happiness of the western inhabitants of this Commonwealth."

In the spring of 1785 Don Diego de Gardoqui, a Spanish diplomat, arrived in America to negotiate a commercial treaty. In August Congress instructed Secretary for Foreign Affairs John Jay "to stipulate the right of the United States to their territorial bounds, and the free Navigation of the Mississippi." Jay and Gardoqui entered into negotiations. They were soon at loggerheads over the Mississippi because Gardoqui had been instructed to insist upon Spain's exclusive right to the navigation of the river. In August 1786 Jay asked Congress to forbear the navigation of the river for twenty-five or thirty years so that the two countries could conclude a commercial treaty. Congressional delegates bitterly debated Jay's request for three weeks, and on 29 August Congress voted seven states to five to repeal Jay's instructions respecting the navigation of the river. The vote was sectional: the seven Northern States (Delaware was absent) voted for repeal, while the five Southern States, including Virginia, voted against it. Westerners and southerners were outraged when they learned of this vote. The North seemed willing to barter away the interests of the West in order to obtain commercial advantages for itself.

In Virginia, James Madison believed that, if Congress voted to allow Jay to give up the navigation of the Mississippi, "the hopes of carrying this State into a proper federal System will be demolished. Many of our most federal leading men are extremely soured with what has already passed. Mr. Henry, who has been hitherto the Champion of the federal cause, has become a cold advocate, and in the event of an

actual sacrifice of the Missppi. by Congress, will unquestionably go over to the opposite side" (to George Washington, 7 December 1786, Rutland, *Madison*, IX, 199–200). Madison's concern was understandable because the October 1786 session of the legislature had considered the report of the Annapolis Convention.

On 17 November 1786 the House of Delegates received a petition from its Kentucky members and others, expressing great alarm at the rumor that Congress was about to relinquish the navigation of the Mississippi for twenty-five or thirty years. This was an "unconstitutional" and "dangerous" action and "a violation of the foederal compact." They looked upon the free navigation of the river as a natural right. On 29 November a series of resolutions, probably written by Madison, was adopted by the House of Delegates. The resolutions instructed the state's congressional delegates to oppose any attempt by Congress to give up the right of navigation. A cession of that right would be a violation of the Articles of Confederation. Moreover, any failure to insist upon that right in negotiations with Spain would undermine the Union itself. The Senate adopted the resolutions on 7 December, and on 19 April 1787 they were laid before Congress, along with the petition from the Kentucky delegates and others.

In April 1787 the question of the navigation of the Mississippi became a volatile issue in Congress. On the 18th James Madison, who had returned to Congress after the hiatus of three years required by the Articles of Confederation, became so disturbed by Jay's position on this issue that he tried but failed to get the negotiations transferred to Thomas Jefferson, the American minister in Paris. At this point, Congress dropped the issue. Madison noted on 26 April: "the project of shutting the Mississippi was at an end; a point deemed of great importance in reference to the approaching Convention for introducing a Change in the federal Government, and to the objection to an increase of its powers foreseen from the jealousy which had been excited by that project" (Notes on Debates, *ibid.*, 407). On 31 August, William Grayson, another Virginia delegate, wrote Madison that "The Mississippi is in a State of absolute dormification" (*ibid.*, X, 159).

While Congress considered the Mississippi question in the spring of 1787, the West was in a state of turmoil. In late March, the members of the "court party" in Fayette County, Ky., sent a circular letter to the other county courts, expressing alarm about the rumors of the proposed cession of America's right to navigate the Mississippi. Early in the summer, several letters from the West (including Kentucky), also dealing with the Mississippi question, were widely circulated in the newspapers. The issue had died in Congress, but it was still very much in the public mind.

The Mississippi issue had a profound impact on the debates in the Constitutional Convention. Southern delegates realized that, in order to protect their interests, a two-thirds vote in the Senate should be required to ratify treaties. This provision would, in essence, give a united South a veto power over treaties. Some southerners felt that the two-thirds vote requirement should also apply to the passage of all commercial legislation further safeguarding Southern interests.

The debate over the Mississippi did not subside when Congress dropped the issue. On 12 November 1787 the House of Delegates passed three resolutions concerning the Mississippi. First, the navigation of the western waters by Virginians was a right given to them by God and nature. Second, any attempt by Congress to barter away this right was a violation of the principles of the American Revolution and “strongly repugnant to all confidence in the Federal Government.” Third, a committee was to be appointed to instruct the state’s delegates to Congress to oppose “the cession of the western navigation.” The committee that was appointed does not appear to have reported, and as late as 24 September 1788 congressional delegate James Madison asked Governor Edmund Randolph why the resolutions had not been forwarded to the state’s delegates. Unaware of these resolutions, Randolph sent Madison the resolutions of December 1786.

#### *The Efforts to Strengthen the Central Government*

Even before the Articles of Confederation were finally ratified on 1 March 1781, most Americans realized that Congress needed an independent source of revenue to finance the war. The issuance of paper money and the requisition system had not proven effective means of giving Congress financial independence. Many believed that import duties would be the best way for Congress to raise money, but the Articles of Confederation had not given Congress the power to tax. Consequently, in February 1781 Congress proposed an amendment to the Articles—the Impost of 1781—that would have given it the power to levy a five percent duty *ad valorem* on imported goods, the revenue of which would go toward the payment of the principal and interest on the war debt (CDR, 140–41). The Impost would remain in effect until the debt was paid. On 14 June 1781 the Virginia legislature ratified the Impost, and, because it believed that “commercial regulations” throughout the states should be “uniform and consistent,” it also authorized Congress to appoint collectors in Virginia. On 17 December 1781, however, the legislature suspended its ratification until the other states approved the Impost. By the fall of 1782 every state, except Rhode Island, had ratified the Impost. On 7 December 1782 the Virginia legislature repealed its ratification, declaring in the pream-



ble to the act that "permitting any power, other than the general assembly of this commonwealth, to levy duties or taxes upon the citizens of this state within the same, is injurious to its sovereignty, may prove destructive of the rights and liberty of the people, and so far as congress might exercise the same is contravening the spirit of the confederation in the eighth article thereof." The Virginia delegates to Congress, especially James Madison, were completely surprised by this action. Because amendments to the Articles of Confederation needed the unanimous approval of the state legislatures, the Virginia repeal (along with Rhode Island's refusal to ratify in November 1782) killed this first attempt to establish a federal revenue.

In April 1783 Congress, still intent on obtaining an independent revenue, submitted a comprehensive economic program to the states. Among other things, the states were asked to grant Congress, for twenty-five years, the power to levy a five percent *ad valorem* duty on imported goods and to grant it annually a supplemental income of \$1,500,000 for the same period of time (CDR, 146-48). The duties were to be collected by officers appointed by the states but "amenable to and removeable by" Congress alone. Opposition arose in the spring session of the Virginia legislature, where the majority was hostile to this extension of congressional power. After considerable debate, a bill was brought forth in which the proceeds of the Impost would go into the state treasury. Supporters of the Impost rejected the idea, as they did a compromise measure that would have kept the collection of the Impost totally under state control, though the proceeds would go to Congress. At an impasse, the legislature postponed the question until its next session. By the end of 1783 the climate of opinion had changed, and the legislature on 18 December granted Congress the Impost, stating in the preamble to its act of ratification that the Impost would "lighten" the burden of taxes on real and personal property. This would be "a great ease and relief to the people." The legislature, however, did not grant Congress the supplemental funds. (Only five states did.) The Impost, though, was eventually defeated in 1787 when New York refused to ratify it under conditions that were acceptable to Congress.

In December 1783 the legislature also turned its attention to foreign trade, another area in which Congress sought to increase its authority. The legislature on 12 December "authorized and empowered" Congress to retaliate against British restrictions on American ships in the West Indies trade by prohibiting the importation of West Indies goods in British vessels. Other states also encouraged Congress to retaliate, and on 30 April 1784 Congress resolved that the states grant it power to regulate commerce for fifteen years (CDR, 153-54). Virginia quickly

granted Congress this power on 29 June 1784, the first state to accede. Three days earlier, the legislature had also ratified an amendment to the Articles of Confederation, proposed by Congress in April 1783, that would have changed the basis of apportioning Confederation expenses among the states from land value to population (CDR, 148–50).

In late 1784 and early 1785 commerce again became a central issue. Trade had declined significantly, and Congress was only mildly successful in negotiating commercial treaties. Some states feuded over commercial regulations, and there was widespread displeasure with Congress' lack of commercial power. By the end of 1784, only five states had agreed to grant Congress the commercial power that it had requested in April 1784. Congress thus sought an alternative proposal and in December 1784 appointed a committee on "the general regulation of trade." On 28 March 1785, the committee, chaired by James Monroe, proposed an amendment to the Articles of Confederation giving Congress permanent power to regulate foreign and interstate commerce and to levy import and export duties, which would "be collected under the authority and accrue to the use of the State in which the same shall be payable" (CDR, 154–56). Virginia's congressional delegation split over this proposal. Richard Henry Lee believed that if the amendment were adopted, the Southern States would be at the "Mercy" of a "destructive Monopoly" of the Northern States. Such a situation would probably occur because "The Spirit of Commerce thro'out the world is a Spirit of Avarice" (to James Madison, 11 August, Rutland, *Madison*, VIII, 340). The amendment touched off a heated sectional debate in Congress and in July 1785 it was dropped.

Virginia and Maryland, acting in the vacuum created by Congress' lack of power to regulate commerce and seeking to resolve their differences, appointed commissioners to confer in March 1785. These commissioners signed an agreement "to regulate and settle the Jurisdiction and Navigation of Potomack and Pokomoke Rivers and that part of Chesapeake Bay which lieth within the Territory of Virginia." This meeting almost did not take place. Virginia appointed its commissioners (George Mason, James Madison, Edmund Randolph, and Archibald Henderson) on 28 June 1784, while Maryland appointed its commissioners in the fall. Maryland also proposed the time and place of the meeting, but Governor Patrick Henry failed to inform the Virginia commissioners. When the Maryland commissioners arrived in Alexandria, Mason and Henderson learned of the scheduled meeting and decided to confer with the Marylanders. George Washington invited the commissioners to hold their conference at Mount Vernon.

As the commercial depression deepened, the question of revising

the state's trade laws arose in the House of Delegates. Some wanted the state itself to retaliate against Great Britain, while others sought that power for Congress. In November 1785 resolutions were considered that would have authorized the state's congressional delegates to propose that Congress have the power to enact commercial regulations, with the proviso that they be adopted by two-thirds of the states and that they be in force for only thirteen years. A group of delegates opposed a temporary grant of power because it would endanger the adoption of a permanent grant. This opposition doomed the temporary grant on 1 December.

Soon after the grant was tabled, John Tyler introduced a resolution proposing that the states meet to consider the "Trade of the United States" and "to consider how far an uniform System in their Commercial regulations may be necessary to their common Interest and their personal harmony." The states were to report an "act relative to this great Object as, when unanimously ratified by them will enable the United States in Congress assembled effectually to provide for the same" (Rutland, *Madison*, VIII, 471). Tyler's motion was submitted to a committee. In the meantime, some delegates recommended several ways to strengthen the state's control over commerce. When these attempts failed, Tyler's resolution was resurrected and passed on 21 January 1786, "by a very great majority" (*ibid.*, 483).

James Madison, Edmund Randolph, and Walter Jones were the first commissioners appointed. St. George Tucker and Meriwether Smith were added, and the Senate completed the roster by naming George Mason, David Ross, and William Ronald. The latter declined the appointment. Madison was dismayed by both the number and composition of the commission, but he thought that a convention might "lead to better consequences than at first occur" (to James Monroe, 22 January, *ibid.*, 483). The idea of a convention to recommend an increase in the powers of Congress was not new. Joseph Jones had recommended one to Madison in 1785; and the year before John Francis Mercer and Richard Henry Lee had supported a convention.

On 19 February 1786 Edmund Randolph, writing on behalf of the Virginia commissioners, forwarded the resolution to the executives of the states, seeking their concurrence and recommending that the convention meet in Annapolis, Md., on the first Monday in September. Four days later, Governor Henry also wrote the state executives asking them and their legislatures to consider the matter (Appendix II, below).

Nine states elected delegates to the Annapolis Convention, but the delegates of only five states (including Virginia) attended between 11 and 14 September. The report of the Convention called upon the states to elect delegates to meet in convention in Philadelphia on the second

Monday in May 1787 “to devise such further provisions as shall appear to them necessary to render the constitution of the Fœderal Government adequate to the exigencies of the Union” (CDR, 177, 180–85).

In the summer of 1786, just before the meeting of the Annapolis Convention, agrarian violence in Massachusetts, known as Shays’s Rebellion, broke out and lasted until February 1787. There were also incidents or threats of violence in Vermont, New Hampshire, Connecticut, Pennsylvania, Maryland, South Carolina, and even Virginia. Many Virginians were unnerved and distressed by the violence. George Washington complained that “There are combustibles in every State, which a spark might set fire to” (to Henry Knox, 26 December 1786, Fitzpatrick, XXIX, 122).

In this atmosphere, the state legislature considered the report of the Annapolis Convention in November 1786. On the 23rd the legislature passed an act authorizing the election of delegates to meet in Philadelphia in May 1787. The legislature believed “that the crisis is arrived at which the good people of America are to decide the solemn question, whether they will . . . reap the just fruits of . . . Independence,” or give “way to unmanly jealousies and prejudices, or to partial and transitory interests.” Paraphrasing the Annapolis Convention’s report, the legislature called for the appointment of seven commissioners to join with those from other states to devise and discuss “all such alterations and further provisions, as may be necessary to render the Federal Constitution adequate to the exigencies of the Union.” These alterations were to be reported to Congress, and when agreed to by Congress, they were to be confirmed by the states (Appendix III, below). On 4 December the legislature appointed George Washington, Patrick Henry, Edmund Randolph, John Blair, James Madison, George Mason, and George Wythe as delegates to the Philadelphia Convention. On 13 February 1787 Henry wrote Governor Edmund Randolph declining the appointment, but he gave no specific reason. Randolph, however, wrote Madison that Henry refused to attend because he was “distressed in his private circumstances” (1 March, Rutland, *Madison*, IX, 301). During a debate over the ratification of the Constitution, Henry is alleged to have said that he refused his appointment because he “smelt a rat” (Hugh Blair Grigsby, *The History of the Virginia Federal Convention of 1788 . . .*, edited by R. A. Brock, *Collections of the Virginia Historical Society*, new ser., vols. IX–X [Richmond, 1890–1891], I, 32n). On 22 February Thomas Nelson, Jr., was named in Henry’s place, but Nelson declined. On 20 March Nelson was replaced with Richard Henry Lee, who also refused the appointment. (For Lee’s reasons for his refusal, see his 3 September letter to John Adams, I below.) On

5 April James McClurg, a member of the Council of State, was appointed.

Unbeknownst to most Virginians, George Washington—the most famous, admired, and popular man in America—also wanted to decline his appointment to the Constitutional Convention. On 21 December 1786 Washington wrote Governor Randolph that he would not go to the Convention. The news was not made public because Randolph, James Madison, and other prominent Virginians hoped to persuade Washington to change his mind. In the next few months, they wrote to Washington entreating him to attend because his presence was indispensable to the success of the Convention. Finally, on 28 March 1787 Washington wrote Governor Randolph that he would go to Philadelphia (CC:10). On 11 April the *Virginia Independent Chronicle* announced “with peculiar satisfaction,” that “our illustrious fellow citizen, GEORGE WASHINGTON, Esq.” had consented to attend the Convention (CC:11). With Washington, the Virginia delegation was the most prestigious one in the Convention, matched perhaps only by that of Pennsylvania with Benjamin Franklin at its head.

#### *The Virginia Delegates in the Constitutional Convention*

The Virginia delegation to the Constitutional Convention played an extraordinary role. The Convention, scheduled to meet on 14 May 1787, did not attain a quorum until the 25th. The lack of a quorum was not the fault of Virginia’s delegates. James Madison had arrived in Philadelphia on 5 May; George Washington on the 13th; John Blair, James McClurg, and George Wythe by the 15th; Randolph on the 15th; and Mason on the evening of the 17th. The seven delegates met for “two or three hours every day, in order to form a proper correspondence of sentiments” (Mason to George Mason, Jr., 20 May, Farrand, III, 23). In their discussions, the delegates were dependent upon and influenced by ideas that Madison had been formulating since the spring of 1786. These ideas are embodied in two memoranda: “Notes on Ancient and Modern Confederacies” (April–June? 1786) and “Vices of the Political System of the United States” (April–June 1787); and in letters to Thomas Jefferson, 19 March 1787, Edmund Randolph, 8 April, and George Washington, 16 April (Rutland, *Madison*, IX, 3–24, 317–22, 345–58, 368–71, 382–87). The product of the delegates’ discussions was the Virginia Resolutions which were presented to the Convention by Governor Edmund Randolph on 29 May.

The Virginia Resolutions provided for a two-house legislature, in which both houses were to be apportioned among the states according to their population or to the taxes they paid to the central government. The first house was to be elected by the people; the second by the

first from a list of persons nominated by the state legislatures. The national legislature would have all the power of Congress under the Articles of Confederation, plus the power "to legislate in all cases to which the separate States are incompetent, or in which the harmony of the United States may be interrupted by the exercise of individual Legislation." It could also veto state laws violating "the articles of Union" and use force to compel states to fulfill their duties.

The Resolutions proposed an executive to enforce the laws and "to enjoy the Executive rights vested in Congress by the Confederation." A judiciary was proposed that would have jurisdiction over cases involving foreigners or citizens of different states, the national revenue, "and questions which may involve the national peace and harmony." All state officers were "to be bound by oath to support the articles of Union." The new form of government was to be approved by Congress and submitted for ratification to state conventions elected by the people. (The text of these resolutions is printed in CDR, 243-45.)

The Convention, sitting in the Committee of the Whole, debated the Virginia Resolutions until 13 June, when the Committee reported the amended Virginia Resolutions to the Convention (CDR, 247-50). Between 15 and 19 June, the Committee of the Whole compared the merits of the amended Virginia Resolutions with the New Jersey Amendments to the Articles of Confederation (CDR, 250-53). On the 19th the Committee rejected the New Jersey Amendments, when it again reported the amended Virginia Resolutions to the Convention. These resolutions were debated and revised and were turned over to the Committee of Detail on 24 July. The Committee reported the first draft of the Constitution on 6 August.

In the Convention debates, only about a dozen delegates made substantial contributions, three of them Virginians—James Madison, Edmund Randolph, and George Mason. These three men were among the most frequent speakers: Madison (161), Mason (136), and Randolph (78) (*The Historical Magazine*, 1st ser., V [1861], 18). Randolph was a member of the five-member Committee of Detail, while Madison sat on the five-member Committee of Style that prepared the final draft. Madison, who also kept copious notes of the Convention debates, was the most influential Virginian, but the Constitution finally transmitted to Congress on 17 September was something of a disappointment to him. He believed that the new government was not sufficiently national. In particular, Madison was unhappy that the Constitution did not give Congress the power to veto state laws. (See Madison to Thomas Jefferson, 24 October, I below.) Nevertheless, Madison supported the Constitution vigorously and brilliantly in public and in private in the months after the Convention adjourned. Nowhere was this more ev-



ident than in his many contributions to *The Federalist* and his speeches in the Virginia Convention. (For the authorship and impact of *The Federalist*, first published in New York City, see CC:201. See also "The Republication of The Federalist in Virginia," 28 November 1787–9 January 1788, I below.)

If James Madison believed that the Convention had not granted sufficient powers to the new central government, Edmund Randolph and George Mason thought that it had gone too far. Randolph introduced and spoke on behalf of the Virginia Resolutions on 29 May. The next day he proposed resolutions declaring that "a union of the States merely federal" was inadequate and calling for a "*national Government . . . consisting of a supreme Legislative, Executive & Judiciary*" (Farrand, I, 33). In the succeeding debates, he continued to support a "*national Government*," although he objected to certain provisions of the draft constitution that did not sufficiently protect the liberties of the people or the interests of Virginia. Thus on 29 August, Randolph expressed doubts that he could support the Constitution. Two days later he advocated the idea that state conventions be permitted to propose amendments that would be submitted to a second constitutional convention. He renewed his proposal on 10 September after detailing his objections to the Constitution, and again on 15 September, when he announced that, if his proposal were not adopted, it would "be impossible for him" to sign the Constitution. After the Convention defeated his motion, Randolph refused to sign the Constitution, though he said that "he did not mean by this refusal to decide that he should oppose the Constitution without doors." (See "George Mason and Edmund Randolph in the Constitutional Convention," 12–15 September, I below.)

Before the Convention attained a quorum, George Mason wrote his son, describing the general principles that would be incorporated in the Virginia Resolutions, and anticipating great difficulty in achieving a strong national government while reserving sufficient power to the states. Mason believed, however, that "with a proper degree of coolness, liberality and candor (very rare commodities by the bye), I doubt not but it may be effected" (to George Mason, Jr., 20 May, Farrand, III, 23).

During most of the debates, Mason supported a strong central government, although, like Randolph, he insisted that the liberties of the people be safeguarded and that the interests of Virginia be protected. On 12 September he offered to second a motion for a bill of rights, which "would give great quiet to the people." Since the texts of the declarations of rights of the states were available, Mason thought that a bill of rights "might be prepared in a few hours." After Mason spoke,

Elbridge Gerry of Massachusetts moved that a committee be appointed "to prepare a Bill of Rights," and Mason seconded the motion. The Convention defeated the motion by the unanimous vote of the states. On the 15th, Mason seconded Randolph's motion for a second constitutional convention and warned against "the dangerous power and structure of the Government, concluding that it would end either in monarchy, or a tyrannical aristocracy. . . ." (See "George Mason and Edmund Randolph in the Constitutional Convention," 12-15 September, I below.) On the 17th, Mason, too, refused to sign the Constitution.

Although John Blair attended the entire Convention, there is no record that he spoke. The records do reveal that Blair opposed a single executive and supported the congressional veto of all state laws. James McClurg attended the Convention as late as 20 July. Writing from Richmond on 5 August, McClurg stated his reluctance to return to the Convention (Farrand, III, 67). George Wythe, the chairman of the rules committee, left the Convention by 4 June, "being called home by the serious declension of his lady's health" (Madison to Jefferson, 6 June, *ibid.*, 35), and on 16 June he resigned (*ibid.*, 59-60). There is no record that he spoke.

Virginia's seventh delegate, George Washington, was elected President of the Convention on 25 May. Since the Convention often met in the Committee of the Whole, Washington was frequently not in the chair, but still he did not speak in debate until the last day (CC:233). Outside of the Convention, Washington, like other Virginia delegates, advocated a strong central government to replace the one under the Articles of Confederation.

Even though Washington spoke in debate only once, his presence was critical to the success of the Convention since it gave that body a stature that it could not have attained otherwise. "Harrington" (Benjamin Rush), in a widely circulated newspaper essay, expressed this idea well: "Who can read or hear, that the immortal WASHINGTON has again quitted his beloved retirement, and obeyed the voice of God and his country, by accepting the chair of this illustrious body of patriots and heroes, and doubt of the safety and blessings of the government we are to receive from their hands?" (*Pennsylvania Gazette*, 30 May, CC:29).

## Note on Sources

### *Legislative Records*

The manuscript sources for the October 1787 [15 October 1787–8 January 1788] and the June 1788 [23–30 June] sessions of the Virginia House of Delegates are in the Virginia State Library. These sources include: (1) the Journals; (2) the minute books (October 1787 session only); (3) the attendance books (June 1788 session only); (4) the legislative petitions; and (5) the papers, consisting mostly of drafts of resolutions and bills. The House Journals for 1787 and 1788, were both published in 1788 (Evans 21556–57) and then reprinted in 1828. The Journal for 1788, however, is available only in the 1828 reprint edition. Neither the manuscript nor the contemporary printed journals of the October 1787 and the June 1788 sessions of the Senate have been located. At least one of these contemporary versions was available in 1828 when they were reprinted.

The legislative rosters for the House and the Senate are taken from Cynthia Miller Leonard, comp., *The General Assembly of Virginia, July 30, 1619–January 11, 1978, A Bicentennial Register of Members* (Richmond, 1978).

The acts passed in these two sessions were published in 1788 as *Acts Passed at a General Assembly of the Commonwealth of Virginia . . .* (Evans 21548–50). These acts are also printed in William Waller Hening, *The Statutes at Large; Being a Collection of All the Laws of Virginia, from the First Session of the Legislature, in the Year 1619* (13 vols., Richmond and Philadelphia, 1809–1823). The debates of 25 October 1787 on the resolutions for calling a state convention were printed in the Petersburg *Virginia Gazette* on 1 November. The legislature ordered two thousand broadside copies of these resolutions printed and distributed (Evans 20839).

### *Executive Records*

The executive records at the Virginia State Library include: (1) the Executive Letter Books, the governor's outgoing correspondence; (2) the Executive Papers, the governor's incoming correspondence; (3) the Executive Communications, mostly official incoming correspondence from other state executives and messages to the legislature; (4) the Continental Congress Papers, letters to and from Congress and delegates to Congress; and (5) the Journals of the Council of State. Much of the governor's incoming correspondence and other executive and administrative material have been printed in William P. Palmer et al., eds., *Calendar of Virginia State Papers . . .* (11 vols., Richmond, 1875–

1893). The Council Journals are printed in H.R. McIlwaine et al., eds., *Journals of the Council of the State of Virginia* (5 vols., Richmond, 1931–1982).

### *Personal Papers*

Many private letters and other documents are extant for the debate over the ratification of the Constitution in Virginia. The quantity is matched only by the documentation for the states of Massachusetts and New York. Both Federalists and Antifederalists are well represented, although the material for the former is greater. Private letter writers represented many professions and occupations, such as judges, legislators, members of Congress, Confederation and state officeholders, justices of the peace and other local officials, diplomats, Constitutional Convention delegates, state Convention delegates, lawyers, farmers, planters, merchants, business agents, land speculators, private secretaries, college presidents and students, clergymen, and physicians.

The most valuable collections of personal papers are located in the Library of Congress. The primary collections are the papers of George Washington, James Madison, and Thomas Jefferson. Both book and microfilm editions of much of these papers have been published. In particular, the incoming and outgoing correspondence of George Washington is unparalleled. Other important sources are the papers of the Breckinridge Family, Alexander Hamilton, Harry Innes, and William Short, and the diary of William Heth.

Valuable letters have also been found in Virginia libraries. The University of Virginia has a collection of letters to James Breckinridge, the papers of James Maury, and the Lee Family Papers. The Virginia Historical Society owns the Mercer Papers, the Archibald Stuart Papers, and the papers of the Lee and the Minor families. It also has St. George Tucker's collection of pamphlets, Volume 2 of which contains seven pamphlets on the Constitution published in either Virginia or Pennsylvania. Another valuable source is the collection of Hugh Blair Grigsby—the historian of the Virginia Convention. These papers are filled with Grigsby's correspondence from the middle of the nineteenth century as he sought out individuals who could provide him with biographical material about members of the Convention. The collection also includes the Fleming-Christian letters which consist of Caleb Wallace's letters to William Fleming. The Virginia State Library has the Francis Taylor Diary and the letters of Olney Winsor; while the Earl Gregg Swem Library at the College of William and Mary contains the Tucker-Coleman Papers.

Documents on Virginia's ratification have also been found in li-

baries in other states. The New Hampshire Historical Society's Landon/Elwyn Papers has several important letters from Tobias Lear, George Washington's secretary. The Henry Knox Papers at the Massachusetts Historical Society includes letters from George Washington, Edward Carrington, and John Pierce. Harvard University has a collection of Washington's letters to Benjamin Lincoln, while Amherst College owns some of Washington's correspondence with James Madison. The New York Public Library has the Emmet Collection, the Horatio Gates Manuscripts, and the James Madison Collection. The New-York Historical Society's Rufus King Papers includes many Madison letters, while the John Lamb Papers contains important correspondence between Virginia and New York Antifederalists. Two large collections at the Historical Society of Pennsylvania—the Tench Coxe Papers and the Levi Hollingsworth Papers—contain letters from Virginians or about Virginia. (The Coxe Papers, edited by Lucy Fisher West, are on microfilm.) Duke University owns the Robert Carter Letterbooks, while the Filson Club of Louisville, Ky., has the records of "The Political Club" of Danville, Ky. The Reuben T. Durrett Collection at the University of Chicago contains some valuable George Nicholas material, and the Draper Collection at the State Historical Society of Wisconsin has a significant number of Virginia items.

The papers of foreign diplomats also contribute to our understanding of Virginia ratification. The correspondence of Martin Oster, the French consul at Norfolk, is located in the *Affaires Étrangères, Correspondance Consulaires*, in the *Archives Nationales*, Paris, and in the *Supplement to the Correspondance Politique, États-Unis*, in the *Archives du Ministère des Affaires Étrangères*, also in Paris. The latter collection also has the letters of Louis-Guillaume Otto, the French chargé d'affaires in America. The letters of Don Diego de Gardoqui, the Spanish minister in America, are in Legajos 3886, 3893, and 3893 bis, in the *Archivo Histórico Nacional*, Madrid.

The papers of a number of Virginians, for the years 1787 and 1788, have been printed in multivolume editions. George Washington's outgoing correspondence has been edited by John C. Fitzpatrick, and his diaries by Donald Jackson and Dorothy Twohig. The papers of Thomas Jefferson have been edited by Julian P. Boyd; James Madison by Robert A. Rutland and Charles F. Hobson; George Mason by Robert A. Rutland; Richard Henry Lee by James Curtis Ballagh; Edmund Pendleton by David John Mays; and James Monroe by Stanislaus Murray Hamilton. Microfilm editions of the Lee Family Papers and the Horatio Gates Papers have also been published.

*Newspapers*

Ten weekly newspapers were published in Virginia between September 1787 and July 1788. Nine of the ten appeared during this entire period. A complete file does not exist for any of the ten newspapers, although nearly complete runs are available for the *Virginia Independent Chronicle*, the *Virginia Gazette*, and *Winchester Advertiser*, and the *Kentucky Gazette* (actually *Kentucke Gazette*). The file for the *Virginia Gazette*, and *Weekly Advertiser* of Richmond is relatively complete, too. The least complete files are for the *Virginia Gazette* and *Independent Chronicle* of Richmond and the *Virginia Gazette*, and *Petersburg Intelligencer*, which have only five and seven extant issues, respectively. Because so many issues are missing for a number of the newspapers, it is difficult to determine if they were Federalist, Antifederalist, or impartial. Nevertheless, the majority of the extant newspaper items are Federalist. At least six newspapers printed the Constitution.

Three newspapers were printed in the James River town of Richmond, the state capital. Augustine Davis owned the *Virginia Independent Chronicle*, and he probably published more original substantial essays than any other newspaper printer in the state, as well as important items from outside the state. Davis printed both Federalist and Antifederalist material, with the former exceeding the latter. The *Virginia Gazette*, and *Weekly Advertiser*, owned by Thomas Nicolson, printed very few substantial original essays, or major items from outside the state. Nicolson's politics are uncertain, although he published a broadside version of George Mason's objections to the Constitution and he reprinted the complete pamphlet version of Governor Edmund Randolph's letter to the Speaker of the House of Delegates, explaining why he had refused to sign the Constitution. The third Richmond newspaper, the *Virginia Gazette* and *Independent Chronicle*, owned by John Dixon, reprinted several numbers of *The Federalist*. In the nearby town of Petersburg, Miles Hunter and William Prentis printed the *Virginia Gazette*, and *Petersburg Intelligencer*. The *Gazette* was the first Virginia newspaper to print Richard Henry Lee's letter of 16 October 1787 to Governor Randolph, expressing his opposition to the Constitution and enclosing his amendments to it. The *Norfolk and Portsmouth Journal*, printed in Norfolk at the mouth of the James River, was owned by a Federalist printer from New York City, John M'Lean. M'Lean, who published *The Federalist* in his New York *Independent Journal* and in a two-volume edition, was the first Virginia printer to reprint *The Federalist*.

Two Federalist-oriented newspapers were published in northern Virginia: the *Virginia Journal*, and *Alexandria Advertiser*, owned by George

Richards and Company, and the *Virginia Herald, and Fredericksburg Advertiser*, printed by Timothy Green and Company. Fewer than twenty issues exist for each newspaper.

The Shenandoah Valley town of Winchester had two newspapers—Matthias Bartgis and Company's *Virginia Gazette, and Winchester Advertiser* and Richard Bowen and Company's *Virginia Centinel; or, the Winchester Mercury*. The *Gazette* printed both Federalist and Antifederalist material, while the *Centinel* was a Federalist newspaper established in April 1788 to counteract the *Gazette*. The files of both newspapers are almost complete.

The last Virginia newspaper, the *Kentucky Gazette* of Lexington, was owned by John and Fielding Bradford until 7 June 1788, when the latter retired from the paper. The *Gazette* published only a few items on the Constitution. It was a strong supporter of statehood for Kentucky.

#### *Pamphlets and Broadsides*

Virginia printers published a large number of pamphlets and broadsides concerning the Constitution. In late September and early October, the printers of the Winchester *Virginia Gazette* and the Alexandria *Virginia Journal* each printed the Constitution as a broadside, while the printers of the Richmond *Virginia Independent Chronicle* and the Richmond *Virginia Gazette and Independent Chronicle* published it as a pamphlet. The latter pamphlet was published by order of the legislature. (See "The Publication of the Constitution in Virginia," 26 September–3 November, I below.)

In November and December three pamphlet anthologies were printed in Richmond. One, and probably another, was published by Augustine Davis, while the third was printed by John Dixon. Davis' pamphlets, the second of which (*Various Extracts on the Federal Government . . .*) ran to sixty-four pages, included Federalist and Antifederalist pieces from outside the state and Antifederalist items from Virginia (Evans 20824). Davis also published a pamphlet edition of the "Dissent of the Minority of the Pennsylvania Convention" (Evans 20621). Dixon's pamphlet, a complete copy of which does not exist, contained Federalist and Antifederalist items from inside and outside the state. Thomas Nicolson of the Richmond *Virginia Gazette, and Weekly Advertiser* published George Mason's objections to the Constitution in a folio broadside, while some unknown printer apparently published Richard Henry Lee's 16 October letter to Governor Edmund Randolph as a pamphlet.

In the spring of 1788, before the meeting of the state Convention, two original pamphlets were printed, one Federalist and the other

Antifederalist. The Federalist pamphlet, written by "A Native of Virginia" and printed by Miles Hunter and William Prentis of the Petersburg *Virginia Gazette*, was entitled *Observations Upon the Proposed Plan of Federal Government. With an Attempt to Answer Some of the Principal Objections that Have Been Made to It* (Evans 21264). This sixty-six page pamphlet, whose authorship is unknown, was advertised for sale in April. In late May an unsigned Antifederalist pamphlet of twenty-four pages, written by James Monroe, was struck off under the title *Some Observations on the Constitution . . .* (Evans 21263) probably by Timothy Green of Fredericksburg. Addressed to his constituents, this pamphlet was never distributed because Monroe was dissatisfied with the typesetting, his own "performance," and the printer's long delay in making the impression.

#### *Convention Sources*

The sources for the Virginia Convention are voluminous. The Virginia State Library has the following manuscript material: (1) poll lists for a few counties; (2) certificates of election for the Convention's delegates; (3) the journal of the Convention; (4) the attendance book of the Convention; (5) the reports of the Committee of Privileges of the Convention on disputed Convention elections; (6) the petition of Thomas Stith protesting his defeat for election to the Convention from Brunswick County; (7) the state auditor's journal respecting the expenses of the Convention; and (8) the retained form of ratification. Virginia's newspapers printed scattered returns of the Convention elections that supplement the election certificates, and the form of ratification forwarded to Congress is in the National Archives, Washington, D.C.

In 1788 the journal of the Convention was printed by Augustine Davis under the title *Journal of the Convention of Virginia . . .* (Evans 21555). This journal was reprinted in 1827.

In 1788 Miles Hunter and William Prentis of Petersburg published the first volume of *Debates and Other Proceedings of the Convention of Virginia . . .* (Evans 21551). The *Debates* were based on shorthand notes taken by David Robertson. The second and third volumes were printed by Prentis in 1789 (Evans 22225). In 1805 Ritchie & Worsley and Augustine Davis published a second edition (in one volume) which contains corrections by Robertson. Between 1827 and 1830, Jonathan Elliot published, in four volumes, *The Debates, Resolutions, and other Proceedings, in Convention, on the Adoption of the Federal Constitution. . . .* The debates for the Virginia Convention comprise the second volume. Elliot's *Debates* has gone through many editions.



The Convention journal and debates are supplemented by the scattered proceedings published in newspapers, and the drafts of speeches and resolutions and the notes of various members of the Convention. A last valuable source for the work of the Convention is the correspondence of the delegates and observers.

### *Secondary Accounts*

The major published accounts of Virginia during the Confederation Period, including its ratification of the Constitution, are: Norman K. Risjord, *Chesapeake Politics, 1781-1800* (New York, 1978), and "Virginians and the Constitution: A Multivariant Analysis," *William and Mary Quarterly*, 3rd ser., XXXI (1974), 613-32; Risjord and Gordon DenBoer, "The Evolution of Political Parties in Virginia, 1782-1800," *Journal of American History*, LX (1974), 961-84; Rhys Isaac, *The Transformation of Virginia, 1740-1790* (Chapel Hill, N.C., 1982); Jackson Turner Main, "Sections and Politics in Virginia, 1781-1787," *William and Mary Quarterly*, 3rd ser., XII (1955), 96-112; Alan Schaffer, "Virginia's 'Critical Period,'" in Darrett B. Rutman, ed., *The Old Dominion: Essays for Thomas Perkins Abernethy* (Charlottesville, 1964); and Alan V. Briceland, "Virginia: The Cement of the Union," in Patrick T. Conley and John P. Kaminski, eds., *The Constitution and the States: The Role of the Original Thirteen in the Framing and Adoption of the Federal Constitution* (Madison, Wis., 1988). Three doctoral dissertations are filled with useful information: Augustus Low, "Virginia in the Critical Period, 1783-1789" (University of Iowa, 1941); Myra Lakoff Rich, "The Experimental Years: Virginia, 1781-1789" (Yale University, 1966); and Gordon Roy DenBoer, "The House of Delegates and the Evolution of Political Parties in Virginia, 1782-1792" (University of Wisconsin, 1972). The only work to concentrate solely on the Virginia Convention is Hugh Blair Grigsby, *The History of the Virginia Federal Convention of 1788 . . .*, edited by R. A. Brock, *Collections of the Virginia Historical Society*, new ser., vols. IX-X (Richmond, 1890-1891). The second volume consists of biographies of the members of the Virginia Convention. These biographies should be supplemented by those found in Grigsby, *The Virginia Convention of 1776 . . .* (Richmond, 1855).

There are many biographies of Virginia's major political figures. Among the best are: Douglas Southall Freeman, Marcus Cunliffe, and James Thomas Flexner on George Washington; Lance Banning, Irving Brant, Ralph L. Ketchum, and Robert A. Rutland on James Madison; Rutland, Kate Mason Rowland, and Helen Hill Miller on George Mason; Robert Douthat Meade, Richard R. Beeman, and Henry Mayer on Patrick Henry; Dumas Malone, Merrill D. Peterson, and Noble E.

Cunningham, Jr., on Thomas Jefferson; John J. Reardon on Edmund Randolph; Albert J. Beveridge and Leonard Baker on John Marshall; William Clarkin and Imogene E. Brown on George Wythe; Charles Royster on Henry Lee; Harry Ammon on James Monroe; David John Mays on Edmund Pendleton; and Oliver Perry Chitwood on Richard Henry Lee. Brief biographies of the members of the Council of State between 1776 and 1791 are in the fifth volume of the *Journals of the Council of State of Virginia* (see above).

Two bibliographic aids, both edited by Earl Gregg Swem, have made our work much easier: *Virginia Historical Index, In Two Volumes* (Roanoke, 1934), and "A Bibliography of Virginia, Part II," *Bulletin of the Virginia State Library*, vol. X (Richmond, 1917). Also helpful were Morgan Poitiaux Robinson, "Virginia Counties: Those Resulting from Virginia Legislation," *ibid.*, vol. IX (Richmond, 1916), and Emily J. Salmon, ed., *A Hornbook of Virginia History* (3rd ed., Richmond, 1983).

## Symbols

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

#### Manuscripts

DS	Document Signed
FC	File Copy
MS	Manuscript
MSS	Manuscripts
RC	Recipient's Copy
Tr	Translation from Foreign Language

#### Manuscript Depositories

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

#### Short Titles

Adams, <i>Defence</i>	John Adams, <i>A Defence of the Constitutions of Government of the United States of America</i> . . . (3 vols., London, 1787–1788).
Ballagh, <i>Lee</i>	James Curtis Ballagh, ed., <i>The Letters of Richard Henry Lee</i> (2 vols., New York, 1911–1914).

- Blackstone, *Commentaries* Sir 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.
- Boyd Julian P. Boyd et al., eds., *The Papers of Thomas Jefferson* (Princeton, N.J., 1950–).
- Coke, *Institutes* Sir Edward Coke, *Institutes of the Laws of England* (4 parts, London, 1628–1644).
- Evans Charles Evans, *American Bibliography* (12 vols., Chicago, 1903–1934).
- Farrand Max Farrand, ed., *The Records of the Federal Convention* (3rd ed., 3 vols., New Haven, Conn., 1927).
- Fitzpatrick John C. Fitzpatrick, ed., *The Writings of George Washington . . .* (39 vols., Washington, D.C., 1931–1944).
- Ford, *Pamphlets* Paul Leicester Ford, ed., *Pamphlets on the Constitution of the United States, Published during Its Discussion by the People 1787–1788* (Brooklyn, N.Y., 1888).
- Hamilton, *Monroe* Stanislaus Murray Hamilton, ed., *The Writings of James Monroe . . .* (7 vols., New York, 1898–1903).
- Hening William Waller Hening, ed., *The Statutes at Large; Being A Collection of All the Laws of Virginia, from the First Session of the Legislature, in the Year 1619* (13 vols., Richmond and Philadelphia, 1809–1823).
- House Journal* *Journal of the House of Delegates of the Commonwealth of Virginia . . .* [15 October 1787–8 January 1788] [Richmond, 1788].
- JCC Worthington C. Ford et al., eds., *Journals of the Continental Congress, 1774–1789 . . .* (34 vols., Washington, D.C., 1904–1937).
- LMCC Edmund C. Burnett, ed., *Letters of Members of the Continental Congress* (8 vols., Washington, D.C., 1921–1936).
- Montesquieu, *Spirit of Laws* Charles, Baron de Montesquieu, *The Spirit of Laws* (Translated from the French by Thomas Nugent, 5th ed., 2 vols., London, 1773). Originally published in Geneva in 1748.

- Rutland, *Madison* Robert A. Rutland et al., eds., *The Papers of James Madison*, Volumes VIII– (Chicago and Charlottesville, 1973–).
- Rutland, *Mason* Robert A. Rutland, ed., *The Papers of George Mason, 1725–1792* (3 vols., Chapel Hill, N.C., 1970).
- Senate Journal* *Journal of the Senate of the Commonwealth of Virginia . . .* [15 October 1787–8 January 1788] (Richmond, 1828).
- Syrett Harold C. Syrett et al., eds., *The Papers of Alexander Hamilton* (26 vols., New York, 1961–1979).
- Washington Diaries* Donald Jackson and Dorothy Twohig, eds., *The Diaries of George Washington* (6 vols., Charlottesville, Va., 1976–1979).

### Cross-references to Volumes of

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

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

## Virginia Chronology, 1776-1791

### 1776

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

### 1777

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

### 1781

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

### 1782

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

### 1783

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

## 1784

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

## 1785

- 25–28 March Mount Vernon Conference.

## 1786

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

## 1787

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

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



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

## 1788

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

## 1789

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

## 1791

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

# Officers of the Commonwealth of Virginia 1787-1788

## *Governor*

Edmund Randolph

## *Council of State*

Beverly Randolph (Lt. Governor)

Carter Braxton

Joseph Jones

James McClurg

Bolling Stark

James Wood

Miles Selden (resigned 31 March 1788)

Sampson Mathews (resigned, 7 April 1788)

William Heth (first attended 2 June 1788)

## *Treasurer*

Jaquelin Ambler

## *Auditor of Public Accounts*

John Pendleton

## *Receiver General of Continental Taxes*

John Hopkins

## *Attorney General*

James Innes

## *Solicitor General*

Leighton Wood

## *General Court*

Paul Carrington (Chief Justice)

Peter Lyons

James Mercer

William Fleming

Henry Tazewell

*Elected 4 January 1788*

Gabriel Jones

Richard Parker

Joseph Prentis

St. George Tucker

## *Court of Chancery*

Edmund Pendleton (President)

George Wythe

John Blair

## *Court of Admiralty*

Richard Cary

James Henry

John Tyler

## *Annapolis Convention*

\* Did not attend

James Madison

Edmund Randolph

St. George Tucker

Walter Jones\*

George Mason\*

William Ronald\*

David Ross\*

Meriwether Smith\*

## *Delegates to Congress*

*Elected 7 November 1786*

Edward Carrington

William Grayson

Joseph Jones (declined)

Richard Henry Lee

James Madison

*Elected 23 October 1787*

John Brown

Edward Carrington

Cyrus Griffin (President)

Henry Lee

James Madison

## *Confederation Board of Treasury*

Arthur Lee

## *Constitutional Convention*

John Blair

James Madison

George Mason

James McClurg

Edmund Randolph

George Washington (President)

George Wythe

Patrick Henry (declined)

Richard Henry Lee (declined)

Thomas Nelson, Jr. (declined)

## *Minister to France*

Thomas Jefferson

## *Secretary to Thomas Jefferson*

William Short

**THE GENERAL ASSEMBLY**  
**15 October 1787–8 January 1788**

HOUSE OF DELEGATES

Speaker: Joseph Prentis	CHARLES CITY	GLOUCESTER
Clerk: John Beckley	Henry Southall	Mann Page, Jr.
	Benjamin Harrison	Thomas Smith
ACCOMACK	CHARLOTTE	GOOCHLAND
Edmund Custis	Thomas Scott	Thomas Underwood
John Cropper, Jr.	Paul Carrington, Jr.	John Guerrant
ALBEMARLE	CHESTERFIELD	GREENBRIER
George Nicholas	George Markham	George Clendinen
Edward Carter	Matthew Cheatham	Henry Banks
AMELIA	CULPEPER	GREENSVILLE
Joseph Eggleston	French Strother	Daniel Fischer
Davis Booker	James Pendleton	Batte Peterson
AMHERST	CUMBERLAND	HALIFAX
William Cabell	George Anderson	Nathaniel Hunt
Samuel Jordan Cabell	Mayo Carrington	Isaac Coles
AUGUSTA	DINWIDDIE	HAMPSHIRE
Zachariah Johnston	Joseph Jones	Elias Poston
Archibald Stuart	William Watkins	Ralph Humphreys
BEDFORD	ELIZABETH CITY	HANOVER
John Trigg	Miles King	Parke Goodall
James Turner	George Booker	Thomas Macon
BERKELEY	ESSEX	HARDY
Thomas Rutherford	James Upshaw	Isaac Vanmeter
James Campbell	Meriwether Smith	Job Welton
BOTETOURT	FAIRFAX	HARRISON
Martin McFerran	George Mason	George Jackson
Andrew Lewis	David Stuart	John Prunty
BOURBON	FAUQUIER	HENRICO
Daniel Boone	Charles Chilton	Nathaniel Wilkinson
John Grant	Elias Edmonds	John Marshall
BRUNSWICK	FAYETTE	HENRY
Thomas Claiborne	Thomas Marshall	John Marr
Andrew Meade	John Fowler	Thomas Cooper
BUCKINGHAM	FLUVANNA	ISLE OF WIGHT
Joseph Cabell	George Thompson	John Lawrence
Charles Patteson	Samuel Richardson	Francis Boykin
CAMPBELL	FRANKLIN	JAMES CITY
John Clarke	John Early	William Norvell
Charles Moil Talbot	Thomas Arthur	John Pierce
CAROLINE	FREDERICK	JEFFERSON
Anthony New	John Shearman Wood-	Abner Field
Samuel Hawes, Jr.	cock	John Campbell
	Charles Mynn Thruston	

## KING AND QUEEN

William Lyne  
William Dudley

## KING GEORGE

William Thornton  
Daniel Fitzhugh

## KING WILLIAM

Benjamin Temple  
Bernard Moore

## LANCASTER

James Ball, Jr.  
James Wallace Ball

## LINCOLN

Baker Ewing  
James Knox

## LOUDOUN

Levin Powell  
Josiah Clapham

## LOUISA

James Dabney  
William White

## LUNENBURG

Richard Johnson  
Edward Garland

## MADISON

Thomas Kennedy  
Green Clay

## MECKLENBURG

Samuel Hopkins, Jr.  
Lewis Burwell

## MERCER

John Jouett  
William McDowell

## MIDDLESEX

Francis Corbin  
Overton Corby

## MONONGALIA

William McClerry  
Charles Martin

## MONTGOMERY

Daniel Trigg  
Joseph Cloyd

## NANSEMOND

Willis Riddick  
Anthony Brown

## NELSON

Andrew Hinds  
Cuthbert Harrison

## NEW KENT

William H. Macon  
Burwell Bassett, Jr.

## NORFOLK BOROUGH

Thomas Matthews

## NORFOLK COUNTY

James Webb  
James Taylor

## NORTHAMPTON

Littlton Eyre  
John Stringer

## NORTHUMBERLAND

Abraham Beacham  
John Gordon (in state  
Senate, 19 Dec. 1787)

## OHIO

William McMahan  
Archibald Woods

## ORANGE

Hardin Burnley  
Thomas Barbour

## PITTSYLVANIA

William Lynch  
Benjamin Lankford

## POWHATAN

William Ronald  
Thomas Turpin, Jr.

## PRINCE EDWARD

Patrick Henry  
Robert Lawson

## PRINCE GEORGE

Theodorick Bland  
Edmund Ruffin

## PRINCE WILLIAM

Cuthbert Bullitt  
Ludwell Lee

## PRINCESS ANNE

Thomas Walke  
Anthony Walke

## RICHMOND COUNTY

George Lee Turberville  
Walker Tomlin

## ROCKBRIDGE

William McKee  
Andrew Moore

## ROCKINGHAM

John Hopkin  
George Huston

## RUSSELL

Andrew Cowen  
Thomas Carter

## SHENANDOAH

Abraham Bird (declined)  
Isaac Zane

## SOUTHAMPTON

James Wilkinson  
Edwin Gray

## SPOTSYLVANIA

John Dawson  
James Monroe

## STAFFORD

Bailey Washington, Jr.  
William Fitzhugh

## SURRY

John Allen  
Lemuel Cocke

## SUSSEX

John H. Briggs  
Thomas Edmunds

## WARWICK

Richard Cary, Jr.  
John S. Langhorne

## WASHINGTON

Arthur Campbell  
Samuel Edmiston

## WESTMORELAND

Bushrod Washington  
Richard Lee

## WILLIAMSBURG

Samuel Griffin

## YORK

Thomas Nelson, Jr.  
Joseph Prentis

## SENATE

- Speaker: John Jones  
Clerk: Humphrey Brooke
- MATTHEW ANDERSON  
(Gloucester and Middlesex)
- ISAAC AVERY (did not attend)  
(Accomack and Northampton)
- BURWELL BASSETT  
(Charles City, James City, and Kent)
- JOHN BROWN  
(Botetourt, Bourbon, Fayette, Greenbrier, Jefferson, Lincoln, Madison, Mercer, Montgomery, Nelson, Russell, and Washington)
- JESSE BROWNE  
(Dinwiddie, Southampton, and Sussex)
- NICHOLAS CABELL  
(Albemarle, Amherst, Buckingham, and Fluvanna)
- JOHN COLEMAN  
(Charlotte, Halifax, and Prince Edward)
- JOHN P. DUVAL  
(Harrison, Monongalia, and Ohio)
- JOHN GORDON  
(seated 19 December 1787; Lancaster, Northumberland, and Richmond)
- JOHN JONES  
(Brunswick, Greenville, Lunenburg, and Mecklenburg)
- THOMAS LEE  
(King George, Stafford, and Westmoreland)
- PAUL LOYALL  
(Nansemond, Norfolk, and Princess Anne)
- CHARLES LYNCH  
(Bedford, Campbell, Franklin, Henry, and Pittsylvania)
- STEVENS THOMSON MASON  
(Fauquier and Loudoun)
- HUGH NELSON  
(Elizabeth City, Warwick, and York)
- JOHN POPE  
(Fairfax and Prince William)
- JOHN PRIDE  
(Amelia, Chesterfield, Cumberland, and Powhatan)
- THOMAS ROANE  
(Essex, King and Queen, and King William)
- ROBERT RUTHERFORD  
(Berkeley, Frederick, Hampshire, and Hardy)
- ALEXANDER ST. CLAIR  
(Augusta, Rockbridge, Rockingham, and Shenandoah)
- TURNER SOUTHALL  
(Goochland, Henrico, and Louisa)
- EDWARD STEVENS  
(Culpeper, Orange, and Spotsylvania)
- JOHN SYME  
(Caroline and Hanover)
- JOHN SCARSBROOK WILLS  
(Isle of Wight, Prince George and Surry)

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

**VIRGINIA**  
**[1]**



**I.**  
**THE DEBATE OVER THE**  
**CONSTITUTION IN VIRGINIA**  
**3 September 1787–31 March 1788**

**Introduction**

The documents in this volume deal with the public and private meetings on the Constitution; the calling of the state ratifying Convention by the state legislature; and the public and private commentaries on the Constitution. Except for several groupings, the documents have been arranged chronologically.

*Meetings on the Constitution*

Federalists used public meetings as forums to praise the Constitution and to instruct state legislators to support the calling of a state convention. At least eight such meetings were held: Berkeley County, 28 September; Alexandria and Fairfax County, 28 September–2 October; Williamsburg, 6 October; Fredericksburg, 20 October; Frederick County, 22 October; Henrico County, 22 October; and Petersburg, 24 October.

During four meetings from 21 November through 13 December, the Union Society of Richmond debated and overwhelmingly endorsed the Constitution. "The Political Club" of Danville, Ky., discussed the Constitution and made significant revisions during its biweekly meetings from 23 February through 17 May 1788.

*The General Assembly and the Constitution*

In the fall of 1787 the General Assembly took two major actions on the Constitution. On 15 October it convened at the statehouse in Richmond and received the Constitution from Governor Edmund Randolph. The House of Delegates read the Constitution and on the 16th resolved to consider it on the 25th. On that day, the House adopted resolutions providing for a ratifying convention to consider the Constitution. Six days later the Senate accepted the resolutions with amendments, and the House concurred. Between 30 November and 12 December the legislature considered and enacted a bill providing for the payment of the convention delegates and for communications with other states on constitutional matters.



*Public Commentaries on the Constitution*

Ten weekly newspapers were printed in Virginia, at one time or another, from September 1787 through July 1788. Many issues of these newspapers are no longer extant, causing considerable uncertainty about how much and what actually appeared in them. Almost complete files exist for the *Virginia Independent Chronicle* and *Winchester Virginia Gazette*. The least complete files are for the *Richmond Virginia Gazette and Independent Chronicle* and *Petersburg Virginia Gazette*, which have only five and seven extant issues, respectively.

The Constitution was quickly made available to the people. Between 26 September and 3 November, it appeared in at least six newspapers, twice as a broadside, and twice as a pamphlet. One of the two pamphlet versions was printed by the state printer on order of the House of Delegates for distribution throughout the state.

A significant majority of the extant essays on the Constitution advocate its ratification. The critics of the Constitution, however, are well represented, particularly in the *Virginia Independent Chronicle* and *Winchester Virginia Gazette*.

Virginia newspapers printed the proceedings of public meetings—meetings both in Virginia and in other states that advocated the ratification of the Constitution. They published the congressional resolution of 28 September transmitting the Constitution to the states; reports on the calling of state conventions to consider the Constitution; items speculating on the prospects of ratification by Virginia and other states; favorable comments on the Constitution from abroad; selections from the proceedings and debates of the Pennsylvania, Massachusetts, and New Hampshire conventions (including the recommendatory amendments that John Hancock presented to the Massachusetts Convention on 31 January); and announcements of ratification by the states.

The most important items published originally in Virginia were statements by George Mason, Edmund Randolph, and Richard Henry Lee, explaining their reasons for opposing the Constitution. Mason and Randolph had refused to sign the Constitution in the Constitutional Convention, and Lee was one of its principal opponents in Congress. Mason's and Lee's statements circulated widely in manuscript for several weeks, before they and Randolph's explanation were printed in newspapers, broadsides, and pamphlets. The most important Federalist responses to these items were: "Brutus" (Tobias Lear), 6 December; "An Independent Freeholder" (Alexander White?), 18, 25 January; "Valerius," 23 January; "Civis Rusticus," 30 January; and "A State Soldier" III (George Nicholas?), 12 March. Federalists were not unhappy with Randolph's explanation because, despite his objections, he

was willing to accept the Constitution without amendments. The most cutting criticism of Randolph came from an Antifederalist, "A Plain Dealer" (Spencer Roane), 13 February.

In addition to the objections of Mason and Lee, other significant original Antifederalist items were: "Cato Uticensis" (George Mason?), 17 October; an anonymous attack on James Wilson's 6 October speech before a Philadelphia public meeting, 31 October; "Extract of a letter from a gentleman in New-York," 14 November; and "Tamony," 9 January.

Two prominent out-of-state Federalists had their writings on the Constitution published originally in Virginia. On 5 December Pennsylvanian Benjamin Franklin's speech of 17 September, the last he delivered to the Constitutional Convention, appeared in the *Virginia Independent Chronicle*. Between 20 February and 19 March, the weekly *Norfolk and Portsmouth Journal* printed "Marcus," North Carolinian James Iredell's five-part response to George Mason's objections to the Constitution.

Among the important out-of-state Federalist items that were reprinted in Virginia newspapers or pamphlets or that circulated in the state were: Volume I of John Adams's, *Defence of the Constitutions . . .*, published in London in January 1787 (CC:16); "An American Citizen" I-IV (Tench Coxe), first printed in Philadelphia on 26, 28, and 29 September and 21 October (CC:100-A, 109, 112, 183-A); James Wilson's speech of 6 October before a Philadelphia public meeting, *Pennsylvania Herald*, 9 October (extra) (CC:134); "A Citizen of America" (Noah Webster), *An Examination into the Leading Principles of the Federal Constitution . . .*, published in Philadelphia on 17 October (CC:173; and Mfm:Pa. 142); the 26 September letter of Connecticut's Constitutional Convention delegates Roger Sherman and Oliver Ellsworth to the Governor of Connecticut explaining and praising provisions of the Constitution, *New Haven Gazette*, 25 October (CC:192); *The Federalist* 1-24 (Alexander Hamilton, James Madison, and John Jay), first printed in New York City between 27 October and 19 December (CC:Vols. 1-3); the meeting of Pittsburgh inhabitants on the Constitution, the navigation of the Mississippi River, and the security of the frontier, *Pittsburgh Gazette*, 17 November (CC:270-A); "Landholder" VI (Oliver Ellsworth), *Connecticut Courant*, 10 December (CC:335); "The New Roof" (Francis Hopkinson), *Pennsylvania Packet*, 29 December (CC:395); "An Old Man," *Pennsylvania Carlisle Gazette*, 2 January (CC:407); "A Free-born American" (Tench Coxe), *Pennsylvania Packet*, 15 January (Mfm:Pa. 335); "Philanthropos" (Tench Coxe), *Pennsylvania Gazette*, 16 January (CC:454); "Aristides" (Alexander Contee Hanson), *Remarks*

on the Proposed Plan of a Federal Government . . . , published in Annapolis, Md., on 31 January (CC:490-A); "A.B.," "The Raising: A New Song for Federal Mechanics" (Francis Hopkinson), *Pennsylvania Gazette*, 6 February (CC:504); Thomas Lloyd's *Debates of the Convention, of the State of Pennsylvania on the Constitution . . .*, published in Philadelphia on 7 February (CC:511); the order of the "GRAND PROCESSION" of the people of Boston, held on 8 February, in celebration of the ratification of the Constitution by the Massachusetts Convention, *Massachusetts Centinel*, 9 February; the "Spurious Centinel" XV (Benjamin Rush?), *Pennsylvania Mercury*, 16 February (CC:534); "A Yankee," *Pennsylvania Mercury*, 21 February (CC:552); and Governor John Hancock's 27 February speech to the Massachusetts legislature praising the Constitution and the state Convention's recommendatory amendments, Boston *Independent Chronicle* and Boston *American Herald*, 28 February (CC:566).

Among the important out-of-state Antifederalist items that were reprinted in Virginia newspapers or pamphlets or that circulated in the state were: the address of the seceding members of the Pennsylvania General Assembly, first printed as a broadside in Philadelphia on 2 October (CC:125-A); "Centinel" I-II (Samuel Bryan), *Philadelphia Independent Gazetteer*, 5 October, and *Philadelphia Freeman's Journal*, 24 October (CC:133, 190); "Ship News," Boston *Independent Chronicle*, 1 November (CC:219); Elbridge Gerry's 18 October letter to the Massachusetts legislature explaining why he had not signed the Constitution, *Massachusetts Centinel*, 3 November (CC:227-A); "An Officer of the Late Continental Army," *Philadelphia Independent Gazetteer*, 6 November (CC:231; and RCS:Pa., 210-16); "A Son of Liberty," *New York Journal*, 8 November (CC:197-B); "Philadelphensis" IV (Benjamin Workman), *Philadelphia Freeman's Journal*, 12 December (CC:342); "Extract of a Letter from Philadelphia," 18 November, *Maryland Journal*, 14 December (RCS:Pa., 259-60); the amendments to the Constitution proposed in the Pennsylvania Convention on 12 December, *Pennsylvania Herald*, 15 December (RCS:Pa., 597-99); the "Dissent of the Minority of the Pennsylvania Convention" (Samuel Bryan), *Pennsylvania Packet*, 18 December (CC:353); the 21 December letter of New York delegates Robert Yates and John Lansing, Jr., explaining why they left the Constitutional Convention early and why they opposed the Constitution, *New York Daily Advertiser* and *New York Journal*, 14 January (CC:447); Luther Martin's *Genuine Information* III and VI, *Baltimore Maryland Gazette*, 4, 15 January (CC:414, 451). The Petersburg *Virginia Gazette*, which reprinted these installments on 28 February and 13 March, reprinted other parts of Martin's essay in no

longer extant issues); and the 21 January letter of Elbridge Gerry to the Vice President of the Massachusetts Convention protesting his treatment by the Convention which had invited him to give information on the Constitutional Convention, *Massachusetts Centinel*, 23 January, and Boston *Independent Chronicle*, 24 January.

*Private Commentaries on the Constitution*

An extraordinary number of letters, written by a wide variety of individuals, exists for the debate over the ratification of the Constitution in Virginia. The state's delegates to the Constitutional Convention sent copies of the Constitution in letters to correspondents in Virginia and Europe. Virginia's congressional delegates (in New York City) reported on the actions of Congress in transmitting the Constitution to the states and on the progress and prospects of ratification in various states, especially New York and Massachusetts. They also forwarded to Virginia for reprinting, such essays as "An American Citizen" and *The Federalist*. State legislators and other officeholders in Richmond reported on the legislative proceedings concerning the calling of a state convention; while Virginians living abroad expressed their own, as well as European, opinions about the Constitution. Residents of other states commented on the course of ratification in Virginia and the state's importance in the process. And French and Spanish diplomats stationed in Virginia and New York City reported to their superiors in Europe.



**Richard Henry Lee to John Adams**  
**New York, 3 September 1787 (excerpt)<sup>1</sup>**

Since my letter to you of december 1785 from Chantilly<sup>2</sup> in Virginia in answer to the letters that you were pleased to write me on the 26th. of August, 6th. & 7th. of September 1785; I have not been honored with any letter from you. (On my arrival here I met with, and read with great pleasure your book on the American governments<sup>3</sup>—The judicious collection that you have made, with your just reflections thereon, have reached America at a great Crisis, and will probably have their proper influence in forming the federal government now under consideration—Your labor may therefore have its reward in the thanks of this and future generations. The present federal system, however well calculated it might have been for its designed ends if the States had done their duty, under the almost total neglect of that duty, has been found quite ineffecient and ineffectual—The government must be both Legislative and Executive, with the former power paramount to the State Legislatures in certain respects essential to federal purposes. I think there is no doubt but that this Legislature will be recommended to consist of the triple ballance, if I may use the expression, to signify a compound of the three simple forms acting independently, but forming a joint determination.

The executive (which will be part of the legislative) to have more duration and power enlarged beyond the present—This seems to be the present plan expected, and generally spoken of)—I say expected, because the Convention is yet sitting, and will continue so to do until the middle of this month.<sup>4</sup> I was appointed to that Assembly, but being a Member of Congress where the plan of Convention must be approved, there appeared an inconsistency for Members of the former to have Session in the latter, and so pass judgement at New York upon their opinion at Philadelphia. I therefore declined going to Convention and came here. . . .

1. RC, Adams Family Papers, MHi. Printed: Ballagh, *Lee*, II, 433–36. Lee arrived in New York City around 7 July and took his seat in Congress on the 9th. Adams (1735–1826), a friend and political ally of Lee's, was U.S. minister to Great Britain in London. Adams enclosed an excerpt from Lee's letter in his 4 October letter to Thomas Jefferson, U.S. minister to France in Paris (Boyd, XII, 205–6). For the excerpt, see the text in angle brackets.

2. "Chantilly" was Lee's plantation on the Potomac River in Westmoreland County.

3. The first volume of Adams's *Defence of the Constitutions* was published in London in January 1787. The *Defence* was reprinted in Philadelphia on 31 May and in New York on 2 June. For the *Defence*, see CC:16.

4. In early July, on his way north from his Virginia home, Lee stopped in Philadelphia. He wrote his brother that he "found the Convention at Phila. very busy & very secret, it would seem however, from variety of circumstances that we shall hear of a Government

not unlike the B[ritish] Constitution—that is, an Executive with 2 branches composing a federal Legislature, and possessing adequate Tone. This departure from simple Democracy seems indispensably necessary . . ." (to Francis Lightfoot Lee, 14 July, Ballagh, *Lee*, II, 424).

### George Mason and Edmund Randolph in the Constitutional Convention, 12–15 September

On 12 September the Committee of Style presented the second draft of the Constitution to the Constitutional Convention. George Mason and Edmund Randolph had supported the strengthening of the central government, but both believed that the Convention had gone too far. They had expressed deep concern about this trend on 31 August during the debate over the manner in which the Constitution should be ratified. On that day Mason declared "that he would sooner chop off his right hand than put it to the Constitution as it now stands. He wished to see some points not yet decided brought to a decision, before being compelled to give a final opinion on this article. Should these points be improperly settled, his wish would then be to bring the whole subject before another general Convention." Randolph said that he would not accede to the final form of the Constitution unless state ratifying conventions "should be at liberty to propose amendments to be submitted to another General Convention which may reject or incorporate them, as shall be judged proper" (Farrand, II, 479).

On 12 September, some time after the Committee of Style presented its report, Elbridge Gerry of Massachusetts moved (and Mason seconded) that a committee be appointed to prepare a bill of rights. Prior to the 12th, several delegates had proposed that certain civil liberties be guaranteed, and, in response, the Convention had adopted some guarantees. But, by the end of the Convention, an overwhelming majority of delegates did not believe that a bill of rights was necessary, and the Convention voted unanimously to defeat Gerry's motion. Mason, Randolph, and Gerry expressed their dissatisfaction again on 14 and 15 September, but to no avail. On Monday, 17 September, they refused to sign the Constitution. Randolph again insisted that the state conventions be allowed to propose amendments to the Constitution, but "he did not mean by this refusal to decide that he should oppose the Constitution without doors" (*ibid.*, 645, 646). Gerry also gave his reasons for not signing, but Mason remained silent, offended by the highhanded manner in which the Convention refused to consider a bill of rights and other proposed changes (*ibid.*, 646–47; and Mason to Thomas Jefferson, 26 May 1788, Rutland, *Mason*, III, 1045).

Mason's objections, which circulated in manuscript for two months, are printed below as an enclosure to his letter of 7 October to George Washington. Randolph's objections, dated 10 October and addressed to the Speaker of the House of Delegates, were published as a pamphlet by 27 December. (See "The Publication of Edmund Randolph's Reasons for Not Signing the Constitution," 27 December, below.) For Gerry's objections, see CC:227–A. For the entire debate on the proposed amendments to the Constitution in the Convention on 12, 14, and 15 September, see CC:75.

*Debates in the Constitutional Convention*  
*Saturday, 15 September<sup>1</sup>*

Mr. Randolph animadverting on the indefinite and dangerous power given by the Constitution to Congress, expressing the pain he felt at differing from the body of the Convention, on the close of the great & awful subject of their labours, and anxiously wishing for some accomodating expedient which would relieve him from his embarrassments, made a motion importing "that amendments to the plan might be offered by the State Conventions, which should be submitted to and finally decided on by another general Convention." Should this proposition be disregarded, it would he said be impossible for him to put his name to the instrument. Whether he should oppose it afterwards he would not then decide but he would not deprive himself of the freedom to do so in his own State, if that course should be prescribed by his final judgment—

Col: Mason 2ded. & followed Mr. Randolph in animadversions on the dangerous power and structure of the Government, concluding that it would end either in monarchy, or a tyrannical aristocracy; which, he was in doubt, but one or other, he was sure. This Constitution had been formed without the knowledge or idea of the people. A second Convention will know more of the sense of the people, and be able to provide a system more consonant to it. It was improper to say to the people, take this or nothing. As the Constitution now stands, he could neither give it his support or vote in Virginia; and he could not sign here what he could not support there. With the expedient of another Convention as proposed, he could sign.

1. MS, Madison Papers, DLC. Printed: Farrand, II, 631–32.

**Gov. Edmund Randolph to Lt. Gov. Beverley Randolph**  
**Philadelphia, 18 September<sup>1</sup>**

I do myself the honor of forwarding to the executive a copy of the national constitution. Altho' the names of Colo. Mason and myself are not subscribed, it is not therefore to be concluded, that we are opposed to its adoption. Our reasons for not subscribing will be better explained at large and on a personal interview, than by letter.

[P.S.] The indisposition of Mrs. Randolph will detain me here until Saturday.

1. RC, Executive Papers, VI. Beverley Randolph (1754–1797), a planter, was a member of the Council of State, 1781–88. During the last six years, he served as president of the Council and thus was lieutenant governor when the governor was absent. He became governor in December 1788, serving until 1791. He represented Cumberland in the



House of Delegates, 1777–78, 1779–81. Around this time, Edmund Randolph also wrote letters (none of which have been located) to Benjamin Harrison, Richard Henry Lee, James Mercer, and James Monroe, all of whom became opponents of the Constitution. For a newspaper item based upon information in this letter, see *Virginia Independent Chronicle*, 26 September (below).

**George Washington to the Marquis de Lafayette**  
**Philadelphia, 18 September<sup>1</sup>**

My dear Marqs.

In the midst of hurry, and in the moment of my departure from this City<sup>2</sup> I address this letter to you. The principal, indeed the only design of it is, to fulfil the promise I made that I would send you the proceedings of the Fœderal Convention as soon as the business of it was closed.—More than this, circumstanced as I am at present is not in my power to do. nor am I inclined to attempt it, as the enclosure, must speak for itself & will occupy your thoughts for sometime.

It is the production of four months deliberation.—It is now a Child of fortune, to be fostered by some and buffeted by others. what will be the General opinion on, or the reception of it, is not for me to decide, nor shall I say any thing for or against it—if it be good I suppose it will work its way good—if bad it will recoil on the Framers. my best wishes attend you, and yours—and with the sincerest friendship and most Affectionate regard I am ever yours

1. FC, Washington Papers, DLC. Lafayette (1757–1834) had served under Washington as a major general in the Continental Army from 1777 to 1781. On 15 August Washington promised Lafayette that he would “communicate the result of our long deliberation” soon after the Constitutional Convention adjourned (Fitzpatrick, XXIX, 258). In his letter of 18 September, Washington probably enclosed the official six-page Dunlap and Claypoole broadside containing the Constitution, the two resolutions of the Convention, and the letter of the President of the Convention to the President of Congress (CC:76). On the same day Washington also wrote Thomas Jefferson in Paris and sent him a copy of the Constitution (Fitzpatrick, XXIX, 276).

2. Washington left Philadelphia with fellow Virginia delegate John Blair on the 18th, arriving at his Mount Vernon home on the 22nd.

**James Madison to Edmund Pendleton**  
**Philadelphia, 20 September<sup>1</sup>**

The privilege of franking having ceased with the Convention, I have waited for this opportunity of inclosing you a copy of the proposed Constitution for the U. States.<sup>2</sup> I forbear to make any observations on it, either on the side of its merits or its faults. The best Judges of both will be those who can combine with a knowledge of the collective & permanent interest of America, a freedom from the bias resulting from a participation in the work. If the plan proposed be worthy of adop-

tion, the degree of unanimity attained in the Convention is a circumstance as fortunate, as the very respectable dissent on the part of Virginia is a subject of regret. The double object of blending a proper stability & energy in the Government with the essential characters of the republican Form and of tracing a proper line of demarkation between the national and State authorities was necessarily found to be as difficult as it was desireable, and to admit of an infinite diversity concerning the means among those who were unanimously agreed concerning the end.

I find by a letter from my father that he & my unkle Erasmus have lately paid their respects to Edmundsbury.<sup>3</sup> I infer from his silence as to your health that no unfavorable change had happened in it. That this may find it perfectly re-established is the sincere and affecte. wish of

1. RC, Madison Papers, DLC.

2. Pendleton's copy of the Dunlap and Claypoole printing of the Constitution, with his annotations, is in the Andrew Jackson Donelson Papers at the Library of Congress (Mfm:Va.).

3. "Edmundsbury" was Pendleton's plantation in Caroline County.

### **Robert Milligan to William Tilghman** **Philadelphia, 20 September<sup>1</sup>**

The Visitors & myself have agreed to submit our case to you & Mr Hands only during the sitting of your october court—

The convention is at last risen—their plan of Fœderal government is applauded here for its moderation, & we have no doubt of its being adopted—I shall deliver a copy to the post for you—When all was ready for signing—three of the members, flew off—Randolph & Mason from Virginia, & Geary<sup>2</sup> from Boston.—the last mentiond is a mere insect, without any sort of consequence,—Mason has not been cordial in any part of the business; Randolph has been one of the most active persons in Convention, & much was expected from his support in Virginia, all at once he became an apostate; he is said to be afraid of the democracy & Patrick Henry. be this as it will, he has completely blasted himself here—We entertain hopes that New York will be the only refusing state—

[P.S.] It is said that Genl Washington has given assurances, that he will serve as President.

1. RC, Tilghman Papers, PHI. The place is not indicated, but presumably the letter was written in Philadelphia, where Milligan (c. 1754–1806) practiced law. Tilghman (1756–1827), a Chestertown, Md., lawyer, represented Kent County in the Maryland Convention, where he voted to ratify the Constitution in April 1788.

2. Edmund Randolph, George Mason, and Elbridge Gerry, a Cambridge, Mass., merchant, refused to sign the Constitution on 17 September. Gerry's objections to the Constitution were published in the *Massachusetts Centinel* on 3 November (CC:227-A).

**Edward Carrington to James Madison**  
**New York, 23 September<sup>1</sup>**

The Gentlemen who have arrived from the Convention inform us that you are on the way to join us—least, however, you may, under a supposition that the state of the delegation is such as to admit of your absence, indulge yourself in leisurely movements, after the fatiguing time you have had, I take this precaution to apprise you that the same schism which unfortunately happened in our State in Philadelphia, threatens us here also<sup>2</sup>—one of our Colleagues Mr. R. H. Lee is forming propositions for essential alterations in the Constitution, which will, in effect, be to oppose it<sup>3</sup>—Another, Mr. Grayson, dislikes it, and is, at best for giving it only a Silent ~~opposition~~ passage to the States. Mr. H. Lee joins me in opinion that it ought to be warmly recommended to ensure its adoption—a lukewarmness in Congress will be made a ground of opposition by the unfriendly in the States—those who have hitherto wished to bring the conduct of Congress into contempt, will in this case be ready to declare it truly respectable.

Next wednesday is fixed for taking under consideration this business,<sup>4</sup> and I ardently wish you could be with us.

The New York faction is rather active in spreading the seeds of opposition—this, however, has been expected, and will not make an impression so injurious as the same circumstance would in some other States. Colo. Hamilton has boldly taken his ground in the public papers and, having truth and propriety on his side, it is to be hoped he will stem the torrent of folly and iniquity.<sup>5</sup>

I do not implicitly accede, in sentiment, to every article of the scheme proposed by the convention, but I see not how my utmost wishes are to be gratified until I can withdraw from society—so long as I find it necessary to combine my strength and interests with others, I must be satisfied to make some sacrifices to the general accommodation.

1. RC, Madison Papers, DLC. The letter was sent to Madison in Philadelphia and was forwarded to him in New York City, where he arrived on 24 September. Carrington was a Virginia delegate to Congress.

2. Madison, John Blair, and George Washington were the only Virginia delegates to sign the Constitution. James McClurg and George Wythe left the Convention early, while Edmund Randolph and George Mason refused to sign. The state's congressional delegation was also divided: Carrington, Madison, and Henry Lee supported the Constitution, William Grayson and Richard Henry Lee opposed it.

3. For Lee's amendments, see Lee to Edmund Randolph, 16 October (below).

4. Congress considered the Constitution from 26 to 28 September, and then transmitted it to the state executives, recommending that the state legislatures call special conventions to ratify it. See CC:95.

5. Carrington refers to Alexander Hamilton's recent exchange in the press with New York Governor George Clinton. On 21 July Hamilton, writing anonymously in the *New York Daily Advertiser*, attacked Clinton as an opponent of the Constitutional Convention (CC:40-B). "A Republican" responded in the *New York Journal* on 6 September (CC:40-E). Hamilton's unsigned rejoinder appeared in the *Daily Advertiser* on 15 September.

### **George Washington to Patrick Henry, Benjamin Harrison and Thomas Nelson, Jr., Mount Vernon, 24 September<sup>1</sup>**

In the first moments after my return<sup>2</sup> I take the liberty of sending you a copy of the Constitution which the Fœderal Convention has submitted to the People of these States.—

I accompany it with no observations—your own Judgment will at once discover the good, and the exceptionable parts of it.—and your experience of the difficulties which have ever arisen when attempts have been made to reconcile such variety of interests, and local prejudices as pervade the several States will render explanation unnecessary.—I wish the Constitution which is offered had been made more perfect, but I sincerely believe it is the best that could be obtained at this time—and as a constitutional door is opned for amendment hereafter—the adoption of it under present circumstances of the Union is in my opinion desirable.

From a variety of concurring accounts it appears to me that the political concerns of this Country are, in a manner, suspended by a thread.—That the Convention has been looked up to by the reflecting part of the community with a Sollicitude which is hardly to be conceived, and that, if nothing had been agreed on by that body,—anarchy would soon have ensued—the seeds being reiply sown in every soil.—

1. FC, Washington Papers, DLC. Washington sent identical letters with copies of the Constitution to these three former Virginia governors, all of whom became opponents of the Constitution. Nelson (1738–1789), a planter, was governor in 1781. He represented York County in the House of Burgesses, 1761–76, the revolutionary conventions, 1774–1776, and in the House of Delegates, 1777–81, 1782–84, and 1786–88. He was a delegate to Congress, 1775–77, 1779, and a signer of the Declaration of Independence. Nelson apparently did not answer Washington until 17 July 1788 (not found), three weeks after Virginia had ratified the Constitution. On 3 August Washington replied that "Far, very far indeed was it from my intention to embarrass you by the letter which enclosed the proceedings of the Genl. Convention—and still farther was it from my wish that the communication should be received in any other light than as an instance of my attention and Friendship.—I was well aware that the adoption or rejection of the Constitution would, as it ought to be, decided upon according to its merits & agreeably to the circumstances to which our public affairs had arriven.—That all questions of this kind are,—ever will—and perhaps ought to be (to accomplish the designs of infinite wisdom) viewed through different mediums by different men is as certain as that they

have existence—all that can be expected in such cases therefore is charity mutual-forbearance and acquiescence in the genl. voice; which, though it may be wrong is presumably right" (Fitzpatrick, XXX, 33-34).

Harrison (1726-1791)—a planter, and governor from 1781 to 1784—represented Charles City County in the House of Burgesses, 1748-76, the revolutionary conventions, 1774-75, and in the House of Delegates, 1776-81, 1787-91. He was a delegate from Surry, 1785-86, and Speaker of the House, 1778-81, 1785-86. Harrison was a delegate to Congress, 1774-77, and a signer of the Declaration of Independence. He represented Charles City County in the state Convention, where he voted against ratification of the Constitution. He replied to Washington on 4 October (below).

Henry was governor from 1776 to 1779 and again from 1784 to 1786.

2. Washington arrived at Mount Vernon on 22 September. Three days earlier, while on his way home, as Washington was "crossing the bridge near the Head of Elk, the bridge gave way and his horse fell into the river." Washington was not injured because he had left his carriage to walk across the bridge (*Delaware Gazette*, 26 September, CC:96-A; and *Washington Diaries*, V, 186-87).

### **John Dawson to James Madison Fredericksburg, 25 September<sup>1</sup>**

On my arrival in this town, on the last evening, I was much disappointed in receiving no letter from you.

The proceedings of the Convention have been forwarded by Mr. Randolph to Messrs. Mercer and Monroe,<sup>2</sup> and are at this moment the subject of general conversation in every part of the town, and will soon be in every quarter of the state—Opinions have already been deliver'd, and that work, which was the production of much labour & time, has been in a few hours either damn'd or applauded, according to the wish, sentiments, or interest of the politician—altho there are many warm friends to the plan, be assur'd that the opposition will be powerful—our old friend, the Colo from Frederick,<sup>3</sup> will, I think, be much alarm'd, and will not fail to paint his fears in strong colours—I also think the powerful member from P.E. will be unfriendly—a report is circulated, that some few days since the people of that county (P.E) were assembled, and harangued by Mr H. in favour of a paper currency<sup>4</sup>—that a Mr Smith, of the Academy,<sup>5</sup> opposd the scheme—that on a division a large majority coincided with Mr. Smith—That Mr. Smith then recommended to them the adoption of whatever shoud be done in convention; to which they agreed.—That Mr H. informd them, that they shoud no longer consider him as their representative—

—The improbability of this report is sufficient to destroy its authenticity, altho it comes well supported, & I think we may receive it in part—

You are intimate with Mr. G. Mason—will you be kind enough to enclose me a letter of introduction to him, as an intimacy may be of consequence in the assembly?

Our correspondence will be more regular, I hope, from this time— I shall be on the Theater of Virginia politicks, & shall not fail to communicate to you whatever is transacted, worthy notice—your engagements in public business, I am aware take up much of your time— I however flatter myself you will find leisure of [to] express your sentiments on some political points, [which?] will be agitated in our Legislature as I shall deem it as a matter of the first consequence to me—

1. RC, Madison Papers, DLC. The letter was postmarked at Fredericksburg on 25 September. Dawson (1762–1814), a graduate of Harvard College (1782) and a planter-lawyer, represented Spotsylvania in the House of Delegates, 1786–90, and in the state Convention, where he voted against ratification of the Constitution.

2. Edmund Randolph's letters to James Mercer and James Monroe have not been located.

3. Probably Colonel Charles Mynn Thruston.

4. Patrick Henry of Prince Edward County supported a new emission of paper money in the legislative session that began in October, but on 3 November the House voted unanimously for George Mason's resolutions condemning paper money.

5. John Blair Smith, a Presbyterian clergyman, was president of the College of Hampden Sidney, of which Henry was a trustee. Once close, the two men had a falling out over the new Constitution.

### Editors' Note

#### The Publication of the Constitution in Virginia 26 September–3 November

The Constitutional Convention adjourned on 17 September. Dunlap and Claypoole, the publishers of the Philadelphia *Pennsylvania Packet*, quickly printed a six-page broadside of the Convention's report that included: (1) the Constitution, (2) two resolutions of 17 September, and (3) a letter dated 17 September from George Washington, the Convention's President, to the President of Congress. (See CC:76 for this imprint.) Dunlap and Claypoole also published the report in their *Packet* on 19 September. With one probable exception, the Virginia printings of the Convention's report were derived either directly or indirectly from the Dunlap and Claypoole versions.

On 26 September the "Proprietors" of the Winchester *Virginia Gazette* "struck off some copies of the Constitution formed by the Federal Convention . . . in order to oblige their subscribers in Winchester." The printers had probably obtained a copy from Philadelphia via the Great Wagon Road that went through Lancaster, Pa., and then southwest into the Shenandoah Valley. (No copy of this first Virginia printing of the Constitution, probably a broadside, has been found.) On 28 September the printers of the Winchester *Virginia Gazette* published the Constitution and the accompanying documents. They explained to their readers that the Constitution "would have been omitted in this

day's paper, had it not been deemed necessary to furnish their country subscribers with it, who had not an opportunity of receiving the former."

On 26 September Augustine Davis announced in his *Virginia Independent Chronicle* that "Our Customers are respectfully informed that, as the *Fæderal Constitution* was received too late to be published in this day's *Chronicle*, it will be printed in a pamphlet, and handed to them on Thursday.—Non-subscribers," Davis continued, "may then furnish themselves by applying at this office." On Wednesday, 3 October, Davis, who was also the postmaster of Richmond, informed his readers that he had "Just Published" the Constitution and that it would be sold at the Post Office for a shilling per copy (Evans 20804). On 3 January this eleven-page pamphlet was advertised in the Petersburg *Virginia Gazette* for seven and a half pence.

On 27 September the Richmond *Virginia Gazette and Weekly Advertiser* reprinted the Convention's report under the heading: "PHILADELPHIA, Sept. 18. Yesterday afternoon the Honourable the Convention of the United States closed their deliberations; of which the following is a copy." This printing was probably made from the first Philadelphia newspaper to publish the report, the no-longer-extant *Evening Chronicle* of 18 September (Leonard Rappoport, "Newspaper Printings of the Constitution: An Unresolved Mystery," *Manuscripts*, XXXIX [1987], 329–34).

The *Virginia Journal* printed the Convention's report in three installments on 27 September, and on 4 and 11 October. George Richards and Company, the *Journal's* printers, also struck off a three-page broadside of the report (Evans 20820). Richards and Company did not use their newspaper plates to set this broadside; it is a separate and distinct printing. ("The Political Club" of Danville, Ky., used this broadside during its debates on the Constitution between 23 February and 17 May 1788, below.)

On 28 September John M'Lean printed the Convention's report in a four-page "Supplement to the *Norfolk and Portsmouth Journal*" (Evans 20813). On 4 and 11 October, the *Virginia Herald* published the Convention's report in two installments. The *Kentucky Gazette*, the last Virginia newspaper to print the Convention's report, carried it in three installments on 20 and 27 October, and on 3 November. The *Gazette* took its copy from the *Pittsburgh Gazette* of 6 October.

On 16 October the Virginia House of Delegates ordered that 5,000 copies of the Convention's report be printed for distribution throughout the state. John Dixon of Richmond, the state printer, published the report as a sixteen-page pamphlet entitled *Plan of the Fæderal Constitution* (Evans 20806). At the end of the Convention's report, Dixon

added the congressional resolution of 28 September transmitting the Constitution to the states. Dixon's pamphlet was probably completed by 2 November, when the House of Delegates agreed to his petition requesting additional compensation for unanticipated expenses, which included the printing of 5,000 copies of the Constitution and 2,000 copies of the legislative resolutions calling a state convention.

In all, then, the report of the Constitutional Convention was printed twice in Richmond in pamphlet editions, twice as broadsides (Winchester and Alexandria), and in at least six of Virginia's nine newspapers. The publisher of the *Virginia Independent Chronicle* printed the report as a pamphlet. There are no extant issues for the Petersburg *Virginia Gazette* between 20 September and 1 November, when it is likely that that newspaper would have printed the Constitution. For the months of September and October, only the 6 October issue is extant for the Richmond *Virginia Gazette and Independent Chronicle*. John Dixon, however, the *Gazette's* publisher, struck off the report as a pamphlet.

### Virginia Independent Chronicle, 26 September<sup>1</sup>

We learn, from good Authority, that the FÆDERAL CONSTITUTION was unanimously passed on the 17th Instant, when the Hon. Convention of the United States closed their deliberations:—We are sorry to add, from the same Authority, that his Excellency EDMUND RANDOLPH, Esq; our worthy CHIEF MAGISTRATE, will not return to this City as soon as might be expected, owing to the Indisposition of his Lady. But however anxious we may be for the Pleasure of beholding him among us, we cannot, without Exultation, reflect on the profitable Sacrifice, which we have made of it this some time past: What VIRGINIAN'S breast glows not with the Expectation of the Boon, he is bearing towards us, when he considers, that its first Shoot sprung from this State;<sup>2</sup>—that it has been reared to Maturity by Men, who give Dignity to human Nature;—that it is *the Tree of Life*, whose Fruit will enthrone this western Empire high among the Nations, and raise the firmest and fairest Temple to LIBERTY, that has ever yet dignified this Globe.

1. Reprints by 5 November (5): Vt. (1), N.H. (1), Mass. (1), Pa. (2). This item is apparently based upon information contained in the letter that Edmund Randolph wrote to Lieutenant Governor Beverley Randolph on 18 September (above).

On 6 October the *Pennsylvania Journal* appended the following statement: “(But Randolph did not sign).” Three more newspapers included this comment. On 24 October the *Carlisle Gazette* noted: “We hear from Richmond, Virginia, that a number of gentlemen of that place were prepared to meet Governor Randolph on his return from the



Federal Convention, but finding he had not signed the proposed New Constitution, the complement intended was dropped.”

2. Probably a reference to the call that Virginia issued in early 1786 for a commercial convention to meet in Annapolis, Md., in September 1786 (Appendix II, below). Virginia was also among the first states to appoint delegates to the constitutional convention proposed by the Annapolis Convention (Appendix III, below).

### **Editors' Note**

#### **The Confederation Congress and the Constitution New York, 26–28 September**

On 17 September the Constitution was signed and the Constitutional Convention resolved that it be laid before Congress and that it be submitted to state conventions chosen by the people, under the recommendations of the state legislatures. This final version, unlike earlier positions taken by the Convention, did not require congressional approval of the Constitution. Article VII of the Constitution required that once the Constitution had been ratified by nine state conventions it would go into effect among the ratifying states.

Also on 17 September Edmund Randolph wrote congressional delegate Richard Henry Lee explaining why he had not signed the Constitution. The following day George Mason wrote Lee for the same purpose, but he also criticized the highhanded behavior of the Convention in refusing to consider a bill of rights. Mason predicted that Congress would behave in the same way: take the Constitution as it is, or nothing. (Neither letter has been found.)

On 18 September, William Jackson, the secretary of the Convention, carried the Constitution from Philadelphia to New York City, arriving the next day. The Constitution was read in Congress on 20 September, and by the 23rd Richard Henry Lee was “forming propositions for essential alterations” in it (Edward Carrington to James Madison, 23 September, above).

From 26 to 28 September Congress considered the manner in which it would send the Constitution to the states. Critics of the Constitution, among them Virginians Richard Henry Lee and William Grayson, wanted it transmitted to the state legislatures with an indication that the Convention had violated Article XIII of the Articles of Confederation, the congressional resolution of 21 February 1787, and the instructions to the delegates from their state legislatures. Article XIII required the unanimous consent of the thirteen state legislatures to amend the Articles, while the congressional resolution called the Constitutional Convention “for the sole and express purpose of revising the Articles,” a proviso that some state legislatures had incorporated

into their instructions (CDR, 93, 187; and CC:1. For the appointments of delegates, see CDR, 192–225.).

Supporters of the Constitution, including Virginians James Madison and Edward Carrington, advocated that Congress should approve it before submitting it to the state legislatures. They also wanted Congress to recommend that the legislatures call conventions to consider the Constitution. Opponents, however, argued that the Constitution needed amendments to correct imperfections. If Congress were to endorse the Constitution, then Virginia delegate Henry Lee recommended that it investigate the Constitution by paragraphs to determine what amendments were needed. Congress, according to Lee, “will subject themselves to disgrace by voting on a matter” which they have not examined. Near the end of the debates on 27 September, Richard Henry Lee, one of the Constitution’s harshest critics, proposed amendments to the Constitution that included a bill of rights.

On 28 September Congress reached a compromise. It agreed to transmit the Constitution and the accompanying documents to the state legislatures with a recommendation that they call conventions to consider the Constitution. Congress, however, would not endorse the Constitution, and all evidence of opposition to the Constitution was to be deleted from the journals. This compromise, then, followed the recommendation of the Convention.

For the debate in Congress, see CC:95. For descriptions and analyses of these debates, see James Madison to George Washington, 30 September, and Richard Henry Lee to George Mason, 1 October (both below). For Lee’s amendments, see his letter to Edmund Randolph, 16 October (below).

**John Banister, Jr., to Thomas Jefferson  
Battersea, 27 September (excerpts)<sup>1</sup>**

... Our situation with respect to political news is much the same as when I wrote you last, the proceedings of the convention will not transpire until a meeting of the different assemblies. I heard a passage of a letter read from our Governor to Colo. Harrison<sup>2</sup> in which, speaking of their proceedings, he says, it would be a degree of weakness in me to censure transactions which had not yet been laid before the public. From thence we may collect his opinion in the general. Singular as it is, the Southern States were republicans whilst the Eastern leaned towards a monarchy.

The crop of Corn is generally bad owing to a series of dry weather unheard of before, the tobacco is tolerable, the wheat excellent. . . .

I am much obliged to you for the *Mercure* you shall receive in return two of the best papers from this country,<sup>3</sup> some I have already sent you. . . .

1. RC, Jefferson Papers, DLC. John Banister, Jr. (d. 1788) was the son of John Banister, Sr. The elder Banister owned an estate near Petersburg, called "Battersea." The younger Banister went to the south of France in early 1785 because of his health. Jefferson befriended him and loaned him money. Banister's health did not improve and he returned to America in early 1787. He died in December 1788.

2. The letter to former governor Benjamin Harrison has not been located.

3. The *Mercure de France*, a weekly magazine printed in Paris, was sent to Banister upon his request. In return, Jefferson wanted the two "best" Virginia newspapers.

### Berkeley County Meeting, 28 September<sup>1</sup>

At meeting of a respectable number of the inhabitants of Berkeley county, it was unanimously resolved,

1st. That it is the opinion of the gentlemen now met, that the United States are under the greatest obligation to the members of the late memorable Convention, for their assiduity and perseverance in accomplishing a plan of federal government.

2d. That two of the gentlemen now present do wait upon the clergymen of this county, of all persuasions, and request them to prepare a sermon, to be preached at their different places of worship, on a sabbath that they shall think proper to appoint, to return thanks, in an especial manner, to Almighty God, for inspiring the members of the late Convention with wisdom, amity and unanimity, to form a federal government, with so great judgment and sound policy, under so many and various interests.

3d. That it is the opinion of the meeting, that every friend to America ought, and will contribute all in his power, to establish and support the federal government proposed by the late Convention, as it appears sufficient and well adopted to secure peace, liberty and safety to the citizens of the United States.

Done at Martinsburg,

Sept. 28, 1787

1. Winchester *Virginia Gazette*, 12 October. A variant of this item was printed in the Richmond *Virginia Gazette and Independent Chronicle*, 20 October (not extant), and was widely reprinted. In the Richmond version, the third resolution reads: "*Resolved*, That the members of the present meeting do pledge themselves to one another, to contribute all in their power, to establish and support the plan of federal government proposed by the late Convention, as it appears sufficient and well adapted to secure PEACE, LIBERTY, and SAFETY to the citizens of the United States" (*Philadelphia Independent Gazetteer*, 29 October). The report of the Berkeley County meeting was reprinted in the November issue of the *Philadelphia American Museum* and in twenty-seven newspapers by 8 December: Vt. (1), N.H. (2), Mass. (4), R.I. (2), Conn. (2), N.Y. (3), N.J. (3), Pa. (4), Md. (3), S.C. (1), Ga. (2).

**Alexandria and Fairfax County Meetings**  
**28 September—2 October**

*Virginia Journal, 27 September*

The Freeholders of this Town are requested to meet at the Court-House on Friday next, at 10 o'Clock in the Forenoon, to appoint a COMMITTEE, to consult with the Freeholders of the County, for the Purpose of instructing their delegates, before they set off for the ensuing Assembly, on a Subject of the highest Importance to their Existence and well being as a People.

At the Desire of a Number of the Inhabitants of the County, the Freeholders of the same are requested to meet at Price's Old Field, on Tuesday the 2d of October, at 10 o'Clock in the Forenoon for the above Purpose, at which Time and Place, the Committee from Town will attend.

As the Business of this Meeting, is considered of the highest Moment, it is expected the Attendance will be general and animated.<sup>1</sup>

*Alexandria Town Meeting, 28 September<sup>2</sup>*

At a meeting of the Freeholders of the town of Alexandria, on Friday, the 28th of September, 1787.

Robert Townshend Hooe was unanimously chosen President.

The proposed fœderal constitution was read, and unanimously approved of—and it was resolved, that William Hunter, jun. Robert T. Hooe, William Hartshorne, James Keith, William Brown, William Herbert, Charles Simms, David Arell, and John Fitzgerald, Esquires, be appointed a committee to meet the freeholders of Fairfax county, at Price's Old Fields, on Tuesday, the second day of October next, for the purpose of instructing the delegates of this county, to use their utmost power and abilities to obtain in the next General Assembly a recommendation from that honourable body, to the freeholders of the state at large, for the holding a convention as speedily as possible, for the purpose of adopting the aforesaid constitution.

Attest,

OLIVER PRICE, Clerk.

*Fairfax County Meeting, 2 October<sup>3</sup>*

At a Meeting of a Number of the Freeholders of Fairfax County, at Price's Old-Fields, on Tuesday the 2d day of October, 1787.

The proposed Federal Constitution was read and unanimously approved of—and thereupon it was unanimously *Resolved*, That Instructions be given to the Delegates of the County, in the following Words:

To GEORGE MASON and DAVID STUART, Esquires,

We, the Freeholders of the County of Fairfax, conceiving that the Peace, Security and Prosperity of the State of Virginia and the United States of America in general, do depend on the speedy Adoption of the System of Government recommended by the late General Convention of the United States; and that this End will be advanced by an immediate Recommendation from the Legislature of this State, to subject the same to a Convention of Delegates chosen by the Freeholders thereof, for their Assent and Ratification, do therefore direct you, our Representatives, to declare the Opinion of your Constituents, in the next General Assembly of this State, to be for the immediate Convocation of a Convention of Delegates from the several Counties and Boroughs of this State for the said Purpose.

The aforesaid Instructions being prepared and signed by all the Freeholders present—it was *Resolved*, That Charles Broadwater, George Gilpin, Charles Little, John Harper, Lund Washington, James Wren, John Moss, William Payne, Thomas Pollard, Elisha C. Dick, William Thompson, Roger West, William Deneal, Peter Wagener, Daniel M'Carty, George Minor, and Thomas West, Esquires, the Rev. David Griffith, Jeremiah Moore, and William Waters, in the County, and William Hunter, jun. Robert T. Hooe, William Hartshorne, James Keith, William Brown, William Herbert, Charles Simms, David Arell, and John Fitzgerald, Esquires, in the Town of Alexandria, be a Committee to wait on such of the Freeholders in their respective Neighbourhoods, as happened not to be present at this Meeting, with Copies of the aforesaid Instructions, in order that they may sign them.<sup>4</sup>

1. An undated "Extract of a letter from Georgetown, (Potowmack.)," in the *Pennsylvania Gazette*, 10 October, reported that the Alexandria and Fairfax meetings would "instruct their Delegates to promote the calling of a Convention" (CC:Vol. 1, p. 585). This extract was reprinted seventeen times by 8 November: N.H. (2), Mass. (3), R.I. (3), Conn. (3), N.J. (2), Pa. (3), Md. (1).

2. *Virginia Journal*, 11 October. In the only known issue of the *Virginia Journal*, 11 October, this account of the town meeting has been clipped out. The text has been taken from the *Pennsylvania Packet*, 18 October—the earliest known reprint. This account was again reprinted six times by 5 November: N.H. (1), Mass. (1), Conn. (1), Pa. (3). This item was also reprinted in the October issue of the *Philadelphia American Museum* and summarized in the *New York Daily Advertiser*, 19 October.

3. *Virginia Journal*, 11 October. Reprints by 5 November (6): N.H. (1), Mass. (1), Conn. (1), Pa. (3). This item was also reprinted in the October issue of the *Philadelphia American Museum*. The New Hampshire and Massachusetts newspapers did not reprint the last paragraph. A summary of the Alexandria and Fairfax County meetings appeared in the *Maryland Journal* on 16 October and was reprinted once in Connecticut, New York, and Georgia by 8 November.

4. Even before accounts of the meetings were reprinted in New York City, New Jersey congressman Lambert Cadwalader reported that "it is said and believed here that the County of Fairfax in Virginia wh Mason represents in the Legislature of that State will

instruct him to vote for the Calling of a Convention in Virginia to take into their Consideration the new Constitution . . ." (to George Mitchell, 8 October, CC:140). On 10 October George Washington wrote James Madison that George Mason favored submitting the Constitution to a state convention: "Had his sentiments however been opposed to the measure, Instructions which are given by the freeholders of this County to their representatives, would have secured his vote for it" (below).

**Richard Henry Lee to Elbridge Gerry**  
**New York, 29 September<sup>1</sup>**

According to your request I now enclose you the Amendments that I proposed to the new Constitution. I incline to think, that unless some such alterations & provisions as those are interposed for the security of those essential rights of Mankind, without which liberty can not exist, we shall soon find that the New plan of Government will be far more inconvenient than any thing sustained under the present Government. And that to avoid Scilla we shall have fallen upon Caribdis.

1. RC, Americana Room, Daughters of the American Revolution, National Headquarters, Washington, D.C. Lee appended this note to a copy of the amendments that he had presented to Congress on 27 September. For Lee's amendments, see his letter to Edmund Randolph, 16 October (below). Gerry was in New York City when he received this note and amendments. He endorsed it: "Colo R H Lees/propositions to/amend ye Constitution/Sepr 1787."

**Edmund Randolph to James Madison**  
**Bowling Green, 30 September (excerpts)<sup>1</sup>**

My dear friend

We arrived here last night, with as little inconvenience as possible. Betsey has recovered by travelling. . . .

In Alexandria the inhabitants are enthusiasts, and instructions to force my dissenting colleague to assent to a convention are on the anvil.<sup>2</sup> I wrote to him yesterday,<sup>3</sup> suggesting to him this expedient: to urge the calling of a convention as the first act of the assembly: if they shd. wish amendments, let them be stated and forwarded to the states: before the meeting of the convention an answer may be obtained: if the proposed amendments be rejected, let the constitution immediately operate: if approved, by nine states, let the assent of our convention be given under the exception of the points amended. This will, I believe, blunt the opposition, which will be formidable, if they must take altogether or reject. The reelibility of the president and senate has excited Mr. Jas. Mercer's resentment, and he positively objects to the constitution without an alteration.<sup>4</sup>—I learn nothing of Mr. H—y nor of Mr. Pendleton except that he is almost perfectly recovered.

Adieu: and believe me my dear sir, always & inviolably to be yr. affectionate friend

1. RC, Madison Papers, DLC. Printed: Rutland, *Madison*, X, 181–82. The deleted portion of the letter deals with the Constitution in Maryland. Randolph was in Bowling Green en route to his Richmond home.

2. For these instructions, see the “Alexandria and Fairfax County Meetings,” 28 September–2 October (above).

3. Not found.

4. Randolph sent Mercer a copy of the Constitution soon after the Constitutional Convention adjourned (see Dawson to Madison, 25 September, above). Mercer, a Fredericksburg lawyer, was a judge of the state General Court.

### James Madison to George Washington New York, 30 September (excerpt)<sup>1</sup>

I found on my arrival here<sup>2</sup> that certain ideas unfavorable to the Act of the Convention which had created difficulties in that body, had made their way into Congress. They were patronised chiefly by Mr. R.H.L.<sup>3</sup> and Mr. Dane of Massts.<sup>4</sup> It was first urged that as the new Constitution was more than an Alteration of the Articles of Confederation under which Congress acted, and even subverted these articles altogether, there was a Constitutional impropriety in their taking any positive agency in the work.<sup>5</sup> The answer given was that the Resolution of Congress in Feby. had recommended the Convention as the best mean of obtaining a firm *national Government*; that as the powers of the Convention were defined by their Commissions in nearly the same terms with the powers of Congress given by the Confederation on the subject of alterations, Congress were not more restrained from acceding to the new plan, than the Convention were from proposing it. If the plan was within the powers of the Convention it was within those of Congress; if beyond those powers, the same necessity which justified the Convention would justify Congress; and a failure of Congress to Concur in what was done, would imply either that the Convention had done wrong in ~~proposing a national Government~~ exceeding their powers, or that the Government proposed was in itself liable to insuperable objections; that such an inference would be the more natural, as Congress had never scrupled to recommend measures foreign to their constitutional functions, whenever the public good seemed to require it; and had in several instances, particularly in the establishment of the new Western Governments, exercised assumed powers of a very high & delicate nature,<sup>6</sup> under motives infinitely less urgent than the present state of our affairs, if any faith were due to the representations made by Congress themselves, echoed by 12 States in the Union, and confirmed by the general voice of the people.—An attempt was made

in the next place by R.H.L. to amend the Act of the Convention before it should go forth from Congress. He proposed a bill of Rights—provision for juries in civil cases & several other things corresponding with the ideas of Col. M<sup>7</sup>—He was supported by Mr. Me—Smith<sup>8</sup> of this State. It was contended that Congress had an undoubted right to insert amendments, and that it was their duty to make use of it in a case where the essential guards of liberty had been omitted. On the other side the right of Congress was not denied, but the inexpediency of exerting it was urged on the following grounds. 1. that every circumstance indicated that the introduction of Congress as a party to the reform, was intended by the States merely as a matter of form and respect. 2. that it was evident from the contradictory objections which had been expressed by the different members who had animadverted on the plan, that a discussion of its merits would consume much time, without producing agreement even among its adversaries. 3. that it was clearly the intention of the States that the plan to be proposed should be the joint act of the Convention with the assent of Congress, which could not be the case, if alterations were made, the Convention being no longer in existence to adopt them. 4. that as the Act of the Convention, when altered would instantly become the mere act of Congress, and must be proposed by them as such, and of course be addressed to the Legislatures, not conventions of the States, and require the ratification of thirteen instead of nine States, and as the unaltered act would go forth to the States directly from the Convention under the auspices of that body—Some States might ratify one & some the other of the plans, and confusion & disappointment be the least evils that could ensue. These difficulties which at one time threatened a serious division in Congs. and popular alterations with the yeas & nays on the journals, were at length fortunately terminated by the following Resolution—“Congress having recd. the Report of the Convention lately assembled in Philada., Resold. *unanimously* that the said Report, with the Resolutions & letter accompanying the same, be transmitted to the several Legislatures, in order to be submitted to a Convention of Delegates chosen in each State by the people thereof, in conformity to the Resolves of the Convention made & provided in that case.” Eleven States were present, the absent ones R.I. & Maryland. A more direct approbation would have been of advantage in this & some other States, where stress will be laid on the agency of Congress in the matter, and a handle taken by adversaries of any ambiguity on the subject. With regard to Virginia & some other States, reserve on the part of Congress will do no injury. The circumstance of unanimity must be favorable every where. . . .



1. RC, Washington Papers, DLC. Printed: CC:114. For Washington's attitude toward the congressional resolution of 28 September transmitting the Constitution to the states, see his reply of 10 October (below). For the congressional debate over this resolution, see "The Confederation Congress and the Constitution," 26–28 September (above).

2. Madison arrived in New York City on 24 September and took his seat in Congress the next day.

3. Because of Lee's prominent role in Congress, France's principal diplomat in America, chargé d'affaires Louis-Guillaume Otto, placed Lee "at the head of the opposition." Otto claimed that Lee "does not find the situation of the United States so hopeless, that one might have need of recourse to violent remedies. He disapproves especially that the government might have been accorded immense powers without preceding the Constitution with a *bill of rights*, which has always been regarded as a palladium of a free people. 'If,' he said, 'in place of a virtuous and patriotic President we are given a William the Conqueror, what will become of liberty? How to prevent usurpation? Where is the contract between the nation and the government? The Constitution makes mention only of those who govern, never of the rights of the governed.' This new Gracchus, My Lord, has all the necessary talents for making an impression. He has against him men equally distinguished by their merit, their learning, their services; but he pleads the cause of the people" (to the Comte de Montmorin, 23 October, CDR, 352).

4. Nathan Dane, a Beverly, Mass., lawyer, opposed the Constitution well into 1788, but in July he became reconciled to it after ten states had ratified (see CC:95; and CC:392, note 12).

5. This argument was used in the Constitutional Convention by several delegates. (See Farrand, I, 42–43, 177–78, 249, 250, 336.)

6. For the ordinances for the government and sale of the Western Territory that were adopted in April 1784, May 1785, and July 1787, see CDR, 150–53, 156–63, 168–74.

7. See "George Mason: Objections to the Constitution," 7 October (below).

8. Melancton Smith, a New York City merchant, was one of the Antifederalist leaders in the New York Convention, referring to himself as the manager of that body.

### Richard Henry Lee to George Mason New York, 1 October<sup>1</sup>

I have waited until now to answer your favor of Sepr. 18th from Philadelphia,<sup>2</sup> that I might inform you how the Convention plan of Government was entertained by Congress. Your prediction of what would happen in Congress was exactly verified—It was with us, as with you, this or nothing; & this urged with a most extreme intemperance—The greatness of the powers given & the multitude of Places to be created, produces a coalition of Monarchy men, Military Men, Aristocrats, and Drones whose noise, impudence & zeal exceeds all belief—Whilst the Commercial plunder of the South stimulates the rapacious Trader. In this state of things, the Patriot voice is raised in vain for such changes and securities as Reason and Experience prove to be necessary against the encroachments of power upon the indispensable rights of human nature. Upon due consideration of the Constitution under which we now Act, some of us were clearly of opinion that the 13th article of the Confederation precluded us from giving an opinion

concerning a plan subversive of the present system and eventually forming a New Confederacy of Nine instead of 13 States. The contrary doctrine was asserted with great violence in expectation of the strong majority with which they might send it forward under terms of much approbation. Having procured an opinion that Congress was qualified to consider, to amend, to approve or disapprove—the next game was to determine that tho a right to amend existed, it would be highly inexpedient to exercise that right, but merely to transmit it with respectful marks of approbation—In this state of things I availed myself of the Right to amend, & moved the Amendments copy of which I send herewith & called the ayes & nays to fix them on the journal—This greatly alarmed the Majority & vexed them extremely—for the plan is, to push the business on with great dispatch, & with as little opposition as possible; that it may be adopted before it has stood the test of Reflection & due examination—They found it most eligible at last to transmit it merely, without approving or disapproving; provided nothing but the transmission should appear on the Journal—This compromise was settled and they took the opportunity of inserting the word *Unanimously*, which applied only to simple transmission, hoping to have it mistaken for an Unanimous approbation of the thing—It states that Congress having Received the Constitution unanimously transmit it &c.—It is certain that no Approbation was given—This constitution has a great many excellent Regulations in it and if it could be reasonably amended would be a fine System—As it is, I think 'tis past doubt, that if it should be established, either a tyranny will result from it, or it will be prevented by a Civil war—I am clearly of opinion with you that it should be sent back with amendments Reasonable and Assent to it with held until such amendments are admitted—You are well acquainted with Mr. Stone<sup>3</sup> & others of influence in Maryland—I think it will be a great point to get Maryld. & Virginia to join in the plan of Amendments & return it with them—If you are in correspondence with our Chancelor Pendleton it will be of much use to furnish him with the objections, and if he approves our plan, his opinion will have great weight with our Convention, and I am told that his relation Judge Pendleton of South Carolina<sup>4</sup> has decided weight in that State & that he is sensible & independent—How important will it be then to procure his union with our plan, which might probably be the case, if our Chancelor was to write largely & pressingly to him on the subject; that if possible it may be amended there also. It is certainly the most rash and violent proceeding in the world to cram thus suddenly into Men a business of such infinite Moment to the happiness of Millions. One of your letters will go by the Packet, and one by a Merchant Ship.

My compliments if you please to Your Lady & to the young Ladies & Gentlemen

[P.S.] Suppose when the Assembly recommended a Convention to consider this new Constitution they were to use some words like these— It is earnestly recommended to the good people of Virginia to send their most wise & honest Men to this Convention that it may undergo the most intense consideration before a plan shall be without amendments adopted that admits of abuses being practised by which the best interests of this Country may be injured and Civil Liberty greatly endanger'd.—This might perhaps give a decided Tone to the business—

Please to send my Son Ludwell a Copy of the Amendments proposed by me to the new Constitution sent herewith<sup>5</sup>—

1. RC, Mason Papers, Rare Book Room, DLC. Enclosed in Lee's letter was a two-page copy of his amendments to the Constitution. (For Lee's amendments, see his letter to Edmund Randolph, 16 October, below.) Lee's letter to Mason is addressed "George Mason esquire/of Gunston Hall in/Fairfax County/Virginia." In another person's handwriting, the words "P[er] Post" and "Richmond" were added to the address page, and the letter was postmarked "ALEX, NOV 2," indicating that it was forwarded to Mason who was attending the legislative session in Richmond. (For Lee's concern about his letters being "stopt" in their passage through the post office, see his 27 October letter to Samuel Adams, CC:199.)

2. Not found.

3. Probably Thomas Stone, a Maryland state senator from Charles County, who had been elected to the Constitutional Convention but declined to serve. Stone died on 5 October.

4. Henry Pendleton, a nephew of Edmund Pendleton, was a judge of the South Carolina Court of Common Pleas. In May 1788 he voted to ratify the Constitution in the South Carolina Convention.

5. Ludwell Lee, a lawyer, represented Prince William County in the House of Delegates, 1787–88.

### **The Reverend James Madison to Thomas Madison Williamsburg, 1 October (excerpt)<sup>1</sup>**

... I suppose you have seen, before this the new federal Constitution. I hope, & think, under certain Conditions, that it will be productive of good Effects. It will most probably be ye Means of restoring our national Credit, wch. certainly is now at a very low Ebb. It will also give more Stability & Vigour to our State Govts., & prevent most of those iniquitous Interferings in private Contracts, wch. destroy all Confidence amongst Individuals. But, on ye other Hand, it is a Constitution charged in my Opinion at least, with great Imperfections. It threatens, by blending Executive & Legislative Authority together, a total overthrow to every Thing like a democratic Govt.—& I think, must end if it be continued under its present Form in a certain Tyranny.—If it were to last only for 10 or 20 years, it probably wd. be

productive of ye happiest Effects, but if much longer, of ye worst—  
What think you & your Part of ye World about it—

1. RC, Draper Collection, Madison MSS, State Historical Society of Wisconsin. The Reverend Madison (1749–1812), a cousin of James Madison, was President of the College of William and Mary and a professor of natural and moral philosophy. In 1790 he became the first bishop of the Episcopal Church in Virginia. His brother Thomas (1746–1798), a lawyer, represented Botetourt in the House of Delegates, 1780–81, 1782–83. Thomas was married to Patrick Henry's sister Susannah.

### **The Reverend James Madison to James Madison Williamsburg, c. 1 October<sup>1</sup>**

I was greatly indebted to you for your Favour by Mr. Blair.<sup>2</sup> I do not know whether I should be justifiable in making any observations upon what I suppose, may be considered as the Chef d'œuvre of continental Wisdom. Yet to you I will venture a few.—The general Plan for a federal Government, that is, ye Idea of a Division of ye Power of ye united States into three Branches, is certainly most wise & fortunately conceived. If any Circumstance can induce a ready Compliance amongst ye Bulk of ye People of America, with federal Measures, it will be, that they flow from a Form of Govt. to wch. they are so strongly attached, and in wch. they will consider themselves as justly represented. This was a great Point gained, & I think may promise a Durability to the Union, wch. it's warmest Friends scarce hoped for. I doubt not also, but under the new Constitution, national Faith, a great & important Object certainly, will be effectually restored—I doubt not but it will be ye Means of giving Stability & Vigour to ye State Govts., & prevent those frequent Vacillations from one iniquitous or absurd Scheme to another, wch. has destroyed all Confidence amongst Individuals. It will create ye Habit of Obedience to the Laws, & give them that Energy wch. is unquestionably essential to a free Govt.—These & many other happy Effects, may reasonably be expected from a Govt. so wisely conceived in it's general Plan, & wch. must possess Vigour & Energy suft. to execute the Measures adopted under it—With all these Advantages then, ought any one to raise Objections against it? Should we not, under the Consciousness, that it is impossible to form a Constitution agreeable to ye Minds of all, rest satisfied with this, wch. promises so many Advantages? I confess, under these Considerations, I feel myself as a Citizen, strongly inclined to add my Voice of Approbation to that of ye many who so highly extol ye Labours of ye Convention.—But, I must also declare that it appears to me to possess a Defect, wch. perhaps threatens Ruin to Republicanism itself. Is it not my Friend, received by all, as a political Axiom—that it is

essential to every free Govt., that ye Legislative & executive Departments should be entirely distinct & independent? Upon what Principle was it, that this fundamental Axiom in Politics has been disregarded—since, it appears almost a Certainty, that where those Powers are united, Govt. must soon degenerate into a Tyranny.—A sole Executive, who may be for Life, with almost a Negative upon ye Legislature;—ye Senate, a principal Part of ye Legislature, wch may also be for Life, occasionally a Part of ye Executive—these appear to me to be most unfortunate Features in the new Constn. I may be deceived, but they present to my Mind so strong a Stamp of Monarchy or Aristocracy, that, I think, many Generations would not pass before one or other wd. spring from the new Constn. provided, it were to continue in its present Form. It is true it may be amended—the only Danger is in permitting that to be received, wch may never be amended—It is not ye Quantum of Power, proposed to be given to ye new Congress, of wch. I complain. I am persuaded, if it be wisely exercised, it must be most happy for ye States both individually & collectively, to have a Power equally restrictive & energetic lodged in ye supreme Council—I only complain & lament that that Power was not distributed in such a Manner as might preserve, instead of, threaten Destruction to ye Liberties of Am[eric]a.

Yet, after all, so greatly do I respect ye Framers of that Constitution, so beneficial must it's Effects be in many important Instances—that, I shd. rejoice to see it adopted,—*provided*, it's Continuance was limited to a certain fixed Period—revivable or not, as ye States might determine. We shd. then feel it's good Effects, without running ye Risque of ye Dangers it seems to threaten.—But I fear I shall only tire you with my Observations—So Adieu.

1. RC, Madison Papers, DLC. The letter is undated. The reply, which has not been found, was acknowledged in the Reverend Madison's letter of 9 February (below).

2. On his return to Virginia, John Blair, a delegate to the Constitutional Convention, carried copies of the Constitution and letters from James Madison (see Madison to James Madison, Sr., 30 September, CDR, 342; and James Monroe to Madison, 13 October, below).

### **Richard Henry Lee to William Shippen, Jr.**

**New York, 2 October (excerpt)<sup>1</sup>**

... I have considered the new Constitution with all the attention and candor that the thing and the times render necessary, & I find it impossible for me to doubt, that in its present State, unamended, the adoption of it will put Civil Liberty and the happiness of the people at the mercy of Rulers who may possess the great unguarded powers

given—And I assure you that confidence in the moderation or benignity of power is not a plant of quick growth in a reflecting bosom—The necessary alterations will by no means interfere with the general nature of the plan, or limit the power of doing good; but they will restrain from oppression the wicked & Tyrannic—If all men were wise & good there would be no necessity for government or law—But the folly & the vice of human nature renders government & laws necessary for the Many, and restraints indispensable to prevent oppression from those who are entrusted with the administration of one & the dispensation of the other—You will see herewith the amendments that appeared to me necessary, they are submitted to you and my Excellent old friend at German Town<sup>2</sup>—Perhaps they may be submitted to the world at large. My good old friend has made himself better acquainted with Hippocrates than with Plato, and relying upon the goodness of his own heart, witht. reflecting upon the corrupting & encroaching nature of power, he is willing to trust to its fangs more than experience justifies—The malady of human nature in these States now, seems to be as it was in the years 1778 & 1779 with respect to the effect produced by a certain Combination—The Malady that I mean is a temporary Insanity—I wish that the present may subside with as little public injury as it formerly did, altho that was not small in all its branches.

1. RC, Autograph Collection, PHi. Printed: Ballagh, *Lee*, II, 441–44. Shippen (1736–1808), a Philadelphia physician, was married to Lee's sister Alice. In the deleted portion of the letter, Lee stated his intention to leave New York City in early November and pass through Philadelphia on his way home to Virginia. While in Philadelphia, he met with a number of Antifederalists.

2. A reference to William Shippen, Sr., a Germantown, Pa., physician, who had served with Lee in Congress in 1779. For Lee's amendments, see his letter to Edmund Randolph, 16 October (below).

### Henry Knox to George Washington New York, 3 October (excerpt)<sup>1</sup>

... As the information now appears Virginia probably will give the new plan, the most formidable opposition.

The unanimous resolve of Congress to transmit it to the respective States will not lessen the general disposition to receive it.

But notwithstanding my strong persuasion that it will be adopted generally, and in a much shorter time than I some time ago believed, yet it will be opposed more or less in most of the states.

The germ of opposition originated in the convention itself. The gentlemen who refused signing it will most probably conceive them-

selves obliged to state their reasons publicly. The presses will groan with melancholy forebodings, and a party of some strength will be created. This is an evil, but it is an infinitely lesser evil than that we should have crumbled to peices by mere imbecillity. . . .

1. RC, Washington Papers, DLC. Printed: CC:126. Knox (1750–1806) was the Confederation Secretary at War.

### **Arthur Lee to John Adams**

**New York, 3 October<sup>1</sup>**

I enclose you the long expected production of the Convention. I am inclind to think you will deem it somewhat too Aristocratic. An Oligarchy however I think will spring from it in the persons of the President & Vice President, who, if they understand one another, will easily govern the two Houses to their will. The omission of a Declaration of rights—the appointment of a vice President, whose sole business seems to be to intrigue—securing trial by Jury in criminal cases only—making the federal Court original instead of appellent, & that in the case of a Citisen of any State & one of another, & of a foreigner with the citisen of any State—the omission of a Council—& vesting legislative, executive & judicial Powers in the Senate—the making this Senate Counsellors to the President, & Judges on his impeachment which may happen to be for the very thing they have advisd—are errors, if errors, gross as a Mountain. I say if errors, for I am very much inclined to beleive they were designd.

Congress, having three States represented by those who were members of Convention & three of the most influential each in three other States, resolvd to send it on without any recommendation, because its opponents insisted upon having their reasons on the Journals if they offerd to recommend it. The States present were—N.H. 2 Convention men—Mass: 2 Convention, one not. Connecticut one Convention one not. N.Y—N Jersey—Pens:—Delaware—Virg: 1 Convention 3 not—N. Car: one Convention one not—S.C. one Conv: 2 not. Georgia 2 Convention. Pensylvania has orderd the State Convention to meet on the 3d Novr. to determine on its adoption. All the other Assemblies will direct Conventions when they meet. From the present appearance of things, it seems probable it will become our Constitution just as is. No opposition is declar'd to it, but in Virginia where it will be opposd, I imagine by the Govr. R. H. Lee, Mr. Mason & Mr. Henry: & In this State, the Governor<sup>2</sup> & all his friends are in opposition.

I wish it may be amended & cannot see why it shoud not.

My Br. R. H. Lee is here & desires to be affectionately rememberd

to you. Please to remember me to Mrs. Adams, Mr. & Mrs. [William Stephens] Smith & to my nephew [Thomas Lee Shippen], to whom I have not time to write.

1. RC, Adams Family Papers, MHi. The place of writing is not included, but the letter was evidently written from New York City, where Lee was on the three-member Confederation Board of Treasury. Lee and Adams were political allies.

2. George Clinton.

### **St. George Tucker to Frances Bland Tucker**

**Richmond, 3 October (excerpt)<sup>1</sup>**

. . . The Topic of the day is the new Constitution—W. Nelson<sup>2</sup> is the only one of our Acquaintance who is strenuously opposed to it—Beverley<sup>3</sup> is warmly it's friend—Innes<sup>4</sup> scarcely less so. The Governor wishes it emended in some respects, but thinks it in it's present state the less of two Evils—I find myself wavering, but rather inclined to the latter opinion—perhaps Interest has it's Biass, in that Case.

1. RC, Tucker-Coleman Papers, ViW. The letter was addressed, "with some newspapers," to Mrs. Tucker at "Matoax"—Mrs. Tucker's estate in Chesterfield County. Frances Bland Tucker (1752–1788), the widow of John Randolph of Matoax and the mother of John Randolph of Roanoke, was married to St. George Tucker in 1778. St. George Tucker (1752–1827), a lawyer, was a delegate to the Annapolis Convention in 1786. In January 1788 he was appointed a judge of the state General Court and two years later he replaced George Wythe as professor of law at the College of William and Mary. The three friends that Tucker mentions in this letter attended William and Mary with him, and all were associated with the same fraternity.

2. William Nelson, Jr., was a James City County lawyer. He and former governor Thomas Nelson, Jr., were brothers.

3. Probably Beverley Randolph.

4. Probably James Innes, the state's attorney general.

### **Benjamin Harrison to George Washington**

**Berkeley, 4 October<sup>1</sup>**

Your favor of the 28th ulto<sup>2</sup> got to me two days ago: I am particularly oblig'd to you for this additional mark of your friendship, and attention, than which, there are very few things indeed, that can be more acceptable; I feel myself deeply interested in every thing that you have had a hand in, or that comes from you and am so well assured of the solidity of your judgment, and the rectitude of your intentions, that I shall never stick at trifles to conform myself to your opinions; in the present instance, I am so totally uninform'd as to the general situation of America, that I can form no judgment of the necessity the convention was under to give us such a constitution as it has done; If our condition is not very desperate, I have my fears that the remedy will



prove worse than the disease. Age makes men often over cautious; I am willing to attribute my fears to that cause, but from whatever source they spring, I can not divest myself of an opinion, that the seeds of civil discord are plentifully sown, in very many of the powers given both to the president and congress, and that if the constitution is carried in to effect, the States south of potowmac, will be little more than appendages to those to the northward of it. You will say that general charges, are things without force, they are so, but in the present instance, I do not withhold particular observations, because I want them, but that I would not tire your patience, by entering deeply into a subject, before I had heard the reasons which operated in favor of the measures taken. After the meeting of the assembly<sup>3</sup> and hearing from those who had a hand in the work, the reasons that operated with them, in favor of their measures, I will then more at length give you my sentiments, in the interim, I shall only say, that my objections chiefly lay, agst. the unlimited powers of taxation, and the regulations of trade, and the jurisdictions that are to be established in every State, altogether independent of their laws. The sword, and such powers will; nay in the nature of things they must sooner or later, establish a tyranny, not inferiour to the triumvirate, or centum viri of Room [Rome]. But enough of this, till another opportunity, in the mean time I have only to add, that I am with the most unfeigned attachment, and perfect esteem

1. RC, Washington Papers, DLC.

2. Harrison probably refers to Washington's letter of 24 September, the letterbook copy of which is printed above. It is possible that the recipient's copy was dated 28 September.

3. Harrison was elected to represent Charles City County in the House of Delegates that convened on 15 October.

### Richard Henry Lee to Samuel Adams

New York, 5 October<sup>1</sup>

Having long toiled with you my dear friend in the Vineyard of liberty, I do with great pleasure submit to your wisdom and patriotism, the objections that prevail in my mind against the new Constitution proposed for federal government—Which objections I did propose to Congress in form of amendments to be discussed, and that such as were approved might be forwarded to the States with the Convention system. You will have been informed by other hands why these amendments were not considered and do not appear on the Journal, and the reasons that influenced a bare *transmission* of the Convention plan, without a syllable of approbation or disapprobation on the part of Congress.<sup>2</sup> I

suppose my dear Sir, that the good people of the U. States in their late generous contest, contended for free government in the fullest, clearest, and strongest sense. That they had no idea of being brought under despotic rule under the notion of "Strong government," or in form of *elective despotism*: Chains being still Chains, whether made of gold or of iron.

The corrupting nature of power, and its insatiable appetite for increase, hath proved the necessity, and procured the adoption of the strongest and most express declarations of that *Residuum* of natural 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. In a government therefore, where the power of judging what shall be for the *general welfare*, which goes to every object of human legislation; and where the laws of such Judges shall be the *supreme Law of the Land*: it seems to be of the last consequence to declare in most explicit terms the reservations above alluded to. So much for the propriety of a Bill of Rights as a necessary bottom to this new system—It is in vain to say that the defects in this new Constitution may be remedied by the Legislature created by it. The remedy, as it may, as it may not be applied—And if it should, a subsequent Assembly may repeal the Acts of its predecessor for the parliamentary doctrine is 'quod legis posteriores priores contrarias abrogant' 4 Inst. 43.<sup>3</sup> Surely this is not a ground upon which a wise and good man would choose to rest the dearest rights of human nature—Indeed, some capital defects are not within the compass of legislative redress—The Oligarchic tendency from the combination of President, V. President, & Senate, is a ruin not within legislative remedy. Nor is the partial right of voting in the Senate, or the defective numbers in the house of Representatives. It is of little consequence to say that the numbers in the last mentioned Assembly will increase with the population of these States, because what may happen in twenty five or 27 years hence is poor alleviation of evil, that the intermediate time is big with; for it often happens that abuse under the name of Use is rivetted upon Mankind. Nor can a good reason be assigned for establishing a bad, instead of a good government, in the first instance; because time may amend the bad—Men do not choose to be sick because it may happen that physic may cure them—Suppose that good men came first to the administration of this government; and that they should see, or think they see, a necessity for trying criminally a Man without giving him his Jury of the Vicinage; or that the freedom of the Press should be restrained because it disturbed the operations of the new government—the mutilation of the jury trial, and the restraint of the Press would then

follow for good purposes as it should seem, and by good men—But these precedents will be followed by bad men to sacrifice honest and innocent men; and to suppress the exertions of the Press for wicked and tyrannic purposes—it being certainly true that ‘*Omnia mala exempla ex bonis orta sunt: sed ubi imperium ad ignaros aut minus bonos pervinit, novum illud exemplum ab dignis et idoneis ad indignos et non idoneos fertur.*’<sup>4</sup> In proof of this, we know that the wise and good Lord Holt, to support King William and Revolution principles, produced doctrines in a case of Libel (King against Bear) subversive both of law and sound sense; which his Successor Lord Mansfield (in the case of Woodfall) would have availed himself of for the restraint of the Press and the ruin of liberty.<sup>5</sup> It would appear therefore, that the consideration of human perversity renders it necessary for human safety, that in the first place, power not requisite should not be given, and in the next place that necessary powers should be carefully guarded. How far this is done in the New Constitution I submit to your wise and attentive consideration. Whether, for the present, it may not be sufficient so to alter the Confederation as to allow Congress full liberty to make Treaties by removing the restraining clauses;<sup>6</sup> by giving the Impost for a limited time, and the power of Regulating trade; is a question that deserves to be considered.

But I think the new Constitution (properly amended) as it contains many good regulations, may be admitted—And why may not such indispensable amendments be proposed by the Conventions and returned With the new plan to Congress that a new general Convention may so weave them into the proffer’d system as that a Web may be produced fit for freemen to wear? If such amendments were proposed by a Capital state or two, & a willingness expressed to agree with the plan so amended; I cannot see why it may not be effected. It is a mere begging the question to suppose, as some do, that only this Moment and this Measure will do—But why so, there being no war external or internal to prevent due deliberation on this most momentous business—The public papers will inform you what violence has been practised by the Agitators of this new System in Philadelphia to drive on its immediate adoption—As if the subject of Government were a business of passion, instead of cool, sober, and intense consideration.<sup>7</sup> I shall not leave this place before the 4th of November—in the mean time I shall be happy to hear from you—My best compliments are presented to Mrs. Adams, and I pray to be remembered to Gen. [James] Warren, Mr. [James] Lovell & the good Doctor [Samuel] Holten when you see him.

1. RC, Adams Papers, NN. For Lee’s amendments, a copy of which he enclosed to

Adams, see his letter to Edmund Randolph, 16 October (below). On 27 October Lee wrote Adams again (below) and sent him a copy of his 5 October letter, suspecting that Adams might not have received the original. Adams answered both letters on 3 December (CC:315). Adams (1722–1803), a political ally of Lee's, was President of the Massachusetts Senate, and, although an ardent opponent of the Constitution, he eventually voted for ratification in the Massachusetts Convention in February 1788.

2. For Lee's explanation of Congress' actions, see his 1 October letter to George Mason (above).

3. Lee quotes from the fourth of Sir Edward Coke's four *Institutes* (1628–44): "because subsequent laws nullify earlier laws which are contrary." Coke (1552–1634) was Lord Chief Justice of England and a staunch advocate of the common law. He was one of the principal defenders of the rights of Parliament and the people against the attempts of James I and Charles I to extend the royal prerogative. He also helped frame the Petition of Right (1628).

The Latin phrases translated in notes 3 and 4 appeared in Thomas Jefferson's *Notes on the State of Virginia* which was first published in 1785. See William Peden, ed., *Notes on the State of Virginia By Thomas Jefferson* (Chapel Hill, N.C., 1955), 124, 126.

4. "All bad examples are derived from good ones; but when power comes to the ignorant or the less good, the new example is transferred from the worthy and fit to the unworthy and unfit."

5. In *Rex v. Beare* (1698) and *Rex v. Woodfall* (1770), courts refused to abide by the verdict of juries in cases involving seditious libel against the Crown. A jury found Beare guilty *only* of collecting and copying libels, neither of which was considered a criminal act, and not guilty of composing libels, which was a criminal act. However, Lord John Holt (1642–1710), Chief Justice of King's Bench, ruled that the copying of a libel was the making of one. Despite the clear intent of the jury, Holt and his fellow judges found Beare guilty of libel and fined him.

Woodfall was one of several London printers charged with seditious libel for printing one of the letters of "Junius" which attacked the King. Lord Mansfield (William Murray, 1705–1793), Chief Justice of King's Bench, instructed the jury that it was to consider two points: whether Woodfall had published the letter and whether the innuendoes and blank spaces in the letter referred to the King and his ministers. The issue of whether or not the letter was a libel published with malicious intent, Mansfield reserved to the court. The jury found Woodfall guilty of printing and publishing *only*, implying that Woodfall was not guilty of libel. Since the jury's meaning was unclear and the court term was nearing an end, Mansfield and the other justices took the verdict under advisement. The next term, Mansfield, speaking for the court, set the verdict aside and ordered a new trial. Only when two other printers were acquitted outright for the same offense did the Crown decide against further prosecution.

6. Article IX of the Articles of Confederation empowered Congress to enter into treaties "provided that no treaty of commerce shall be made whereby the legislative power of the respective states shall be restrained from imposing such imposts and duties on foreigners, as their own people are subjected to, or from prohibiting the exportation or importation of any species of goods or commodities whatsoever."

7. For the violence in Philadelphia, see George Washington to James Madison, 10 October, note 4 (below).

### Williamsburg Meeting, 6 October<sup>1</sup>

*At a meeting of the Freeholders and other Inhabitants of the City of Williamsburg at the Courthouse of the said City the 6th day of October 1787.<sup>2</sup>*

... VIII. RESOLVED, that it is the opinion of this meeting, that a

Convention ought to be appointed for the purposes of deliberating on the measures recommended by the Honourable Convention lately held at Philadelphia, and that the said Convention ought also to be empowered to revise and amend the Constitution of this Commonwealth.

*ORDERED, that the foregoing proceedings be published in the Virginia Gazette.*

Teste

WILL. RUSSELL, Clerk.

1. Richmond *Virginia Gazette and Weekly Advertiser*, 18 October. Reprints by 21 November (5); N.Y. (3), Pa. (2). A summary of the eighth resolution was apparently first printed in the *Maryland Journal*, 2 November, and reprinted six times by 29 November: N.Y. (1), N.J. (1), Pa. (3), Md. (1).

2. The first six resolutions expressed the opinion of the meeting on various subjects: (1) opposing the carriage tax in the tax bill passed during the last session of the Assembly; (2) opposing the provision in the tax bill making taxes payable only in specie; (3) opposing the restoration of the act for adjusting claims for property taken for public use and the act giving more time to officers and soldiers to settle their arrears of pay; (4) urging that the interest on certificates and treasury warrants be made receivable in payment of taxes; (5) stating that "the obligation of all contracts, legally entered into whether of a public or private nature, ought to be held sacred"; and (6) calling for speedy, equal, and complete justice and urging that the courts be so constructed "as to reach all persons and every kind of property, and subject them without delay to claims of justice." The seventh resolution appointed a committee "to prepare a memorial to be presented to the next General Assembly pursuant to the first, second, fourth and sixth resolutions."

## George Mason: Objections to the Constitution

7 October

On 12 September the five-member Committee of Style, of which James Madison was a member, presented the second draft of a constitution to the Constitutional Convention. The report, printed in four pages, gave the central government very extensive powers, so much so that George Mason and Elbridge Gerry demanded that a bill a rights be appended to it in order to protect the rights and liberties of the people, while Edmund Randolph insisted that the state ratifying conventions be allowed to submit amendments to a second general convention. On 12 and 15 September, however, the Convention rejected resolutions calling for a committee to consider a bill of rights and calling for a second convention. On 17 September all three men refused to sign the Constitution.

George Mason wrote his objections on the verso of his copy of the Committee of Style's report so that he could offer them to the Convention "by Way of Protest; but was discouraged from doing so, by the precipitate, & intemperate, not to say indecent Manner" in which the majority behaved during the last week of the Convention (Mason to Thomas Jefferson, 26 May 1788, III, below. For Mason's annotated copy of the Committee's report, see Mfm:Va.). On 18 September, before he left Philadelphia, Mason wrote to Richard Henry Lee, probably enclosing a copy of his objections (see Lee to Mason, 1 October, above).

By the end of September, Mason was in Virginia, where he revised and enlarged his objections. On 7 October he wrote George Washington, enclosing a copy of the revised objections. Three days later Washington sent a copy of the objections to James Madison in New York City, and on the 18th Madison replied with a long critique (both printed below. For a copy of the objections, in Tobias Lear's handwriting, with an attribution "By Col. Mason," in Madison's handwriting, see Mason Papers, DLC.).

On 17 October George Washington, concerned about the impact that the objections might have in Virginia, sent a copy of a speech that James Wilson had delivered before a public meeting in Philadelphia on 6 October (CC:134) to David Stuart, who, with Mason, represented Fairfax County in the House of Delegates. Washington wanted Wilson's speech, considered the best Federalist interpretation of the Constitution, reprinted as a means of "putting the most of Colo. Mason's objections in their true point of light" (below). Wilson's speech appeared in the *Virginia Independent Chronicle* on the 24th.

Washington's concern was well placed. Before Mason arrived on the evening of 24 October to take his seat in the House of Delegates, news of his objections had already reached Richmond. On 21 October, John Pierce, a James City County delegate, had written that Mason was taking "the utmost pains to disseminate" his objections and to attack the Constitution as destructive of the liberties of the people (to Henry Knox, below). Tobias Lear, Washington's private secretary, said that Mason gave his objections "in manuscript to persons in all parts of the country where he supposed they would make an impression" (to John Langdon, 3 December, below). Lear had earlier expressed the hope that Virginians would "have too much good sense to be influenced" by Mason's objections, even though some of them were "calculated only to alarm the fears of the people" (to John Langdon, 19 October, below). Mason, however, did not offer his objections to the House of Delegates, stating only that he would communicate them "to his countrymen" "at a proper season" (Newspaper Reports of House Proceedings and Debates, 25 October, in "The General Assembly Calls the State Convention," 25-31 October, below).

By mid-November James Hughes, writing from Alexandria, not far from Mason's home, found "only a few" of the objections "even plausible" (to Horatio Gates, 20 November, below). By this time, Tobias Lear had tired of waiting for Mason to publish his objections so he made a copy of Mason's revised objections (perhaps from the copy sent to Washington) and turned them over to the *Virginia Journal* which printed them on 22 November. Identifying himself only as "Brutus," Lear asserted it was time that the objections were submitted "to the test of a public investigation" (below).

The *Virginia Journal* version of Mason's objections was reprinted in the *Virginia Independent Chronicle*, 5 December; *Albany Gazette*, 13 December; *Worcester Magazine*, second week in December; and in the December issue of the *Philadelphia American Museum*. By 15 December Augustine Davis of the *Virginia Independent Chronicle* published the objections, along with several other Federalist and Antifederalist writings, in a sixty-four-

page pamphlet entitled *Various Extracts on the Fæderal Government, Proposed by the Convention Held at Philadelphia*. Some time after the 15th, John Dixon of the Richmond *Virginia Gazette and Independent Chronicle* printed the objections in another pamphlet anthology of Federalist and Antifederalist writings. (See "Richmond Pamphlet Anthologies," c. 15 December, below.) A third Richmond printer Thomas Nicolson of the *Virginia Gazette and Weekly Advertiser* published the objections in a folio broadside (Ford, *Pamphlets*, 327–32). On 17 February 1788 David Stuart possibly had this broadside 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).

Another original printing of Mason's objections appeared in the Winchester *Virginia Gazette* on 23 November, under the heading "*Objections to the Constitution formed by the Federal Convention*. By Colonel M \* \* \* N." This version, which was not reprinted, is similar to the unrevised handwritten objections found on the verso 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.) The version printed by the Winchester *Virginia Gazette* is also similar to a copy of the objections in the handwriting of Robert Whitehill of Cumberland County, Pa., with whom Mason had met before he left Philadelphia in late September. It is possible that a similar copy was carried down the Great Wagon Road which extended from Philadelphia, through southcentral Pennsylvania, to Winchester in the Shenandoah Valley. (This copy of Mason's objections is in the Whitehill Papers, Hamilton Library, Cumberland County Historical Society, Carlisle, Pa.)

Just prior to the two Virginia printings, Mason's objections were printed in the *Massachusetts Centinel* on 21 November. This Northern printing omitted Mason's objection to the passage of navigation acts by a simple majority of Congress. For this version, which was reprinted in twenty-one newspapers from New Hampshire to South Carolina, see CC:276–A.

Because of the importance of Mason's objections, Federalists responded to them quickly and often. In Virginia, "Brutus" (Tobias Lear) wrote a point-by-point rebuttal that was printed in the *Virginia Journal* on 6 December (below). Other substantive criticisms were: "An Independent Freeholder" (Alexander White), Winchester *Virginia Gazette*, 18, 25 January 1788 (below); "Civis Rusticus" and "The State Soldier" III (George Nicholas?), *Virginia Independent Chronicle*, 30 January, 12 March (below); and "Marcus" I–V (James Iredell), *Norfolk and Portsmouth Journal*, 20, 27 February, 5, 12, 19 March (CC:548, 571, 596, 616, 630). On 2 April "A Native of Virginia" printed a pamphlet entitled *Observations upon the Proposed Plan of Federal Government* . . . that was critical of Mason, among others (Mfm:Va. and III below). The *Virginia Independent Chronicle* also published some out-of-state items attacking Mason. On 9 January it reprinted "A Landholder" VI (Oliver Ellsworth) from the *Connecticut Courant*, 10 December (CC:335), and on 6 February it republished "Philanthropos" (Tench Coxe) from the *Pennsylvania Gazette*, 16 January (CC:454).

*George Mason to George Washington  
Gunston Hall, 7 October (excerpt)*<sup>1</sup>

... I got very much hurt in my Neck & Head, by the unlucky Accident on the Road; it is now wearing off; tho' at times still uneasy to me.<sup>2</sup>—

I take the Liberty to enclose You my Objections to the new Constitution of Government; which a little Moderation & Temper, in the latter End of the Convention, might have removed. I am however most decidedly of Opinion, that it ought to be submitted to a Convention chosen by the People, for that special Purpose; and shou'd any Attempt be made to prevent the calling such a Convention here, such a Measure shall have every Opposition in my Power to give it<sup>3</sup>—You will readily observe, that my Objections are not numerous (the greater Part of the inclosed paper containing Reasonings upon the probable Effects of the exceptionable Parts) tho' in my Mind, some of them are capital ones.—

*George Mason's Objections to the Constitution of  
Government formed by the Convention*<sup>4</sup>

There is no Declaration of Rights; and the Laws of the general Government being paramount to the Laws & 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 it's 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 concern'd in, and unacquainted with their Effects & Consequences.—<sup>(a)</sup>

The Senate have the Power of altering all Money-Bills, and of originating Appropriations of Money, & the Sallerys of the Officers of their own Appointment in Conjunction with the President of the United States; altho' they are not the Representatives of the People, or amenable to them.—

These with their other great Powers (vizt. their Power in the Appointment of Ambassadors & all public Officers, in making Treaties, & in trying all Impeachments) their Influence upon & Connection with the supreme Executive from these Causes, their Duration of Office, and their being a constant existing Body almost continually sitting,



join'd 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 & Libertys of the People.—

The Judiciary of the United States is so constructed & extended, as to absorb & destroy the Judiciaries of the several States; thereby rendering Law as tedious intricate & expensive, and Justice as unattainable, by a great Part of the Community, as in England, and enabling the Rich to oppress & ruin the Poor.—

The President of the United States has no constitutional Council (a thing unknown in any safe & regular Government) he will therefore be unsupported by proper Information & Advice; and will generally be directed by Minions & 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 & 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; vizt. 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 & Rotation of Office as the Senate, the Executive wou'd always have had safe & proper Information & 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 wou'd 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 & Connection between that Branch of the Legislature, and the supreme Executive.—Hence also sprung that unnecessary & dangerous Officer the Vice President; who for want of other Employment, is made President of the Senate; thereby dangerously blending the executive & legislative Powers; besides always giving to some one of the States an unnecessary & 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, & thereby prevent a Discovery of his own Guilt.—

By declaring all Treaties supreme Laws of the Land, the Executive

& 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 cou'd be done with Safety.—

By requiring only a Majority to make all Commercial & Navigation Laws, the five Southern States (whose Produce & Circumstances are totally different from that of the eight Northern & Eastern States) will be ruined; for such rigid & premature Regulations may be made as will enable the Merchants of the Northern & 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, & 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 wou'd 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 & Commerce, constitute new Crimes, inflict unusual & 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 Tryal by jury in civil Causes; nor against the Danger of standing Armys 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; tho' such Importations render the United States weaker, more vulnerable, and less capable of Defence.—

Both the general Legislature & the State Legislatures are expressly prohibited making ex post facto Laws; tho' there never was or can be a Legislature but must & will make such Laws, when Necessity & 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 it's 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.—

1. RC, Washington Papers, DLC. Printed: Rutland, *Mason*, III, 1001–2.

2. On his way home from Philadelphia with Maryland delegate James McHenry, Mason's driver overturned the coach near Baltimore and both men were hurt, "the Col. most so—he lost blood at Baltimore—& is well" (Daniel Carroll to James Madison, 28 October, Rutland, *Madison*, X, 227). Washington had already learned of the accident from David Stuart who had visited Mason at Gunston Hall (Washington to Mason, 7 October, Rutland, *Mason*, III, 1004–5).

3. On 2 October Mason and David Stuart, his fellow Fairfax delegate to the House of Delegates, were instructed by the county's freeholders to press for the "immediate Convocation" of a state convention. See "Alexandria and Fairfax County Meetings," 28 September–2 October (above).

4. MS, Washington Papers, DLC. The original or earlier draft, found on the verso of Mason's Committee of Style report, was headed: "Objections to this Constitution of Government." Apparently for his own use, Washington made an abstract of these objections (Washington Papers, DLC).

The material in angle brackets is not in Mason's original draft.

### **Edmund Pendleton to James Madison Edmundsbury, 8 October (excerpt)<sup>1</sup>**

... A Republic was inevitably the American form, and its Natural danger Pop. Tumults & Convulsions. With these in view I read over the Constitution accurately; do not find a Trait of any Violation of the great Principles of the form, all Power being derived mediately or immediately from the People. No Title or Powers that are either hereditary or of long duration so as to become Inveterate; and the Laws & not the arbitrary will of any man, or body of men made the rule of Government. The People, the Origin of Power, cannot act personally, & can only exercise their Power by representation. The great bodies of both Federal & State Legislatures are to consist of their immediate choice, and from that choice all other Powers are derived; the secretions required in the choice of the Federal Senate and President, seem admirably contrived to prevent Popular Tumults, as well as to preserve that Equilibrium to be expected from the Ballancing Power of the three branches. In the President's Power of Negation to the laws, the modification strikes out a happy medium between an Absolute Negative in a single person, & having no stop, or cheque upon laws too harshly, or the Offspring of Party or Faction such as

upon a reconsideration, are approved by 2/3rds of Each House, ought to pass independent of any other power.

The President is indeed to be a great man, but it is only in shew to represent the Federal dignity & Power, having no latent Prerogatives, nor any Powers but such as are defined and given him by law. He is to be Commander-in-Chief of the Army & Navy, but Congress are to raise & provide for them, & that not for above two years at a time. He is to nominate all officers, but Congress must first creat[e] the offices & fix the Emoluments, and may discontinue them at pleasure & he must have the consent of 2/3rds of the Senate to his nomination. Above all his tenure of Office is short, & the Danger of Impeachment a powerful restraint against abuse of Office. A Political Head and that adorned with powder'd hair, seems as necessary & useful in Governments as that member so adorned in the natural body, and I have observed in the history of the United Netherlands, that their affairs always succeeded best, when they allowed their Stadtholder to exercise his Constitutional powers. . . .

1. Printed: Stan V. Henkels Catalogue No. 694 (1892), 94–95. At the end of the excerpt, Henkels noted: "He [Pendleton] continues on, commenting on all the important points in that great masterwork of the founders of this great republic." For Madison's letter to Pendleton enclosing a copy of the Constitution, see 20 September (above); and for Madison's reply to Pendleton, see 28 October (below).

**Edmund Pendleton to Nathaniel Pendleton, Jr.**  
**Edmundsbury, 10 October (excerpts)<sup>1</sup>**

. . . We have seen and generally approve the Fœdral Constitution. It has some infirmities, but fewer than I expected. It preserves all the Fundamental principles of the Republican Form, wth. some proper cautions to guard against the natural dangers annexed to that Form, to wit, Popular tumults & convulsions: And tho' we have to regret the want of signature of two respectable names in Our Delegation, the Govr. & Colo. Mason, (For what reason I have not yet learnt) I think it will meet the Ratification of this State.

Those who expect Perfection in any System, have not reflectd. on the imbecility of human Powers, in nature & experience of all Forms & modifications of Forms in Government, which in their turns have been Found to Possess great defects. "An Absolute Monarchy ruins the People; one limited injures the Prince: An Aristocracy creates intrigues amongst the great & oppressions of the Poor, & a Democracy produces tumults & convulsions. Nay the Speculative Ideas of it, have met the same Fate, since the Republic of Plato, the Principality of Hobbes, & the Rotation of Oceana have all been Indicted & convicted

of great Infirmities: so that the search for that Perfection is as vain as that for the Universal Medicine or Philosopher's Stone," and we must be content with the best our weak Powers can Frame. . . .

. . . I have lately gained Strength, & have been easier in my Cough & short breathing than for a long time Past.

1. RC, Pendleton Family Papers, Yale University. Endorsed: "Answd. 2 Decemr 1787." Nathaniel Pendleton, Jr. (1756–1821), Edmund Pendleton's nephew, was elected to the Constitutional Convention from Georgia but did not attend. He was attorney general of Georgia in 1786.

**George Washington to David Humphreys  
Mount Vernon, 10 October (excerpt)<sup>1</sup>**

Your favor of the 28th. Ult came duly to hand, as did the other of June.—With great pleasure I received the intimation of your spending the winter under this roof.—The invitation was not less sincere than the reception will be cordial.—The convention shall be, that in all things you shall do as you please—I will do the same—No ceremony shall be observed—nor any restraint be imposed on any one.<sup>2</sup>—

The Constitution that is submitted, is not free from imperfections; but there are as few radical defects in it as could well be expected, considering the heterogenous mass of which the Convention was composed—and the diversity of interests which were to be reconciled.—A Constitutional door being opened, for future alterations and amendments, I think it would be wise in the People to adopt what is offered to them and I wish it may be by as great a majority of them as in the body that decided on it; but this is hardly to be expected, because the importance, and sinister views of too many characters will be affected by the change.—Much will depend however on literary abilities, & the recommendation of it by good pens, should it be openly, I mean publicly attacked in the Gazettes.—Go matters however as they may, I shall have the consolation to reflect, that no objects but the public good, and that peace & harmony which I wished to see prevail in the Convention, ever obtruded even for a moment, in my mind,<sup>3</sup> during the whole session lengthy as it was.—What reception this state will give to the proceedings (thro' the great territorial extent of it) I am unable to inform you.—In these parts of it, it is advocated beyond my expectation.—The great opposition, if great is given, will come from the Counties Southward and Westward; from whence I have not, as yet, heard much that can be depended on.<sup>4</sup> . . .

1. RC, Department of Rare Books, Cornell University. Printed: Fitzpatrick, XXIX, 287–88. Humphreys (1752–1818) of Derby, Conn., was an aide-de-camp to Washington

during the Revolution. In 1786–87 he served as a lieutenant colonel commanding the Connecticut militia raised to help suppress Shays's Rebellion.

2. On 28 September Humphreys wrote Washington expressing his gratification with the Constitution and accepting Washington's invitation to visit Mount Vernon (CC:106). Humphreys lived at Mount Vernon from 18 November 1787 until he accompanied the newly elected President Washington to New York City in April 1789 (*Washington Diaries*, V, 217, 445).

3. "Bosom" instead of "mind" in the letterbook version (Washington Papers, DLC).

4. On 18 October Washington wrote Alexander Hamilton that "Having scarcely been from home since my return from Philadelphia, I can give but little information with respect to the *general* reception of the New Constitution in *this* State.—In Alexandria however, and some of the adjacent Counties, it has been embraced with an enthusiastic warmth of which I had no conception.—I expect notwithstanding, violent opposition will be given to it by *some* characters of weight & influence, in the State" (Fitzpatrick, XXIX, 291).

### George Washington to James Madison Mount Vernon, 10 October<sup>1</sup>

I thank you for your letter of the 30th Ult.<sup>2</sup>—It came by the last Post.—I am better pleased that the proceedings of the Convention is handed from Congress by a unanimous vote (feeble as it is) than if it had appeared under stronger marks of approbation without it.—This apparent unanimity will have its effect.—Not every one has opportunities to peep behind the curtain; and as the multitude often judge from externals, the appearance of unanimity in that body, on this occasn., will be of great importance.—

The political tenets of Colo. Mason & Colo. R. H. L. are always in unison—It may be asked which of them gives the tone?—Without hesitation, I answer the latter [i.e., former]; because the latter [i.e., former], I believe, will receive it from no one.<sup>3</sup>—He [Mason] has, I am informed, rendered himself obnoxious in Philadelphia by the pains he took to disseminate his objections amongst some [of] the leaders of the seceding members of the legislature of that State.<sup>4</sup>—His conduct is not less reprobated in this County [Fairfax].—How it will be relished, *generally*, is yet to be learnt, by me.—As far as accts. have been received from the Southern & Western Counties, the Sentiment with respect to the proceedings of the Convention is favourable—Whether the knowledge of this, or conviction of the impropriety of withholding the Constitution from State Conventions has worked most in the breast of Col. M I will not decide; but the fact is, he has declared unequivocally (in a letter to me) for its going to the people.<sup>5</sup>—Had his sentiments however been opposed to the measure, Instructions which are given by the freeholders of this County to their representatives, would have secured his vote for it.<sup>6</sup>—Yet, I have no doubt but that this assent will be accompanied by the most tremendous apprehensions, and highest

colouring, to his objections.—To alarm the people, seems to be the ground work of his plan.—The want of a qualified Navigation Act, is already declared to be a mean by which the produce of the Southern States will be reduced to nothing, & will become a monopoly of the Northern & Eastern States.—To enumerate all his objections, is unnecessary, because they are detailed in the address of the seceding members of the Assembly of Pennsylvania; which, no doubt you have seen.<sup>7</sup>—

I scarcely think that any powerful opposition will be made to the Constitution's being submitted to a Convention of the people of this State.—If it is given, it will be at that meeting—In which I hope you will make it convenient to attend;—explanations will be wanting—none can give them with more precision and accuracy than yourself.<sup>8</sup>—

The Sentiments of Mr. Henry with respect to the Constitution which is submitted are not known in these parts.—Mr. Jos'h Jones (who it seems was in Alexanda. a few days before my return home) was of opinion that they would not be inimical to it—others however conceive, that as the advocate of a paper emission, he cannot be friendly to a Constn. wch. is an effectual bar.

From circumstances which have been related, it is conjectured that the Governor wishes he had been among the subscribing members, but time will disclose more than we know at present with respect to the whole of this business; and when I hear more, I will write to you again.—

P.S. Having received (in a letter) from Colo. Mason, a detail ~~in writing~~ of his objections to the proposed Constitution I enclose you a copy of them.<sup>9</sup>

1. RC, Special Collections, Signers of the Declaration of Independence, Amherst College. For significant differences between this version of the letter and the letterbook copy (Washington Papers, DLC), see notes 6 and 8 (below).

2. Printed above.

3. Washington obviously meant to write "former" rather than "latter" since his references are all to George Mason, not Richard Henry Lee. Madison apparently recognized the error and noted it at the bottom of the first page. His note, however, is crossed out, leaving only a few words legible.

4. Washington refers to the Antifederalist members of the Pennsylvania Assembly who seceded from that body on 28 September so that there would be no quorum to adopt resolutions calling a state convention. (See Alexander White, *Virginia Independent Chronicle*, 22 February, note 4, below.)

5. See Mason to Washington, 7 October (above).

6. See the meeting of the freeholders of Fairfax County, 28 September–2 October (above). Washington's letterbook version reads: "would have compelled him to vote for it."

7. See note 4 (above).

8. The letterbook version reads: "with more accuracy and propriety than yourself."
9. See Mason to Washington, 7 October (above).

### Editors' Note

#### **Governor Edmund Randolph to the Speaker of the House of Delegates, Richmond, 10 October**

Governor Randolph never sent this letter to the Speaker. The letter, which explains why Randolph refused to sign the Constitution, was published as a pamphlet that was available for sale by 27 December. (See below.)

#### **Richard Henry Lee to George Washington New York, 11 October (excerpt)<sup>1</sup>**

... It is under the strongest impressions of your goodness and candor, that I venture to make the observations that follow in this letter, assuring you that I feel it among the first distresses that have happened to me in my life, that I find myself compelled by irresistible conviction of mind to doubt about the new System for federal government recommended by the late Convention.

It is Sir, in consequence of long reflection upon the nature of Man and of government, that I am led to fear the danger that will ensue to Civil Liberty, from the adoption of the new system in its present form. I am fully sensible of the propriety of change in the present plan of confederation, and altho there may be difficulties, not inconsiderable, in procuring an adoption of such amendments to the Convention System as will give security to the just rights of human nature, and better secure from injury the discordant interests of the different parts of this Union; yet I hope that these difficulties are not insurmountable. Because we are happily uninterrupted by external war, or by such internal discords as can prevent peaceable and fair discussion, in another Convention, of those objections that are fundamentally strong against the new Constitution, which abounds with useful regulations. As there is so great a part of the business well done already, I think that such alterations as must give very general content, could not long employ another Convention when provided with the sense of the different States upon those alterations.

I am much inclined to believe that the amendments generally thought to be necessary, will be found to be of such a nature, as tho they do not oppose the exercise of a very competent federal power; are yet such as the best Theories on Government and the best practise upon those theories have found necessary. At the same time that they are



such as the opinions of our people have for ages been fixed on. It would be unnecessary for me here to enumerate particulars as I expect the honor of waiting on you at Mount Vernon in my way home early in November.<sup>2</sup> . . .

1. RC, Washington Papers, DLC. Printed: CC:152. In the first part of his letter, Lee indicated that by spring Congress would have sold \$6 million worth of land in the Northwest Territory. The remaining land would, in Lee's judgment, pay for the \$30 million domestic public debt.

2. Lee did not enclose a copy of his proposed amendments in this letter as he had in letters to several prominent Antifederalists, nor is there any evidence that he gave Washington a copy when he visited Mount Vernon on 11–12 November.

### Virginia Herald, 11 October<sup>1</sup>

A correspondent observes, that there cannot be a greater proof of the virtue of our countrymen in the late Federal Convention, than the constitution which they have exhibited to the states, as the result of their deliberations. The expediency of the plan of government which they have proposed arises from the provisions which they have so judiciously made for preventing insurrections against the laws, and for procuring obedience to the federal constitution. We have seen with how much contempt the resolutions of our Congress have been treated, when they have laid before the states, in the most expressive terms, the necessity of adopting certain measures which they have proposed. We have seen their propositions laughed at, and their plans totally disregarded. Even the treaties which they solemnly entered into, have been infringed by the positive and deliberate acts of a state legislature. The consequence of which was, that our credit in Europe began so rapidly to decline, that our ministers were viewed with the utmost contempt by the foreign courts. To remedy all these evils has been the object of the Federal Convention. They appear to have proposed a plan which will have a certain tendency to effect it, if it be adopted by all the states.

1. Reprinted: Philadelphia *Independent Gazetteer* and *Pennsylvania Packet*, 18 October; *Connecticut Journal*, 24 October; Middletown, Conn., *Middlesex Gazette*, 29 October; *State Gazette of South Carolina*, 17 January.

### Editors' Note

#### The Republication of An American Citizen I–IV in Virginia 11 October–c. 15 December

Tench Coxe, a prolific Federalist essayist, published "An American Citizen" I–III in the Philadelphia *Independent Gazetteer* on 26, 28, and 29 September. The essays covered the Presidency, the Senate, and the

House of Representatives, respectively. (For more on Coxe's writings, see Coxe to James Madison, 21 October, note 1, below.)

Coxe sent his "American Citizen" essays to James Madison in New York City on 27 and 29 September, asking that he consult with Alexander Hamilton about reprinting them in Virginia and New York (CC:100-B; and RCS:Pa., 121). In his letter enclosing the first two essays, Coxe told Madison that "it would be most useful to have them inserted in such Virginia paper, as circulates most in your western Counties."

On 1 October Madison told Coxe that the essays could not fail "to satisfy the most scrupulous & jealous citizens, that the Act of the Convention . . . is not chargeable with a dangerous similitude to real monarchy or Aristocracy." He thought that they would "attract the notice of the printers in most of the States. To ensure their republication however in Virginia I will forward the copies, as soon as I discover which of my correspondents will be the most willing agents in a communication with our printers. At present I am a perfect stranger to the sentiments of all of them on the merits of the new System, and have reason to believe that a direct application to the printer from any member of the Convention, would be made use of to disparage the publication" (CC:100-C). Six days later Madison forwarded the three essays to Joseph Jones of King George County (Jones to Madison, 29 October, below). Even before Jones received the essays, they had attracted "the notice" of at least two printers in Virginia. On 11 and 18 October, "An American Citizen" I was reprinted in the *Virginia Herald* and *Virginia Journal*, respectively.

On 21 October Tench Coxe sent James Madison three copies of a handbill that contained "An American Citizen" IV (CC:183-A), an essay "calculated to shew the general advantages & obviate some of the Objections to the System." Coxe wished that Madison and Hamilton might "make any use of them" that they thought "will serve the cause" (CC:183-B). Five days later Madison replied that he had "disposed" of the handbills, and that he had not heard from his Virginia correspondent about numbers I-III. Madison was "equally desirous of Seeing" number IV, "a valuable continuation," reprinted in Virginia (CC:183-C).

On 29 October Joseph Jones, replying to Madison's 7 October letter, noted that, upon request, he had given "An American Citizen" I-III to Thomas Pleasants of Goochland County, near Richmond. Jones told Pleasants that he would not think it "amiss" if they were turned over to a newspaper printer for publication. Pleasants replied that he would think about it. Jones told Madison that he had not heard from Pleasants

since he had spoken with him, but he promised Madison that he would speak with him again (below). In the meantime, the *Virginia Journal* reprinted "An American Citizen" II–III on 1 and 8 November. Finally, on 7 November the copies of "An American Citizen" I–III that Coxe had sent to Madison in late September were reprinted in the *Virginia Independent Chronicle*. At about the same time Augustine Davis, the printer of the *Chronicle*, apparently also reprinted numbers I–III in a "small pamphlet" (Archibald Stuart to Madison, 9 November, below). Number IV appeared in the *Chronicle* on 21 November (see Jones to Madison, 22 November, below). And around 15 December Davis reprinted all four essays in a sixty-four-page pamphlet entitled *Various Extracts on the Federal Government*. (For a full discussion of Davis' two pamphlets, see "Richmond Pamphlet Anthologies," c. 15 December, below.)

For the authorship, circulation, and impact of "An American Citizen" throughout the United States, see CC:100.

**Charles Tillinghast to Hugh Hughes  
New York, 12 October (excerpt)<sup>1</sup>**

... A Mr. Mason, who was a delegate to the Convention, from Virginia, has, since the Convention brokeup, been through the back Counties of that State, haranguing the Inhabitants, and pointing out the dangerous effects or consequences which would inevitably flow from the new Constitution—He is now, it is said, gone into North Carolina, on the same Business, and means to sound the Alarm through the southern States—I am told by the General,<sup>2</sup> that he has seen his, (Mason's) objections to the new Constitution, in Manuscript,<sup>3</sup> (I suppose at the CHIEF's)<sup>4</sup>—he says, that his objections discover him to be a Man of the first rate Understanding—It is said that he is very popular in Virginia, and, in point of Wealth, equal to any in that State. . . .

1. RC (incomplete), Hughes Papers, DLC. Printed: CC:155. Tillinghast (c. 1748–1795) was a New York City merchant and distiller. Hughes (1727–1802), a Dutchess County, N.Y., landowner, was Continental deputy quartermaster general during the Revolution. Tillinghast was his assistant. Both were Antifederalists.

2. General John Lamb, collector of customs for the Port of New York, was an Antifederalist leader. He was Tillinghast's father-in-law. Hughes tutored Lamb's young sons.

3. This manuscript was possibly a copy of Mason's unrevised objections to the Constitution that Elbridge Gerry made before he left Philadelphia around 18 September to go to New York City, where he remained until late October.

4. Governor George Clinton.

**Philadelphia Independent Gazetteer, 12 October<sup>1</sup>**

It is remarkable, says a correspondent, that the state of *Virginia* first opposed the power of the British parliament to tax America—she first instructed her Delegates to make the motion for the declaration of

Independence in Congress, and to her immortal honor be it recorded—she first by the lips of Mr. *Maddison* (her young Washington for patriotism) proposed the measure of the federal Convention, which 'tis likely will terminate in the salvation and establishment of the Union and liberties of America.

1. Reprinted: *Massachusetts Gazette*, 26 October; Exeter, N.H., *Freeman's Oracle*, 27 October; *New Hampshire Gazette*, 27 October.

**James Monroe to James Madison**  
**Richmond, 13 October (excerpt)<sup>1</sup>**

I was favor'd with yours by Mr. Blair, and a late one covering one from Mr Jefferson a few days since.<sup>2</sup> I shod. have answer'd the former sooner but defer'd it untill my arrival here whither I was at that time on the point of siting out. Mrs. M. accompanied me & will remain untill my return wh. will not be untill the adjournmt. of the Assembly.

The report from Phila. hath presented an interesting subject to their consideration. It will perhaps agitate the minds of the people of this state, more than any subject they have had in contemplation since the commenc'mt. of the late revolution—for there will be a greater division among the people of character than then took place, provided we are well inform'd as to the sentiments of many of them. It is said that Mr. Henry, Genl. Nelson, Harrison<sup>3</sup> & others are against it. This ensures it a powerful opposition more especially when associated with that of the 2. dissenting deputies.<sup>4</sup>

There are in my opinion some strong objections agnst. the project, wh. I will not weary you with a detail of—but under the predicament in wh. the Union, now stands, & this state in particular with respect to this business, they are overbalanc'd by the arguments in its favor. The assembly will meet to morrow, & we have reason to believe we shall have an house the first or 2d. day. we shall soon find how its pulse beats, & what direction this business will take. I believe there will be no opposition to a convention, however of this I shall be able to give you better information in a few days. . . .

1. RC, Madison Papers, DLC. Printed: Rutland, *Madison*, X, 192–94. The closing and signature have been clipped. This letter was postmarked at Richmond on 15 October. Monroe was in Richmond to represent Spotsylvania in the House of Delegates.

2. Madison's letters have not been found. For a file copy of Jefferson's letter of 5 August to Monroe, the letter that was probably enclosed in Madison's "late" letter, see Boyd, XI, 687–88.

3. Former governors Patrick Henry, Thomas Nelson, Jr., and Benjamin Harrison, all of whom received copies of the Constitution from George Washington in his letter of 24 September to each (above).

4. George Mason and Edmund Randolph.

**James Monroe to Lambert Cadwalader**  
**Richmond, 15 October (excerpt)<sup>1</sup>**

... I have not leisure at present to go into detail respectg the report of the Convention of Phila. or its probable reception here. It was read in the house of delegates to day, and a day 8. or 10. hence appointed for the house to take it up in a committee of the whole on that business alone. I have no doubt they will recommend the appointmt. of a Convention as propos'd in the report. Its fate will depend in a great measure on the opinion of the people to whom it was intended to be submitted. As to my own sentiments of it I will candidly own I think there are some strong objections to it—but upon due consideration of all circumstances, I am persuaded they are more than counter-balanc'd by the arguments in its favor—my wishes are of course for its success. . . .

1. RC, Cadwalader Papers, PHi. Cadwalader (1743–1823), a New Jersey delegate to Congress, had served with Monroe in Congress in 1785 and 1786.

**George Washington to Henry Knox**  
**Mount Vernon, 15 October<sup>1</sup>**

Your favor of the 3d. inst. came duly to hand.—

The fourth day after leaving Phila. I arrived at home, and found Mrs. Washington and the family tolerably well, but the fruits of the Earth almost entirely destroyed by one of the severest droughts (in this neighbourhood) that ever was experienced.—The Crops generally, below the Mountains are injured; but not to the degree that mine, & some of my neighbours, are here.

The Constitution is now before the judgment seat.—It has, as was expected, its advisaries, and its supporters, which will preponderate is yet to be decided.—The former, it is probable, will be most active, because the Major part of them it is to be feared will be governed by sinister and self important considerations on which no arguments will work conviction—the opposition from another class of them (if they are men of reflection, information and candour) may perhaps subside on the solution of the following plain, but important questions. 1. Is the Constitution which is submitted by the Convention preferable to the government (if it can be called one) under which we now live?—2. Is it probable that more confidence will, at this time, be placed in another Convention (should the experiment be tried) than was given to the last? and is it likely that there would be a better agreement in it?<sup>2</sup> [3.] Is there not a Constitutional door open for alterations and amendments; & is it not probable that real defects will be as readily

discovered after, as before, trial? and will not posterity be as ready to apply the remedy as ourselves, if there is occasion for it, when the mode is provided?—To think otherwise will, in my judgment, be ascribing more of the amor patriæ—more wisdom—and more foresight to ourselves, than I conceive we are entitled to.—

It is highly probable that the refusal of our Govr. & Colo. Mason to subscribe to the proceedings of the Convention will have a bad effect in this State; for as you well observe, they *must* not only assign reasons for the justification of their conduct, but it is highly probable these reasons will appear in terrific array, with a view to alarm the people—Some things are already addressed to their fears and will have their effect.—As far however as the sense of *this* part of the Country has been taken it is strongly in favor of the proposed Constitution.—further I cannot speak with precision.—If a powerful opposition is given to it the weight thereof will, I apprehend, come from the Southward of James River, & from the Western Counties.

1. RC (photostat), Washington Papers, DLC. For Knox's letter of 3 October, see above.

2. At this point in his letterbook, Washington wrote "what would be the consequences if these should not happen, or even from the delay which must inevitably follow such an experiment?" (Washington Papers, DLC).

### The General Assembly Receives the Constitution, 15-16 October

The General Assembly convened at the statehouse in Richmond on 15 October, with 105 of the 168 members of the House of Delegates in attendance. The good turnout was probably the result of the election law of 1785 which stated that, beginning on 1 January 1787, members absent would not only forfeit their wages while absent, but would be fined £10 when there was no quorum (Hening, XII, 128-29). The delegates took their oath of office, reelected Joseph Prentis as Speaker, and appointed several other officers. The Speaker presented to the House a letter from Governor Randolph, dated 15 October, enclosing the official copy of the Constitution, the congressional resolution of 28 September transmitting the Constitution to the states, and papers relating to other public matters. The letter and its enclosures "were partly read" and ordered to "lie on the table."

On 16 October the House resumed its reading of the Governor's letter and its enclosures. Whereupon, Patrick Henry "declared that it transcended" the House's "powers to decide on the Constitution; that it must go before a Convention" (David Stuart to George Washington, 16 October, below). The congressional transmittal was therefore referred to a Committee of the Whole House to be considered on 25 October. Federalists were much pleased because it had been "insinuated" that Patrick Henry would try to prevent the appointment of a convention (*ibid.*). The House also ordered that 5,000 copies of the report of the Constitutional

Convention be printed for distribution "among the citizens of this commonwealth."

For subsequent action by the legislature on the Constitution, see "The General Assembly Calls a State Convention," 25–31 October, and "The General Assembly Adopts an Act for Paying the State Convention Delegates," 30 November–27 December (both below).

*Edmund Randolph to the Speaker of the House of Delegates  
Richmond, 15 October (excerpts)*<sup>1</sup>

I do myself the honor of transmitting to the General Assembly such papers, and information as have been received since the last Session, and are worthy of notice. . . .

The Constitution proposed by the late fœderal Convention has been transmitted to me officially from Congress.<sup>2</sup> I beg leave therefore now to inclose it, number 14. . . .

Not conceiving myself authorized to trouble the house with details on these several subjects, I beg leave to assure you without a farther detention of your time, that I am Sir with the highest respect

*House Proceedings, Monday, 15 October*<sup>3</sup>

The Speaker laid before the House a letter from the Governor stating various matters for the consideration of the General Assembly, and referring to sundry letters and papers enclosed on the subject thereof, which were partly read,

*Ordered*, That the said letter with its enclosures do lie on the table. And then the House adjourned till to-morrow morning 10 o'clock.

*House Proceedings, Tuesday, 16 October*

The House resumed the farther reading of the Governor's letter of yesterday, with its inclosures, and the same being read,

On a motion made, *Ordered*, That so much of the said enclosures as contain the report of the Fœderal Convention lately held at *Philadelphia*, be referred to a committee of the whole House.

*Resolved*, That this House will on *Thursday* sen'night resolve itself into a committee of the whole House on the said report. . . .

On a motion made, *Ordered*, That the public printer do strike forth with five thousand copies of the report of the Fœderal convention lately held at *Philadelphia*, to be distributed among the citizens of this commonwealth.<sup>4</sup>

1. RC, Executive Communications, Vi.

2. On 28 September Secretary of Congress Charles Thomson sent a circular letter

to each state executive with a copy of Congress' resolution of that date transmitting the Constitution to the state legislatures (CDR, 340). Also enclosed was Congress' official four-page broadside of the Constitution printed by John M'Lean of New York City and attested by Thomson. The broadside included the Constitution, the resolutions of the Constitutional Convention of 17 September, the letter from the President of the Convention to the President of Congress of 17 September, and the congressional resolution of 28 September. Thomson's letter to Governor Randolph, "filed Oct 22.87," is in the Continental Congress Papers in the Virginia State Library.

3. The proceedings for the 15th and 16th are transcribed from the *House Journal*, 3, 4. The manuscript Journal is in the Virginia State Library.

4. State printer John Dixon of Richmond petitioned the legislature requesting additional compensation for unanticipated printing which included the publication of 5,000 copies of the report of the Constitutional Convention and 2,000 copies of the resolutions calling the state Convention. The House agreed to a committee report granting his petition on 2 November, and on 21 November the Senate concurred (Mfm:Va.).

## Richard Henry Lee and the Constitution 16 October

On 28 September Congress transmitted the Constitution, without approval or disapproval, to the states for their consideration. Richard Henry Lee, a Virginia delegate, had wanted the Constitution forwarded with an indication that the Constitutional Convention had exceeded its authority. He also wanted proposed amendments to the Constitution sent to the states.

After Congress sent the Constitution to the states, Lee wrote several friends and political allies describing the actions of Congress, criticizing the Constitution, and enclosing copies of his amendments. Recipients included Elbridge Gerry, George Mason, William Shippen, Jr., Samuel Adams, and Edmund Randolph. Another copy of Lee's amendments is in volume 14 of the Governors' Papers in the North Carolina Department of Archives and History. It may have been sent to North Carolina Governor Richard Caswell by North Carolina's delegates to Congress. It was endorsed: "Col. Richd. Henry/Lee of Virginia/Objections to the/Federal System of/Government/1787." On his return to Virginia from New York City in early November, Lee may have distributed his amendments in Philadelphia, Chester, Pa., and Wilmington, Del. (RCS:Pa., 236; and CC:255, 280). He may also have shown a copy to George Washington when he visited Mount Vernon on 11–12 November.

Lee thus did not seek to conceal his opposition to the Constitution, and, in fact, he permitted two correspondents to make the amendments public. He informed William Shippen, Jr., of Philadelphia that "Perhaps" the amendments "may be submitted to the world at large" (2 October, above), while he invited Edmund Randolph to "make such use of this letter as you shall think to be for the public good" (16 October, immediately below). On 7 December George Washington told James Madison that copies of Lee's letter to Randolph "circulated with great industry in manuscript . . . and is said to have had a bad influence" (below).

On 16 November the Winchester *Virginia Gazette* printed only Lee's amendments under the heading "*Observations on the Plan of Government, proposed by the Convention. By R.H.L.\*\*, Esquire.*" This printing went almost unnoticed. Three weeks later, on 6 December, the Petersburg *Virginia*



*Gazette* published Lee's letter to Randolph dated 16 October and the accompanying amendments (issue no longer extant). The next day Washington sent Madison "a printed Copy" of this letter (CC:328). The copy sent by Washington was possibly a no longer extant pamphlet that was printed early in December. "Valerius," who submitted an article to the *Virginia Independent Chronicle* before 12 December, criticized Lee in this article for publishing his letter as a pamphlet rather than in the newspapers. "Valerius" was finally printed in the *Chronicle* on 23 January (below). "The State Soldier" III (George Nicholas?), *Virginia Independent Chronicle*, 12 March (below), also refers to a separate pamphlet publication of Lee's letter.

In Virginia, Lee's letter and amendments were reprinted in Augustine Davis' sixty-four-page pamphlet anthology entitled *Various Extracts on the Federal Government* . . . ("Richmond Pamphlet Anthologies," c. 15 December, below), and in the *Kentucky Gazette* on 2 February. Outside Virginia, they were also reprinted in the December issue of the Philadelphia *American Museum* and in eleven newspapers by 16 February: N.H. (1), Mass. (1), R.I. (1), N.Y. (2), Pa. (5), Md. (1). Between 7 and 14 January the letter, without the amendments, appeared in three Charleston, S.C., newspapers, while the *Salem Mercury* published a summary and excerpts from the letter on 8 January. The Portland *Cumberland Gazette*, 24 January, reprinted the *Mercury's* version.

The responses to the letter and amendments were many. James Madison, in New York City, replied to George Washington 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" (below). From Orange County, James Madison, Sr., wrote his son that Lee's letter was "much approved of by some, & as much ridiculed by others" (30 January, below). William Russell of Washington County agreed with Lee that amendments were needed to curb the extensive powers of Congress (to William Fleming, 25 January, below), while William Fleming of Botetourt County agreed with Lee's objections to the Constitution (to Thomas Madison, 19 February, below).

Lee's letter and amendments were also criticized by several Virginia essayists. See "An Impartial Citizen," Petersburg *Virginia Gazette*, 10 January; "An Independent Freeholder" (Alexander White), Winchester *Virginia Gazette*, 18, 25 January; "Valerius," "The State Soldier" III (George Nicholas?), and "Cassius," *Virginia Independent Chronicle*, 23 January, 12 March, 2, 9, 23 April (below and III below); and "A Native of Virginia," *Observations upon the Proposed Plan of Federal Government* . . . (Mfm:Va. and III below).

This 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, III below). For criticism of Lee outside Virginia, see CC:325.

The manuscript of Richard Henry Lee's letter to Edmund Randolph and the amendments have not been located. The text printed immediately below has been taken from the *Pennsylvania Packet* of 20 December, which

reprinted the letter and amendments under the dateline "Petersburg, Dec. 6."

*Richard Henry Lee to Edmund Randolph*  
*New York, 16 October*

DEAR SIR, I was duly honored with your favor of September 17th,<sup>1</sup> 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.<sup>2</sup>—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 crim-

inal, 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.<sup>3</sup> 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.<sup>4</sup> 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.<sup>5</sup> 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.<sup>6</sup> 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.

*Richard Henry Lee: Proposed Amendments*<sup>7</sup>

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,<sup>8</sup> 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 callings 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.<sup>9</sup>

1. Not found.

2. *Commentaries*, Book I, chapter I, 129.

3. *Ibid.*, Book III, chapter XXIII, 379.

4. *Ibid.*, 380.

5. For more on the men who sat in both the Convention and Congress and how they voted in Congress, see CDR, 322, 324–25, 334; Arthur Lee to John Adams, 3 October (above); and Richard Henry Lee to Samuel Adams, 27 October (CC:199).

6. See Lee to Mason, 1 October (above).

7. The newspaper version of Lee's amendments (printed here) differs from the manuscript versions sent to various correspondents. Most of the variations affect punctuation, capitalization, and an occasional word in which the meaning is not altered. Compare

the newspaper version here with the manuscript version sent to Elbridge Gerry (CC:95). For two significant alterations, see notes 8 and 9 (immediately below).

8. At this point the manuscript version sent to Gerry adds: "and adding unnecessarily to the Aristocratic influence." This clause appears in the manuscript version sent to George Mason and the manuscript found in the North Carolina Department of Archives and History. It does not appear in the manuscripts sent to William Shippen, Jr., and Samuel Adams.

9. Instead of this last sentence, the manuscript version received by 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."

The manuscript version sent to Mason is similar to the newspaper version. The manuscript versions transmitted to Shippen and Adams contain a variation of the first paragraph (without the last sentence), but nothing from the second paragraph. The manuscript in the North Carolina Department of Archives and History contains nothing from the first paragraph and a slightly altered second paragraph that ends with the words "House of Delegates."

### **David Stuart to George Washington Richmond, 16 October (excerpt)<sup>1</sup>**

I believe such an instance has not happened before, since the Revolution, that there should be a house on the first day of the Session, and business immediately taken up.—This was not only the case on Monday, but there was a full house; when Mr Prentice was called up to the Chair as Speaker, there being no opposition.—Thus, the Session has commenced peaceably.

It gives me much pleasure to inform you that the sentiments of the members are infinitely more favourable to the Constitution than the most zealous advocates for it could have expected.—I have not met with one in all my enquiries, (and I have made them with great diligence) opposed to it, except Mr Henry who I have heard is so, but could only conjecture it, from a conversation with him on the Subject.—Other members who have also been active in their enquiries tell me, that they have met with none opposed to it.—It is said however that old Mr. Cabel of Amherst<sup>2</sup> disapproves of it—Mr Nicholas has declared himself a warm friend to it.—

The transmissory Note of Congress was before us today, when Mr Henry declared that it transcended our powers to decide on the Constitution; that it must go before a Convention.—As it was insinuated



he would aim at preventing this, much pleasure was discovered at the declaration.—Thursday next the 25th. is fixed upon for taking up the question of calling the Convention, and fixing the time of its meeting: In the meantime, five thousand copies are ordered to be printed, to be dispersed by the members in their respective Counties for the information of the People.—I cannot forbear mentioning that the Chancellor Pendleton espouses the Constitution so warmly as to declare he will give it his aid in the Convention, if his health will permit.—As there are few better judges of such Subjects, this must be deemed a fortunate circumstance.<sup>3</sup>

1. Copy (quoted in Washington to James Madison, 22 October), Madison Papers, DLC. The recipient's copy of this excerpt of a letter has not been located. In introducing the quoted Stuart letter, Washington wrote James Madison that "When I last wrote to you [10 October, above] I was uninformed of the Sentiments of this State beyond the circle of Alexandria with respect to the New Constitution. Since, a letter which I received by the last Post, dated the 16th. from a Member of the Assembly, contains the following paragraphs." Washington did not identify the writer, but on 5 November, in a letter to Stuart (see below), Washington acknowledged the receipt of a letter from Stuart dated 16 October.

On 22 October, the same day that Washington wrote to Madison, he also spoke with Daniel Carroll at a meeting of the Potomac Company in Georgetown. Carroll described his conversation with Washington in a letter to Madison (dated 28 October), indicating that Washington had just received a letter from David Stuart, a close friend and neighbor of Washington's. Carroll noted: "The information from him was pleasing; Doctr. Stuart, Representative for Fairfax, writes to him from Richmond, that there was a full House the 1st day; & that he did not find a single Member, but what appeared to be in favor of the New Govt., except Patrick Henry, who was reserv'd, but express'd Sentiments in favor of recommending a Convention" (Rutland, *Madison*, X, 226).

2. William Cabell, Sr., represented Amherst in the House of Delegates and in the state Convention, where he voted against ratification of the Constitution.

3. Immediately following this quoted excerpt of a letter, Washington stated: "As the above quotation is the sum of my information, I shall add nothing more on the subject of the proposed government, at this time."

### **St. George Tucker to Frances Bland Tucker Richmond, 17 October (excerpt)<sup>1</sup>**

I should have written to you yesterday, my beloved Fanny if I could have met with any person going over to Petersburg. But I can not defer writing to day, & taking the Chance of a Conveyance—Wonderful to relate, the house of Delegates met according to their appointed Time—such is the influence of wholesome laws well directed to the object—the fine of ten pounds upon each individual has had an operation which the Consideration of saving thousands to the Community could not effect.<sup>2</sup>—Mr Prentis was rechosen without opposition—The house have ordered 5000 Copies of the Constitution to be immediately printed & dispersed for the perusal of their Constituents.—Thursday

sennight is the important day fixed for them to take it under Consideration in a Committee of the whole house. Many are it's advocates—many it's opposers. Yet it seems agreed that it ought to be referred to a Convention of the people. . . .

1. RC, Tucker-Coleman Papers, ViW.
2. For the ten-pound fine provided in the election law of 1785, see the headnote to "The General Assembly Receives the Constitution," 15–16 October (above).

### **George Washington to David Stuart Mount Vernon, 17 October<sup>1</sup>**

As the enclosed Advertiser contains a speech of Mr. Wilson's<sup>2</sup> (as able, candid, & honest a member as any in Convention) which will place the most of Colo. Mason's objections in their true point of light, I send it to you.—The re-publication (if you can get it done) will be of service at this juncture.—His ipso facto objection does not, I believe, require an ansr—every mind must recoil at the idea.—And with respect to the Navigation Act, I am mistaken if any three men, bodies of Men, or Countries, will enter into any compact or treaty if *one* of the three is to have a negative controul over the other two—There must be reciprocity or no Union; which is preferable will not become a question in the mind of any true patriot.—But granting it to be an evil it will infallibly work its<sup>3</sup> own cure, and an ultimate advantage to the Southern States.<sup>4</sup>

1. RC (photostat), Washington Papers, DLC. For significant differences between the recipient's and the letterbook copies of this letter, see notes 3 and 4 (below).

2. Washington refers to James Wilson's speech before a public meeting in Philadelphia on 6 October which was first printed in an "extra" edition of the *Pennsylvania Herald, and General Advertiser* on 9 October and then again on the 10th (CC:134). The speech was reprinted in the *Virginia Independent Chronicle* on 24 October and the *Virginia Journal* on the 25th. (See also Archibald Stuart to John Breckinridge, 21 October, note 3, below.) Mason had sent Washington a copy of his objections on 7 October (above).

3. The word "its" was underlined in the letterbook copy.

4. This last clause does not appear in the letterbook copy, and this last sentence actually preceded the previous one in the letterbook version.

### **Attacks on the Three Non-Signers of the Constitution Philadelphia, 17 October**

*Pennsylvania Journal, 17 October<sup>1</sup>*

We hear from Virginia, that on the arrival of Mr. Mason (one of their Delegates in Convention) at Alexandria, he was waited on by the Mayor and Corporation of that Town, who told him, they were *not* come to return him their thanks for his conduct in refusing to sign

the Fœderal Constitution; but to express their abhorrence to it, and to advise him to withdraw from that town within an hour, for they could not answer for his personal safety, from an enraged populace, should he exceed that time.

*Pennsylvania Gazette, 17 October*<sup>2</sup>

We hear from Virginia, that GEORGE MASON has been treated with every possible mark of contempt and neglect, for neglecting to sign the Fœderal Constitution, and that PATRICK HENRY, Esq; is using his influence in that state, in promoting its adoption.

*Pennsylvania Herald, 17 October (excerpt)*<sup>3</sup>

It is reported, that the citizens of Virginia have expressed the most pointed disapprobation of the conduct of those delegates to the convention who have refused to concur in the new plan of government. Notwithstanding the popular clamour however, we find that in many of the states persons avowedly inimical to that work, have been chosen members of the different legislatures. . . .

1. Reprints by 19 November (27): Vt. (1), N.H. (3), Mass. (6), R.I. (1), Conn. (6), N.Y. (5), N.J. (1), Pa. (4). This paragraph was reprinted and refuted by "A Lover of Truth," who stated "that the above *hear-say is not true*. The decency of the people of Alexandria, and the very great *respectability* of Mr. Mason forbidding such a *foolish outrage* to have been committed." He charged that the paragraph was written by advocates of the Constitution who were using "*force, fraud and falsehood*" in its behalf (*New York Packet*, 30 October). This refutation was summarized twice in Pennsylvania and once each in Massachusetts and South Carolina. Nor does any Virginia source confirm the *Pennsylvania Journal's* account. For the instructions of the freeholders of Fairfax County to their delegates in the House of Delegates, see "Alexandria and Fairfax County Meetings," 28 September–2 October (above).

2. Reprints by 3 November (12): N.H. (1), Mass. (4), R.I. (1), Conn. (1), N.Y. (1), Pa. (2), Md. (2).

3. Reprinted: *Gazette of the State of Georgia*, 1 November, and in the October issue of the Philadelphia *Columbian Magazine*. See CC:171 for the entire article.

## Cato Uticensis

**Virginia Independent Chronicle, 17 October**<sup>1</sup>

*To the FREEMEN of VIRGINIA.*

Adventuring, this day, to call your attention to one of the most serious and awful subjects, that ever was agitated by a free people, I must, in the most unfeigned manner, supplicate your kindest indulgence. I must, (it would be presumption to deny it) own that the head which dictates these words, and the hand, which guides this pen, trembles at this moment with reverential awe; and, if I mistake not, there

are few among you,<sup>2</sup> whose own feelings will leave any room to doubt it, when you are informed, that I am summing up the courage to question the merits of the *Fæderal Constitution*, proposed to your consideration by the late General Convention.

In the hour of distress, in the moment of confusion and perilous danger, after separately declaring themselves sovereign and independent, the Thirteen States of America associated together in a Fœderal league, for their common defence, an affair of such magnitude, formed under the influence of such unfavorable circumstances, could not fail of receiving a tinge from them; consequently, when the war, that link, which supplied each defect was over, the yawnings and the chasms of the building began to give evident marks of the hastiness of the workmen: America saw, that without the help of a better cement, the different members were likely to fall asunder, and that, though we may find a lodging in some of the separated pavilions, we must bid adieu to the grandeur and dignity of being inhabitants of a stately palace.

The State of Virginia had the honor of taking the lead in this business, and well aware of its magnitude and import, she delegated some of her choicest sons to it, as did the other States, the result has been anxiously waited for, and in the confidence of its being the offspring of the combined abilities and integrity of America, nobody doubted discovering in it the characteristic features of the parents. The reverence, which every man must feel for them, made me, on examining it, guard against my own opinion with the utmost severity. But, as it is not in the power of man to give up, in any single instance, the dictates of his reason, when he has once been convinced of the propriety of allowing his judgment to be swayed by no other motive, I thought it beneath the dignity of a free agent, with strength of conviction on my mind, to sacrifice it to any authority or predilection whatsoever. To acquire this conviction, 'tis true, I had no small difficulty to bring myself to examine the Fœderal Constitution abstracting from its authors; I hope, nevertheless, that every freeman in Virginia will, in this momentous matter, take the same method, will nobly dare to think for himself, and will not be lulled, perhaps into a fatal stupor, by the whistling of any names whatsoever; this, I am sure, is the wish of the most exalted characters, that formed the Fœderal Convention; and, believe me, when you will not use this privilege, you are no longer worthy to bear the name of *freemen*. I would wish to find it sunk deep into your recollection, and be early impressed upon the minds of your children, that all the republics, which were, and are not, in the world, owed their loss of liberty and their dissolution, to an over-weaning reverence for men and their measures. This considera-

tion is not thrown out to you, with the impious arrogance of insinuating the least doubt of the upright and patriotic views, of the Delegates who formed the late General Convention; a vain and presumptuous attempt of that kind would, undoubtedly, have no other effect with you, than that of branding the man, who could be guilty of it, with the most deserved infamy and contempt. The intention of it is, to induce you, as it behooves freemen, to meet the consideration of this matter, with minds purged of all kind of prejudice, and ready to yeild to the conviction of your reason—*Humanum est errare*. The lot of human nature renders it liable to error, and, if we discover it here, it will be a great practical lesson, to humble ourselves before the fountain of ALL WISDOM. Though I have not the fondness to think, that any remarks of mine shall influence the political conduct of any one, I may, perhaps without incurring the imputation of self-sufficiency, indulge myself with the hopes, that they may call forth some abler pens to agitate this matter. It is surely to be wished, that the attention of the Citizens of the different States should be fixed, in a cool, dispassionate manner, to a subject, which is to have so direct an influence on the future prosperity of them and their posterity.

It has been the language, since the peace, of the most virtuous and discerning men in America, that the powers vested in Congress were inadequate to the procuring of the benefits, that should result from the union: It was found, that our national character was sinking in the opinion of foreign nations, and, that the selfish views of some of the States were likely to become the source of dangerous jealousy; the requisitions of Congress were set at naught; the Government, that represented the Union, had not a shilling in its Treasury to enable it to pay off the Fœderal debts, nor, had it any method within its power to alter its situation; it could make treaties of commerce, but could not enforce the observance of them, and it was felt, that we were suffering from the restrictions of foreign nations, who seeing the want of energy in our Fœderal Constitution, and the unlikelihood of co-operation in thirteen separate Legislatures, had shackled our commerce, without any dread of recrimination on our part: To obviate these grievances, it was, I believe, the general opinion, that new powers should be vested in Congress, to enable it, in the amplest manner, to regulate the commerce, to lay and collect duties on the imports, of the United States. Delegates were appointed by most of them, for these purposes, to a Convention, to be held at Annapolis in the September before last; a few of them met, and without waiting for the others, who were coming on, they dissolved the Convention, after resolving among themselves, that the powers vested in them were not sufficiently

extensive, and, that they would apply to the Legislatures of the several States, which they represented, to appoint members to another Convention, with powers to new model the Fœderal Constitution. This, indeed, it has now done in the most unequivocal manner, nor has it stopped here, for it has fairly annihilated the Constitution of each individual state. It has proposed to you a high prerogative government, which, like *Aron's* serpent, is to swallow up the rest:<sup>3</sup> this is what the thinking people in America were apprehensive of; they knew how difficult it is to hit the golden mean, how natural the transition is from one extreme to the other; from anarchy to tyranny; from the inconvenient laxity of thirteen separate Governments to the too sharp and grinding one, before which our sovereignty, as a state, was to vanish.

In *Art. 1, Sect. 8.* of the proposed Fœderal Constitution; it is said, "Congress shall have power to lay and collect taxes, duties, imposts and excises."—Are you then, Virginians, about to abandon your country to the depredations of excisemen, and the pressure of excise laws? Did it ever enter the mind of any one of you, that you could live to see the day, that any other government, but the General Assembly of Virginia, should have power of *direct taxation* in this state? How few of you ever expected to see excise laws, the instruments of tyranny, in force in your country? But, who could imagine, that any man but a Virginian, were they found to be necessary, would ever have a voice towards enacting them? That any tribunal, but the Courts of Virginia, would be allowed to take cognizance of disputes between her citizens and their tax-gatherers and their excisemen? And that, if it should ever be found necessary to curse this land with these hateful excisemen, any one, but a fellow citizen, should be intrusted with that office?

For my part, I cannot discover the necessity there was of allowing Congress to subject us to excise laws, unless, that considering the extensiveness of the single republic into which this Constitution would collect all the others, and the well known difficulty of governing large republics with harmony and ease, it was thought expedient to bit our mouths with massive curbs, to break us, bridled with excise laws, and managed by excisemen, into an uniform, sober pace, and thus, gradually, tame the *troublesome* mettle of the freeman. This necessity could not, surely, arise from the desire of furnishing Congress with a sufficient revenue, to enable it to exercise the prerogatives, which every friend to America would wish to see vested in it; as it would, by unanimous consent, have the management of the impost, it could increase it to any amount, and this would fall sufficiently uniform on every one, according to his ability; or, were this not found sufficient, could not the deficiency be made up by requisitions to the states? Could it not

have been made an article of the Fœderal Constitution, that, if any of them refused their quota, Congress may be allowed to make it up by an increase of the impost, on that particular state so refusing. This would, surely, be a sufficient security to Congress, that their requisitions would be punctually complied with.

In any dispute between you and the revenue officers and excisemen of Congress, it is true, that it is provided, the trial shall be, in the first instance, within the state, though before a Fœderal tribunal: It is said in *par. 3. sect. 2. art. 3*, "The trial of all crimes except in cases of impeachments shall be by jury; and such trial shall be held in the state where the crimes shall be committed;" but what does this avail, when an appeal will lie against you to the Supreme Fœderal Court—In the paragraph preceding the one just now quoted, it is said, "In all cases affecting ambassadors, other public ministers and consuls, and those in which a state shall be a party, the Supreme Court shall have original jurisdiction. *In all the other cases before mentioned,*<sup>(a)</sup> the Supreme Court shall have *appellate jurisdiction*, both as to law and fact, with such exceptions and under such regulations as the Congress shall make." But, where is this Supreme Court to sit? Will it not be, where Congress shall fix its residence? Thither then you will be carried for trial. Who are to be your jury? Is there any provision made, that you shall have a *Venire* from your county, or even from your state, as they please to call it? No! you are to be tried within the territory of Congress, and Congress itself is to be a party; you are to be deprived of the benefit of a jury from your vicinage, that boast and birthright of a freeman.

Should it not, at least, have been provided, that those revenue officers and excisemen, against whom free governments have, always, justly entertained a jealousy, should be citizens of the state? Was it inadmissible, that, they should be endued with the bowels of fellow-citizens? Are we not to expect, that New England will now send us revenue officers, instead of their onions and their apples? When you observe, that the few places, already, under Congress in this state are in the hands of strangers, you will own, that my suspicion is not without some foundation: and, if the first cause of it be required, those, who have served in Congress, can tell you, that the New England Delegates to that Assembly have always stood by each other, and have formed a firm phalanx, which the southern Delegates have not; that, on the contrary, the manœuvres of the former have been commonly engaged, with success, in dividing the latter, against each other. The force of names and of habits is well known, though Scotland and England go now under the general name of Great Britain, the distinction of Scot[c]hman and Englishman still subsists, and, how often has the latter

complained, that, that northren hive was continually swarming its hungry instruments of undue prerogative over his country.

The ingenious *Lord Shaftsbury* has said, that a wheel within a wheel was an *absurdity* in politics;<sup>4</sup> but, where was this ever so manifest, as in this Fœderal Constitution. The phantom of sovereignty, which is left the state, enables it to legislate in many instances, and lay taxes; to have its tax-gatherers and excisemen too. Unhappy situation where the natural jealousy, and the pride inherent in two separate governments, presiding over the same people, will induce them to vie in the race of taxation to snatch the prize, the spoils of the citizen, that is to glut the vanity of their respective consequence! he, who has meditated on man, and the secret springs, which move him, must expect this. Unhappy situation where two rival excisemen battle at your doors for precedence in seizing these spoils!—In the name of God look well before you leap, consider, that the question is, whether, you would rather be a sovereign or a sharer in sovereignty: whether, as only a few from their abilities and consequence can expect to be delegated, in rotation, to Congress, you are not about to lay the foundation of a dangerous aristocracy. Whether, it is, not more likely that the blaze of LIBERTY will be kept alive among us, when watched on thirteen separate Altars, than when re-united into one, be it ever so refulgent. Consider, whether you are willing to see the state of Virginia dwindle into the insignificance of a town corporate: and as the Mayor Court of Alderman and Common Council in this make by-laws for its own government, you are satisfied with a Governor, Senate, and Assembly, which will have the same authority as “the United States shall guarantee to every state in this Union a Republican FORM of government.” Consider that if you pass the Fœderal Constitution *in toto*, you subject yourselves to see the doors of your houses, the impenetrable castles of freemen, fly open before the magic wand of an exciseman, and, that, if you should resent and punish the insolence of office, the daring brutality of the *publican*, perhaps offered to the wife of thy bosom, you will be dragged for trial before a distant tribunal, and there, perhaps, condemned without enjoying the benefit of a jury from your vicinage, your unalienable birthright as a freeman.

October 10, 1787.

(a) *See the Fœderal Constitution.*

1. Reprinted: Philadelphia *Freeman's Journal*, 31 October; *New York Morning Post*, 8 November (excerpt); *New York Packet*, 9, 13 November. “Cato Uticensis” may have been written by George Mason (see John Dawson to James Madison, 19 October, below).

2. Originally “thee” but changed to “you” in an errata printed in the *Virginia Independent Chronicle*, 24 October.



3. Exodus 7:10–12.

4. 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*. . . .

**James Madison to George Washington**  
**New York, 18 October<sup>1</sup>**

I have been this day honoured with your favor of the 10th instant, under the same cover with which is a copy of Col. Mason's objections to the Work of the Convention.<sup>2</sup> As he persists in the temper which produced his dissent it is no small satisfaction to find him reduced to such distress for a proper gloss on it; for no other consideration surely could have led him to dwell on an objection which he acknowledged to have been in some degree removed by the Convention themselves—on the paltry right of the Senate to propose alterations in money bills—on the appointment of the vice President—President of the Senate instead of making the President of the Senate the vice President, which seemed to be the alternative—and on the *possibility*, that the Congress may misconstrue their powers & betray their trust so far as to grant monopolies in trade &c. If I do not forget too some of his other reasons were either not at all or very faintly urged at the time when alone they ought to have been urged; such as the power of the Senate in the case of treaties & of impeachments; and their duration in office. With respect to the latter point I recollect well that he more than once disclaimed opposition to it. My memory fails me also if he did not acquiesce in if not vote for, the term allowed for the further importation of slaves;<sup>3</sup> and the prohibition of duties on exports by the States.<sup>4</sup> What he means by the dangerous tendency of the Judiciary I am at some loss to comprehend. It never was intended, nor can it be supposed that in ordinary cases the inferior tribunals will not have final jurisdiction in order to prevent the evils of which he complains. The great mass of suits in every State lie between Citizen & Citizen, and relate to matters not of federal cognizance. Notwithstanding the stress laid on the necessity of a Council to the President I strongly suspect, tho I was a friend to the thing, that if such an one as Col. Mason proposed, had been established, and the power of the Senate in appointments to offices transferred to it,<sup>5</sup> that as great a clamour would have been heard from some quarters which in general eccho his Objections. What can he mean by saying that the Common law is not secured by the new Constitution, though it has been adopted by the State Constitutions. The Common law is nothing more than the un-

written law, and is left by all the Constitutions equally liable to legislative alterations. I am not sure that any notice is particularly taken of it in the Constitutions of the States. If there is, nothing more is provided than a general declaration that it shall continue along with other branches of law to be in force till legally changed. The Constitution of Virga. drawn up by Col. Mason himself, is absolutely silent on the subject.<sup>6</sup> An *ordinance* passed during the same Session, declared the Common law as heretofore & all Statutes of prior date to the 4 of James I. to be still the law of the land,<sup>7</sup> merely to obviate pretexts that the separation from G. Britain threw us into a State of nature, and abolished all civil rights and obligations. Since the Revolution every State has made great inroads & with great propriety in many instances on this *monarchical* code. The "revisal of the laws" by a Comitte of wch. Col. Mason was a member, though not an acting one, abounds with such innovations.<sup>8</sup> The abolition of the *right of primogeniture*, which I am sure Col. Mason does not disapprove, falls under this head. What could the Convention have done? If they had in general terms declared the Common law to be in force, they would have broken in upon the legal Code of every State in the most material points: they wd. have done more, they would have brought over from G. B. a thousand heterogeneous & antirepublican doctrines, and even the *ecclesiastical Hierarchy itself*, for that is a part of the Common law. If they had undertaken a discrimination, they must have formed a digest of laws, instead of a Constitution. This objection surely was not brought forward in the Convention, or it wd. have been placed in such a light that a repetition of it out of doors would scarcely have been hazarded. Were it allowed the weight which Col. M. may suppose it deserves, it would remain to be decided whether it be candid to arraign the Convention for omissions which were never suggested to them—or prudent to vindicate the dissent by reasons which either were not previously thought of, or must have been wilfully concealed—But I am running into a comment as prolix, as it is out of place.

I find by a letter from the Chancellor (Mr. Pendleton) that he views the act of the Convention in its true light, and gives it his unequivocal approbation.<sup>9</sup> His support will have great effect. The accounts we have here of some other respectable characters vary considerably. Much will depend on Mr. Henry, and I am glad to find by your letter that his favorable decision on the subject may yet be hoped for.—The Newspapers here begin to teem with vehement & virulent calumniations of the proposed Govt. As they are chiefly borrowed from the Pennsylvania papers, you see them of course. The reports however from different quarters continue to be rather flattering.

1. RC, Washington Papers, DLC.
2. Washington's 10 October letter to Madison is printed above. See "George Mason: Objections to the Constitution," 7 October (above).
3. Mason's comments concerning "the term allowed for the further importation of slaves" (i.e., 1800 or 1808) have not been recorded, but on 22 August he delivered a powerful indictment of both slavery and the slave trade. He wanted the central government to have the power to prevent the increase of slavery, and he wanted the states to give up the right to import slaves. On 25 August he supported a tax on the importation of slaves (Farrand, II, 370, 416, 417).
4. On 12 and 13 September, Mason led the fight to give the states the right to levy export duties in order to defray the costs of inspection, packing, sorting, etc. (*ibid.*, 588, 607). However, he spoke against giving Congress the power to tax exports and voted against Madison and Washington who were willing to give that power to Congress providing two-thirds of each house voted for such taxes. Edmund Randolph and John Blair sided with Mason on this issue (*ibid.*, 305-6, 362-64).
5. On 7 September Mason recommended "that a privy Council of six members to the president should be established; to be chosen for six years by the Senate, two out of the Eastern two out of the middle, and two out of the Southern quarters of the Union, & to go out in rotation two every second year; the concurrence of the Senate to be required only in the appointment of Ambassadors, and in making treaties, which are more of a legislative nature." The Council's principal power would be the power of appointment which it would share with the president (*ibid.*, 537-38).
6. For Mason's role as author of the Virginia Declaration of Rights and the Virginia constitution of 1776, see Rutland, *Mason*, I, 274-91, 295-310.
7. Hening, IX, 127.
8. In November 1776 Mason, Thomas Jefferson, George Wythe, Edmund Pendleton, and Thomas Ludwell Lee were appointed to be a committee for the revision of the laws of the state. The committee reported in June 1779. Mason and Lee, who were not lawyers, resigned from the committee long before it reported, believing themselves to be unqualified (Rutland, *Mason*, I, 332n).
9. See Edmund Pendleton to Madison, 8 October (above).

### John Dawson to James Madison Richmond, 19 October (excerpts)<sup>1</sup>

Your favour of the 2d. Int. I receivd in due time—before this I presume you have heard that one hundred and five members attended at the state-house on the first day—whether this is to be attributed to the *ten* pounds, or to a proper sense of duty I leave with you to determine—perhaps to both—On motion of Colo Mathews, seconded by Mr. B. Harrison, Mr. Prentis was call'd to the chair, without any opposition—On the wednesday the Senate elected Mr. Jones their Speaker—a number of papers had been laid before the house by the Executive—among them are the proceedings of the convention, as forwarded by Congress—

On Thursday next we are to go into a committee of the whole house on this business—altho the constitution offerd has some able opponents yet there is a decided majority in favour of it—there will be no opposition, I think, to a state convention, for it appears to be the general

opinion that the legislature ought to send the Constitution to the people with out any mark either of censure or approbation—I enclose you a paper in which you will find a piece said, with truth I believe, to be written by Colo Mason—he is not yet arriv'd, but is hourly expected.<sup>2</sup> . . .

The freeholders of Fairfax have on the most pointed terms directed Colo Mason to vote for a convention,<sup>3</sup> and have as pointedly assur'd him he shall not be in it—

1. RC, Madison Papers, DLC. Printed: Rutland, *Madison*, X, 198–99.

2. Possibly a reference to “Cato Uticensis,” *Virginia Independent Chronicle*, 17 October (above).

3. See “Alexandria and Fairfax County Meetings,” 28 September–2 October (above).

### **Patrick Henry to George Washington Richmond, 19 October<sup>1</sup>**

I was honor'd by the Rect. of your Favor together with a Copy of the proposed foederal constitution, a few Days ago, for which I beg you to accept my Thanks. They are also due to you from me as a Citizen, on Account of the great Fatigue necessarily attending the arduous Business of the late Convention—

I have to lament that I cannot bring my Mind to accord with the proposed Constitution. The Concern I feel on this account, is really greater than I am able to express. Perhaps mature Reflection may furnish me Reasons to change my present Sentiments into a conformity with the Opinions of those personages for whom I have the highest Reverence. Be that as it may, I beg you will be persuaded of the unalterable Regard & Attachment with which I ever shall be

1. RC, Washington Papers, DLC. Henry replies to Washington's letter of 24 September (above).

### **Tobias Lear to John Langdon Mount Vernon, 19 October<sup>1</sup>**

The very important business which has lately employed your attention, and the want of something to communicate which could be entertaining or interesting to you, must apologize for my not acknowledging the reception of you[r] kind favor of the 6th. of April, before this time.

Permit me to congratulate you upon the happy completion of that momentous business in which you have borne a part.—I call it a happy completion because the Constitution which is offered to the people of the United States was handed forth from the Convention with more

unanimity than you yourselves, in some stages of the business, had any reason to expect, or than the people at large had any idea of.

The production of your labours is now a child of fortune to be adopted or rejected by the people,<sup>2</sup> but I hope that their partiality for so promising a child, & the fostering hand of those who gave it birth, will ensure to it a favourable reception.—So far as I have been able to learn the sentiments of the people of this State I think there is no great doubt of its being adopted here.—In this,<sup>3</sup> & the neighbouring Counties, the people appear to be strongly attached to it, which, I think, is a circumstance exceedingly favourable, because the influence of Colo. Mason is very great in this part of the State where he resides, and I should not have been surprized if, in consequence of his objections, it had been coolly recd. here, but by his opposition he has lost much of his popularity, and as he is one of the representatives of this County in the General Assembly the people have drawn up such instructions for him that he cannot but urge a speedy convention of the people to decide upon the Constitution.<sup>4</sup>

We have not yet been able to learn the sentiments of Mr. (formerly Governor) Henry upon this subject,<sup>5</sup> & as he is a man of great popular influence in the lower parts of Virginia much will depend upon his *dictum*. He was appointed a member of the general convention but did not accept, and it was then said that he was averse to fœderal measures; but I hope that the general advantage which is held up to view in this constitution will reconcile him to the adoption of it.

It is thought that Governor Randolph will not oppose it, altho his name is not affixed to it;—but I dare say you must know that his not signing it was not so much owing to any objections which he had to the Constitution, as to its not having the alterations or amendments, which might be proposed by the different States, submitted to another Convention similar to the one which formed it, before it should have effect.

I enclose a copy of Colo. Masons objections to the Constitution.<sup>6</sup> Some of his 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*";<sup>7</sup> but finding a strong opposition to his opinion upon some points in the Convention, don't you think he felt himself piqued?

The objection upon which he seems to lay most stress, and which will operate more forceably than any other upon the people of the Southern States, is the power which Congress will have to pass a navigation act which may exclude foreigners from carrying the produce of these States, and the Northern States, by being the sole carriers, may have it in their power to make their own terms of freight, or become monopolizers of the produce.—But this is one of the objections which has no solid foundation;—for, in the first place, it is not probable that the national legislature will be so impolitic as to make any laws whereby the inter[e]st of one part of the community can be sacrificed to the advantage of the other;—and in the next place, allowing that they will pass an act to prohibit foreigners from being the carriers of our produce, it will by no means follow that the Northern States will demand an exorbitant freight;—for, (if I am not much mistaken) they are capable of furnishing many more ships than can be employed in this business, and these ships not being in the hands of a few individuals who can withhold them until they make their own terms, but distributed, in a manner, among the mass of the people who are obliged to employ them for their support, they will always endeavour to *undercarry* each other 'till they reduce the freight to the lowest terms upon which it can be afforded.—Neither will good policy dictate to the owners of vessels a measure which would ultimately prove extremely prejudicial, if not ruinous to their navigation;—for should they demand an exorbitant freight, they will force the Southern States, & Virginia in particular, to improve the advantages which nature has given them for ship building.—The banks of our extensive rivers are covered with the best of timber—the country abounds with iron—we have tar, pitch, turpentine &c. in the greatest abundance, and if once *driven to the necessity* of taking the advantage of these, tho perhaps the benefits may not be immediately felt, from the disadvantages and inconveniences which always accompany the first stages of every new undertaking, yet a few years will so fully evince the utility of such a measure as will, in my opinion, be exceedingly against the interest of the Northern States.—

These are the sentiments which occurred to me upon reading Colo. Mason's objections, but I submit it to your superior judgment whether a navigation act, if abused, would have the effects which I have mentioned.—I should, however, think it advisable to hold up to view, in New-Hamps[h]ire, this objection to a navigation act that the mercantile

part of the State might see more fully the advantages which would accrue to them from such an act, provided they did not abuse it.

I should be much obliged to you, if it is not too troublesome, to give me, in your next, the number of tons of Shipping that New Hampshire could supply every three years (exclusive of coasting vessels) calculated upon some certain data; for I am pretty well persuaded that there would be shipping enough supplied by that State alone to carry the produce of Virginia to Europe or elsewhere.—There are shipped annually from this State abt. 66,000 Hhds of Tobacco, 6,000 of which is the produce of North Carolina,—this would require about 44,000 tons of shipping, the wheat, flour, corn &c which is exported is generally carried in their own Vessels or small craft that would not come into the calculation, so that 44,000 tons is all that would be required, and it is not necessary that this should be supplied annually because a good Ship will last for many years, tho' I have allowed them to be employed only three years, & I think even in that case the united efforts of *little* New Hampshire could carry all the produce of *great* Virginia.

I only wish this calculation that I may, in some measure, point out the fallacy of Colonel Mason's objection to this part of the constitution, by shewing that the quantity of shipping will be so much greater than the demand that the carrying States can never obtain that great advantage over the producing ones which he pretends.

The General Assembly of this State met the 15th. inst.—One of their first objects will be to take measures for chusing a convention to decide upon the new government, so that we shall soon know the issue of it here.—I will thank you, my dear Sir, to inform me what appears to be the sentiment of the people in your State & Massachusetts respectg the Constitution—when it is probable you will call a convention, & whether the people will give their delegates to the convention pointed instructions to adopt or reject it, or whether it will rest with the convention alone to decide upon it.—Does Genl. Sullivan<sup>s</sup> approve of it?

If I did not know that the subject of this letter was interesting to you I should expect you would discard me as a troublesome & tedious correspondent.—I shall direct to you at Portsmouth, as General Pinkney, who was here last week with his lady on their way to Charleston, informed me that you had left New York, and he likewise added that you had the most sanguine expectation of the Constitution's being adopted in your State.

1. RC, Langdon/Elwyn Papers, NhHi. Lear (1762–1816), a native of New Hampshire and a graduate of Harvard College (1783), was Washington's private secretary from 1786 to 1793. He read law while employed by Washington. Langdon (1741–1819), a

Portsmouth, N.H., merchant and a delegate to Congress, represented New Hampshire in the Constitutional Convention, where he signed the Constitution. He voted to ratify the Constitution in the New Hampshire Convention in June 1788.

2. On 18 September Washington wrote Lafayette that the Constitution "is now a Child of fortune, to be fostered by some and buffeted by others" (above).

3. Fairfax County.

4. See "Alexandria and Fairfax County Meetings," 28 September–2 October (above).

5. Coincidentally Henry wrote to Washington on 19 October expressing his opposition to the Constitution (immediately above).

6. On 22 November Lear, writing as "Brutus," had the *Virginia Journal* publish Mason's objections, and on 6 December he replied to them in the *Journal* (both below). See "George Mason: Objections to the Constitution," 7 October (above), and Lear to Langdon, 3 December (below).

7. This phrase is usually quoted as "*Aut Caesar aut nihil*," which is translated: "Either Caesar or nothing." It has been traced to a statement that Julius Caesar made to his mother on the eve of his candidacy for the office of Pontifex Maximus (63 B.C.).

8. John Sullivan, a Durham, N.H., lawyer, was the president of the State of New Hampshire and the president of the New Hampshire Convention, where he voted to ratify the Constitution in June 1788.

### **Martin Oster to le Maréchal de Castries Norfolk, 19 October<sup>1</sup>**

Although absorbed by the troublesome and thorny tasks of maritime Jurisprudence, to which I am perpetually obliged to devote myself, in order to maintain good order in my Vice Consulate, and to save the goods that our traders too lightly entrust to certain merchant captains who come to Virginia, I do not neglect to attend to what goes on outside, and above all, what may concern Politics, in order to keep you informed.

The rumors and Division that are now stirring in my department, over the work of the Philadelphia Convention, a copy of which I have the honor to send you,<sup>2</sup> are creating a fear of great debates, leading to its disapproval, by the Virginia legislature, although it has the admiration of the majority of the States in the Union; I think, My Lord, that it would not displease you to know the reasons. I believe I have understood them well, and I shall have the honor of laying them out for you. they are connected with the egoism of individuals and particularly, with the influence of Governor Randolph, whose character is sufficiently prone to Contradiction, and sufficiently vain, for him to seek to be talked about. This vain glory is in general the flaw of Virginians.

Mr. Randolph the present Governor, having refused to sign the new Constitution, as did several members of his party, as being disadvantageous to Virginia, many are drawing authority from that to take the liberty of criticizing it; but they take care not to disclose the true



reasons for their opposition, which they conceal under the Veil of the public good, and the love of liberty. some, through an attachment to the interests of England, are secret enemies of the United States; others fear the reduction of the functions and prerequisites of their offices; others are apprehensive lest good order and regulation lead to the obligation to pay public debts, and private ones; others regret no longer being able to make those prohibitive laws to thwart the interest and commerce of the other states, which they consider, if not as enemies, at least as rivals; others observe with humiliation, that their State legislatures will be reduced to internal regulations, when Congress is fully vested with the power to handle the important matters of general administration; and all, finally, cannot get used to this idea of 13 Provinces, forming a single state, whose Glory and prosperity is to determine the welfare of all the parts that compose it.

Such are My Lord, the active motives of the party opposed to the new Constitution, that everyone admires, and without the execution of which, it is certain, that nothing will ever be permanent in the States, with the sole exception of the ability debtors have to make light of their obligations. in general Virginians are no one's creditors, and it is known, that they are almost all in debt.

Former Governor Henry has not given up at all on the plan he formed last year, of having Paper money introduced in the State. Through his natural Eloquence, and his shrewd insinuations, he has managed to regain the influence that his rejected plan caused him to lose, up to the point of having him named Delegate from his county, which vested him with very extensive powers, and notably, with that of calling for paper money, which men of good faith dread. If the Senate now in session were unmindful enough of the common interests of the 13 Republics, to disapprove of the new Constitution, and adopt the impolitic plan of Mr. Henry, all those foreigners who now find themselves connected to businesses in this country would be ruined, and the English who since the peace have *squeezed* out of it all the gold and silver, and, who, in general, have secured their debts with possessions, would have reason to congratulate themselves on having contributed to this event by their skillful and political mercantile operations.

The matters that will be discussed this year by the general assembly of Virginia, being of the utmost importance, I shall immediately proceed to Richmond in order to follow its deliberations there, give you an account of all that might merit your attention,<sup>3</sup> and at the same time to solicit there the payment of some claims against the state by some [French] nationals. I do not believe I should leave you ignorant

of the fact, My Lord, that all the measures that I have taken up to the present for the repayment of funds have never been fruitless and that I have only to be pleased with the attentions of the legislature. Before going to Richmond, I shall go to Petersburg, where the frenchmen assembled under the Banner of his Majesty, have just called on me to mediate their differences.

Permit me, My Lord, to be so bold as to call to your kind attention my former service and to represent to you that my Vice Consulate is the most spread out, the most active, the most troublesome, the most expensive, and also, the most interesting of all the consulates and Vice Consulates on the Continent.

1. RC (Tr), Correspondance Politique, États-Unis, Supplement, Vol. 4, ff. 308–11, Archives du Ministère des Affaires Étrangères, Paris. This letter, despatch number 45, was endorsed as received on 2 February 1788. A duplicate of the letter is in Affaires Étrangères, Correspondance Consulaires, BI 927, Norfolk, ff. 141–43, Archives Nationales, Paris. Oster had been French vice consul at Richmond and Norfolk since 1783. He had been record keeper at the consulate in Philadelphia from 1778 to 1781 and vice consul there from 1781 to 1783. Castries (1727–1801) was replaced as Minister of Marine by the Comte de Montmorin on 25 August.

2. The Constitution, along with the Convention's accompanying letter and resolutions, was printed in the *Norfolk and Portsmouth Journal* on 28 September.

3. On 18 November Oster wrote Castries enclosing translations of the legislative resolutions calling the state Convention, 31 October, and the 3 November resolutions of the House of Delegates condemning paper money (Affaires Étrangères, Correspondance Consulaires, BI 927, Norfolk, ff. 150–57, Archives Nationales, Paris).

### Fredericksburg Town Meeting, 20 October<sup>1</sup>

At a meeting of the Freeholders and Inhabitants of the town of Fredericksburgh, on Saturday, the 19th [20th] of October, 1787.<sup>2</sup>

JAMES SOMERVILLE, was chosen President.<sup>3</sup>

A copy of the constitution which the Convention framed, and submitted to the United States in Congress assembled, being read, and unanimously approved of; thereupon, *It was resolved*, To draw up instructions to JAMES MUNROE, and JOHN DAWSON, Esquires, Delegates of the county of Spotsylvania: The following is a copy of what was prepared, read and approved of, and signed by every inhabitant present.

At a meeting of the freeholders and inhabitants of Fredericksburgh, on the 19th [20th] day of October 1787.

The federal constitution being read and maturely considered, it was unanimously approved of, and resolved, that our Delegates for the county of Spotsylvania should be instructed in the following words:

To *John Dawson* and *James Munroe*, Esquires.

We, the freeholders and inhabitants of the town and corporation of

Fredericksburg, convinced of the inefficacy of our present form of government, and of the propriety of immediately adopting the system of government recommended by the general Convention of the United States; and that the safety, prosperity and happiness of Virginia, as well as the other states, depend greatly thereon:—We, therefore, direct you, our representatives, to declare, that this is the opinion of your constituents in this corporation; and that we request an immediate recommendation be made from the legislature of this state, to submit the same to a Convention of Delegates, chosen by the freeholders thereof, in conformity to the resolves of the convention in that case made and provided.<sup>4</sup>

1. *Virginia Herald*, 25 October. The *Virginia Herald* issue of 25 October is not extant. The text is taken from the Philadelphia *Independent Gazetteer* of 3 November, the earliest known reprint. This item was reprinted in whole or in part seven times by 20 November: N.H. (1), N.Y. (1), N.J. (1), Pa. (4). It was also reprinted in the November issue of the Philadelphia *American Museum*. Another version, which consisted of the instructions and a summary of the preceding paragraph, was printed in the *Maryland Journal*, 2 November, and reprinted in the *Trenton Mercury*, 20 November. Another summary of the proceedings was printed in the *Salem Mercury*, 20 November, and reprinted in the Providence *United States Chronicle*, 6 December.

2. On Friday, 19 October, the Fredericksburg Common Council "Ordered that the Sergeant give notice to the Freeholders of this Corporation that a meeting of them is requested at the market house tomorrow morning at ten O'clock to consider the Articles of the late Convention and to Instruct their delegates in such a manner as to them it shall seem Expedient" (Fredericksburg City Council Minutes, Vi).

3. Somerville was mayor of Fredericksburg.

4. For a response acknowledging the receipt of the instructions, see John Dawson and James Monroe to the Freeholders of Fredericksburg, 26 October (below).

### George Mason to Elbridge Gerry

#### Gunston Hall, Fairfax County, 20 October (excerpt)<sup>1</sup>

... There is great Contrariety of Opinion in Virginia upon the new Constitution of Government, & tho' in general it seems to be approved, Yet even its Advocates can not deny that there are in it some very exceptionable & unsafe Articles. I have no Doubt of our Legislatures referring it to a Convention of the People; where it will probably undergo some Alterations. It wou'd be fortunate for America, if the Conventions in the different States cou'd meet upon this important Business about the same time: by a regular & cordial Communication of Sentiments, confining themselves to a few necessary amendments, & determining to join heartily in the System so amended, they might, without Danger of public Convulsion or Confusion, procure a general Adoption of the new Government; but shou'd many of the States pursue such intemperate & violent Measures as the Legislature of Pen-

sylvania has done,<sup>2</sup> it requires no great Degree of Penetration to foresee the Consequences—a federal System will be defeated by the rash & improper means taken to support it, & the People of these United States involved in all the Evils of Civil War.—Indeed the precipitation with which the City of Philadelphia,<sup>3</sup> & that party in their Legislature, are attempting to force the new Government upon the People, betrays their Consciousness of it's not bearing the Test of impartial examination—they dread a thorough Knowledge & public Discussion of the Subject, & wish to hurry it down, during the short & raging hour of Approbation.—

I beg You will inform me what are the Sentiments of the wise & disinterested part of Your State, & what will probably be the Fate of the new System there; for there is no trusting to public reports or common News Paper Intelligence.

As my Objections, which I shewed You to the new Government, were written in a Hurry, & very incorrect, I take the Liberty of inclosing You a more correct Copy.<sup>4</sup>

1. RC, Americana Room, Daughters of the American Revolution, National Headquarters, Washington, D.C. Printed: Rutland, *Mason*, III, 1005–6. Mason enclosed a copy of his revised objections to the Constitution. This enclosure is also in the Americana Room. The letter was endorsed by Gerry as answered on 8 December, but this reply has not been found.

2. See George Washington to James Madison, 10 October, note 4 (above).

3. Between 24 and 29 September the Pennsylvania legislature received petitions requesting that it call a state convention that were signed by more than 4,000 inhabitants of the city of Philadelphia and the counties of Philadelphia and Montgomery. These inhabitants had begun signing the petitions on 20 September (RCS:Pa., 62ff).

4. Before Gerry left the Constitutional Convention in Philadelphia, Mason permitted him to make a transcript of his unrevised objections to the Constitution. This transcript, written on Gerry's copy of the Committee of Style report, is in the Gerry Papers at the Massachusetts Historical Society. See note 1 (above).

### **Tench Coxe to James Madison Philadelphia, 21 October (excerpt)<sup>1</sup>**

... I feel great hopes from appearances in Virginia. Col. Mason's conduct appears to be resented, & Mr. Randolph's is viewed with pain & regret. He is a very amiable, valuable man but I fear will suffer from the circumstance. It seems as if his declining to sign has occasioned a powerful interest to seize the opportunity of over throwing him by giving Countenance to the measures he has declined. The Country in this Case will be served, but at his expence. If his Views were pure, it is to be regretted that he should suffer if otherwise we must rejoice that it produces or tends to produce public benefits. I remember observing to him that I thought his not signing might lessen the Violence

of Opposition, tho I did not think then nor do I now, that he was right in refusing. . . .

1. RC, Madison Papers, DLC. Printed: RCS:Pa., 199–201; and Rutland, *Madison*, X, 201–2. Coxe (1755–1824), a Philadelphia merchant, wrote several widely circulated items, such as, “An American Citizen” I–IV (CC:100–A, 109, 112, 183–A); “An American” to Richard Henry Lee (CC:392–A); “A Freeman” I–III (CC:472, 488, 505); and “Philanthropos” (CC:454). Several of these items were reprinted in Virginia. On 21 and 28 May 1788 Coxe also printed two essays in the *Pennsylvania Gazette* addressed to the Virginia Convention, encouraging that body to ratify the Constitution (III below).

In a part of the letter not printed here, Coxe, who had sent James Madison “An American Citizen” I–III in late September for republication in Virginia and New York, said that he was enclosing three copies of a handbill containing the fourth “An American Citizen” essay. For the circulation of these essays in Virginia, see “The Republication of An American Citizen I–IV in Virginia,” 11 October–c. 15 December (above).

**Patrick Henry to Thomas Madison**  
**Richmond, 21 October (excerpt)<sup>1</sup>**

Yours by Randolph I recd. & have paid him twenty Pounds; & altho.' I could have wished to have paid him in some Store When he might have had greater Choice of Goods, yet I really could not, as Deane my Mercht., is very bare of Goods, & I had not Time to look out for a new Merchant as yet. For such is the Warmth of all the Members of Assembly concerning the new Constitution, that no Kind of Business can be done 'til that is considered, so far at least as to recomend a Convention of the People. Great Divisions are like to happen, & I am afraid for the Consequences. I can never agree to the proposed plan without Amendments, tho' many are willing to Swallow it in its present Form—pray how are politics your Way? The Friends of Liberty will expect Support from the back people. . . .

1. RC, Schoff Washingtonia, William L. Clements Library, University of Michigan. The letter was addressed to Madison “at the Salt Workes Washington” County.

**John Pierce to Henry Knox**  
**Richmond, 21 October (excerpt)<sup>1</sup>**

The People of this state appear to be principally in favor of the constitution; but I think that a great part of the Gentlemen and Politicians of the country are against it. the leading members in the Assembly are also against it—among which are Patrick Henry, Colo Bland,<sup>2</sup> and others. there are but two in the senate in favor of it. the Governor does not appear, but feels his character interested in its destruction, his friends & connexions are therefore generally against it. Mr Mayson has taken the utmost pains to disseminate the reasons of his dissent, in which he has condemned every part of the constitution, and undertaken to

proving the destruction of the liberty of the people in consequence of it. next Thursday the question of calling a convention is to be taken. the well wishers hope to obtain this. but their opponents think that the Assembly will not consent to it, unless the convention are allowed expressly, to make such alterations as they may think proper. . . .

1. RC, Knox Papers, MHi. Pierce (c. 1736–c. 1819), a planter, was state commissary general, 1781–82; sheriff of James City County, 1785–86; and a member of the House of Delegates from that county, 1787–98.

2. Theodorick Bland, a planter, represented Prince George County in the House of Delegates, 1786–89, and voted against the ratification of the Constitution in the state Convention.

### Archibald Stuart to John Breckinridge Richmond, 21 October<sup>1</sup>

Dr Breckinridge

Here are Wars & Rumors of Wars and all about the New Constitution, its friends & foes are like ye Electors in poland whose resentments carry them to ye extreme of Madness—Henry digresses from every subject to assault it & its friends with equal ardor follow him for its protection—

We are all contending for popular applause & he is ye Cleverest fellow who bellows most against taxes & distressing the good citizens of the country who are so dear to us all, In short if we get paid ourselves Out of ye last years collection it appears to me our successors will not be so fortunate & as to ye Executive their Ar[se]s will be through their breeches before they can buy new ones &c—The Conscript fathers are mostly here & all seem to admire our patriotism & wish for an opportunity to emulate our Virtues—The Republic is in future to be protected by our Militia who are to use the publick Arms & are to be aided to use G. N:s.<sup>2</sup> own terms by part of their Own body *MOUNTED* Mr Henry asks how they are to be mounted & G: N: answers Negatively not on Cows Bulls or Asses, Henry then shrewdly conjectures it must be on Horses is it so my friend that you oppose ye New Constitution? Read Wilson on its merits consider its effects & you must admire its Excellencies,—Wilson appears in Davises paper of yesterday<sup>3</sup> which I have not to send you—Our present situation is alarming a total suspension of all payments to congress will take place here till all ye States pay up, a Dissolution is ye Consequence,<sup>4</sup> Which will be accompanied with Di[s]grace, Weakness, Mutual Jealousy, Standing Armies in ye Dift: States & More ills than have enter'd ye Mind of Man to Conceive—ye Constitution is Our Only hope, Our all is at Stake & if ye Measure is Delayed One year till Our Enemies begin

to intrigue Or ye States loose their Accomodating Spirit and become Obstinate & pertinacious in their respective interests, We are for ever undone this is ~~certainly~~ however Alarming may be avoided by ye Measure proposed which altho as Wilson sais is imperfect carries the seeds of reformation with it.

1. RC, Breckinridge Family Papers, DLC. Stuart (1757–1832), a Staunton lawyer, left the College of William and Mary in 1780 for the army, and after the war he read law with Thomas Jefferson. He represented Botetourt in the House of Delegates, 1783–85, and Augusta, 1786–88. Stuart voted for the ratification of the Constitution in the state Convention. John Breckinridge (1760–1806), a lawyer and a classmate of Stuart's at William and Mary, represented Botetourt in the House of Delegates, 1781–82, 1783–84, and Montgomery, 1784–85. In 1785 he moved to Albemarle County.

2. Probably George Nicholas, who, like Breckinridge, was an Albemarle County lawyer. Nicholas represented Albemarle in the House of Delegates.

3. Stuart refers to James Wilson's speech to a public meeting in Philadelphia on 6 October (CC:134) which was apparently reprinted in John Dixon's *Virginia Gazette and Independent Chronicle* on 20 October (not located). The speech was also reprinted in Augustine Davis' *Virginia Independent Chronicle* on 24 October (see George Washington to David Stuart, 17 October, note 2, above).

4. The Virginia legislature did not suspend all payments to Congress, but it did divert a very substantial portion of them to other uses. On 14 December it adopted an act that created a sinking fund to pay the state debt. Under this act, the sinking fund received the duty of six shillings per hogshead on exported tobacco that had been intended to pay the special congressional requisition of 21 October 1786. Congress had repealed this requisition on 3 May 1787 (Hening, XII, 452–54). The revenue act of 1787, passed on 1 January 1788, removed from the monies allowed for the Continental fund the taxes on slaves and land (except for \$150,000) that had been earmarked by the revenue act of 1786 for that fund. The land tax formerly appropriated for the Confederation government now became "a fund for the support of the civil government" (*ibid.*, 425–28).

### Archibald Stuart to James Madison Richmond, 21 October (excerpts)<sup>1</sup>

Contrary to custom we had a house of Delegates on the 15th. Inst: & proceeded to read the Govrs. letter with its inclosures. . . .

Next thursday is set apart for adopting ye necessary measures for calling a Convention on ye Subject of ye foederal Constitution—From the disposition of some of ye members I fear it will be difficult to execute that Business without entering into ye merits of ye Constitution itself—

Mr Henry has upon all Occasions however foreign his subject attempted to give the Constitution a side blow its friends are equally warm in its support & never fail to pursue him through all his Windings—From what I can learn ye body of the people approve ye proposed plan of Government, it has however no contemptible opposition Our two dissenting members in ye Genl Convention<sup>2</sup> P: Hy:,<sup>3</sup> ye family

of Cabells,<sup>4</sup> St Geo: Tucker, J Taylor,<sup>5</sup> W Nelson: Genl. Nelson W Ronald<sup>6</sup> I fear, ye Judges I am told except P Carrington<sup>7</sup> & Others to[o] tedious & at the same time too insignificant to mention. . . .

Would it be proper that the ensuing Convention should also reform Our State constitution ye Objection to these innovations is that in ye mean time ye minds of men are Agitated & Government unhinged & as we are about to encounter this & every Other Objection would not ye present be ye most favorable crisis for this important Business—

1. RC, Madison Papers, DLC. Printed: Rutland, *Madison*, X, 202–3. Madison summarized this letter in an addendum dated 1 November to his letter to Thomas Jefferson, 24 October (below).

2. A reference to Edmund Randolph and George Mason.

3. Patrick Henry.

4. The most prominent members of the Cabell family, principally of Amherst County, were William, Sr., and his son Samuel Jordan Cabell. Both were planters who represented Amherst in the House of Delegates and in the state Convention, where they voted against the ratification of the Constitution.

5. John Taylor, a lawyer and planter, represented Caroline in the revolutionary conventions, 1774–76, and in the House of Delegates, 1779–82, and 1783–85.

6. William Ronald, a planter, represented Powhatan in the House of Delegates, almost continuously from 1781 to 1793, and voted to ratify the Constitution in the state Convention.

7. Paul Carrington, the chief justice of the state General Court, represented Charlotte in the state Convention, where he voted to ratify the Constitution.

### Frederick County Meeting, 22 October<sup>1</sup>

At a meeting of a number of the freeholders of Frederick county, in this town [Winchester], on Monday, the 22d day of October, 1787, being the day appointed for holding a general muster of the two regiments of militia. The muster being over, and the freeholders having retired to the Court-House, for the purpose of instructing the Delegates appointed to represent this county in General Assembly, relative to the Constitution formed by the late Federal Convention, when *Joseph Holmes*, Esq. was elected in the Chair, and, upon mature deliberation, the following letter was unanimously agreed to:

*To John S. Woodcock,<sup>2</sup> and Charles M. Thruston, Esquires.*

WE, the freeholders of the county of Frederick, by choosing you our representatives in the Assembly, have evinced our confidence in your integrity and abilities for the general purposes of legislation; it is not a diminution of that confidence which at this important crisis induces us to instruct you; we conceive the voice of the people may give weight to the vote of the delegate.

From the commencement of the contest with Great-Britain, 'till the conclusion of the war, which has ended so gloriously, we saw, with



pleasure, the recommendations of Congress submitted to more implicitly than the edicts of an absolute Prince. During this period a confederation was formed adequate to the purposes of its institution, while disinterested patriotism universally prevailed: that this spirit should long continue, unabated, was not to be expected: history proves the necessity of a supreme power and efficacious laws in every state; and the best constituted confederacies, ancient and modern, have not been able to maintain internal peace, or to exert their natural force with effect against foreign enemies, where each member of the union retained its sovereignty: but we need not now recur to the histories of other nations for proof of these positions; peace was no sooner restored, than the federal government relaxed; the wisest and most necessary recommendations of Congress, as well as their most solemn compacts, have been either totally disregarded, or partially complied with: hence hath ensued a breach of faith, both with respect to foreign nations and our own citizens; hence that debility of government which our enemies regard with exultation, and our best patriots with anxious concern; and hence, inevitably will ensue, anarchy, confusion, and all the direful consequences of a dissolution of government, unless an effectual remedy be timely applied.

A noble effort has been made to reform, and an excellent plan proposed for our acceptance: the question ought not to be "is this plan perfect?" but, "is it an improvement on our present system?" Perfection in human affairs is not to be hoped for. We conceive it is well calculated to secure to us our independence as a nation, and our civil rights as individuals: we conceive that without a more energetic federal government we cannot exist as a nation; and that if the present attempt to reform should fail, there is little prospect of success in future. Such being our sentiments, gentlemen, we instruct you to vote for the holding of a Convention, early as possible, to whose consideration the proposed Constitution may be submitted; and that you exert your utmost influence in opposition to those (if any such there are) who may attempt to frustrate a measure on which our peace, liberty and safety so essentially depend. We are, respectfully, &c.

*By order of the Meeting,*

JOSEPH HOLMES, Chairman.

1. Winchester *Virginia Gazette*, 26 October. This item was reprinted in the *Virginia Journal*, 1 November, the *Virginia Independent Chronicle*, 7 November, and in six other newspapers by 22 November: N.Y. (1), Pa. (4), Md. (1). It was also reprinted in the November issue of the *Philadelphia American Museum*. Immediately below this item, the Winchester *Virginia Gazette* printed this letter from "A Farmer": "I was present at a meeting of the Freeholders of Frederick on Monday last, and approve of the sentiments expressed in the instructions to our delegates then agreed upon. Had the receiving or

rejecting the proposed Constitution been submitted to the legislature, instructions might have been necessary; but is it possible a house of delegates should refuse to permit their constituents to deliberate on a subject of such high importance?"

2. John Shearman Woodcock, a planter, represented Frederick in the House of Delegates, 1787-89, and in the state Convention, where he voted to ratify the Constitution.

### **Henrico County Meeting, 22 October**

*Richmond Virginia Gazette and Weekly Advertiser, 18 October*

The Freeholders of Henrico county, are requested to meet at the Masons Hall at 11 o'clock on Monday the 22d inst. to instruct their Representatives in the present Assembly in the adoption of the Fœderal Constitution.

*Petersburg Virginia Gazette, 25 October*<sup>1</sup>

We are informed there has been a meeting of the inhabitants of Henrico county, at the Mason's Hall, in Richmond, on the subject of the proposed plan of federal government, which, after having been warmly advocated by a learned gentleman of that city,<sup>2</sup> was unanimously approved of.

1. Reprints by 20 November (6): Mass. (1), N.Y. (2), N.J. (2), Pa. (1). This issue of the *Gazette* is not extant. The text is taken from the *Pennsylvania Packet*, 3 November, the first known newspaper reprint.

2. Perhaps John Harvie. See James Breckinridge to John Breckinridge, 31 October (below).

### **Edward Carrington to Thomas Jefferson New York, 23 October (excerpts)**<sup>1</sup>

I have been honoured with your favor of the 4th. of August. inclosed you will receive a Copy of the report of our late federal Convention, which presents, not amendments to the old Confederation, but an entire new Constitution. this work is short of the ideas I had the honor to communicate to you in June, in no other instance than an absolute negative upon the State laws.<sup>2</sup>

When the report was before Congress, it was not without its direct opponents, but a great majority were for giving it a warm approbation,—it was thought best, however, by its friends, barely to recommend to the several Legislatures, the holding of Conventions for its consideration, rather than send it forth with, even, a single negative to an approbatory act. the people do not scrutinize terms; the Unanimity of Congress in recommending a measure to their consideration, naturally implies approbation: but any negative to a direct approbation, would

have discovered a dissention, which would have been used to favor divisions in the States. it certainly behoved Congress to give a measure of such importance and respectable birth, a fair chance in the deliberations of the people, and I think the step taken in that body well adapted to this idea.<sup>3</sup> . . .

. . . in Virginia there may be some difficulty—two of her members in Convention whose characters entitle them to the public confidence, refused to sign the report—these were Colo. Mason and Governor Randolph, nor was that state without its dissentients, of the same description, in Congress—these were Mr. R.H. Lee & Mr. Grayson, but upon very opposite principles—the former because it is to[o] strong, the latter because it is to[o] weak,<sup>4</sup> and Col. H. Lee is by no means an advocate. the Governor has declared that his refusal to sign, shall not be followed by hostility against the measure—that his wish is to get the Exceptionable parts altered if practicable, but if not, then he will join in its support from the necessity of the Case.<sup>5</sup>

Mr. Madison writes you fully upon the objections from Virginia,<sup>6</sup> and therefore I will not impose on your patience by repeating them; one, however, being merely local, and an old source of jealousy I will present to your consideration my opinion upon—this is the ability of a bare majority in the federal Government, to regulate Commerce.—it is supposed that a majority of the Union are carriers, and that it will be for the interest, and in the power, of that majority to form regulations oppressing, by high freights, the agricultural States.—it does not appear to me that this objection is well founded—in the first place it is not true that the majority are carriers, for Jersey and Connecticut who fall into the division, are by [no] means such—and New York & Pennsylvania, who also are within that division, are as much agricultural as Carrying States: but, admitting the first position to be true, I do not see that the supposed consequences would follow—no regulation could be made on other, than general & uniform principles—in that case every created evil would effect its own cure—the Southern States possess more materials for shipping than the Eastern, and if they do not follow the carrying business, it is because they are occupied in more lucrative pursuits—a rise of freight would make that an object, and they would readily turn to it; but the Competition amongst the eastern States themselves, would be sufficient to correct every abuse. A Navigation Act ought doubtless to be passed for giving exclusive benefits to American Ships—this would of course serve the eastern States, and such, in justice ought to be the case, as it may perhaps be shown, that no other advantage can result to them—from the Revolution—indeed, it is important to the interests of the southern States

that the growth of a Navy be promoted, for the security of that wealth which is to be derived from their agriculture.

My determination to join in the adoption results from a compound consideration of the measure itself, the probable issue of another attempt, and the critical state of our affairs—it has in my mind great faults—but the formers of it met under powers and dispositions which promised greater accommodation in their deliberations than can be expected to attend any future convention—the particular interests of States are exposed and future deputations, would be clogged with instructions and biased by the presentiments of their constituents—hence, it is fairly to be concluded that this is a better scheme than can be looked for from another experiment; on these considerations, I would clearly be for closing with it, and relying upon the correction of its faults, as experience may dictate the necessary alterations—but when I extend my view to that approaching Anarchy which nothing but the timely interposition of a new Government can avert, I am doubly urged in my wishes for the adoption.

Some Gentlemen apprehend that this project is the foundation of a Monarchy, or at least an oppressive Aristocracy; but my apprehensions are rather from the inroads of the democracy—it is true there is a preposterous combination of powers in the President and Senate, which may be used improperly, but time is to discover whether the tendency of abuse, will be to strengthen or relax—at all events this part of the constitution must be exceptionable:—but when we consider the degree of democracy of which the scheme itself partakes, with the addition of that which will be constantly operating upon it, it clearly appears to my mind, that the prevailing infractions are to be expected from thence. as State acts can go into effect without the direct controul of the general Government, having clearly defined the objects of their legislation, [the Constitution] will not secure the federal ground against their encroachments—a disposition to encroach must, in the nature of the thing exist, and the democratic branch in the federal legislature, will be more likely to cover their approaches, than resist them. . . .

1. RC, Jefferson Papers, DLC. Printed: Boyd, XII, 252–57; and CC:185 (longer excerpt). Jefferson received this letter on 13 December and replied on the 21st (Boyd, XII, 257n, 445–47). For a shorter but similar letter, see Carrington to William Short, 25 October (CC:191).

2. In his letter of 9 June, Carrington told Jefferson that the Constitutional Convention would have to create “a fœderal sovereignty with full and independant authority as to the Trade, Revenues, and forces of the Union, and the rights of peace and War, together with a Negative upon all the Acts of the State legislatures” (Boyd, XI, 407–11). Jefferson replied on 4 August that he did “not go as far in the reforms thought necessary” but would “make the states one as to every thing connected with foreign nations, and several as to every thing purely domestic” (*ibid.*, 678–80).

3. See "The Confederation Congress and the Constitution," 26–28 September (above).
4. See CC:95 for the speeches that they delivered in the congressional debates.
5. For Governor Randolph's reasons for refusing to sign the Constitution before the Constitutional Convention adjourned, see 12–15 September (above). See also "The Publication of Edmund Randolph's Reasons for Not Signing the Constitution," 27 December (below).
6. See James Madison to Jefferson, 24 October (below).

### **Petersburg Town Meeting, 24 October**

*Petersburg Virginia Gazette, 11 October*<sup>1</sup>

A meeting of the inhabitants of the town of Petersburg and counties adjacent, is requested, on Saturday the 20th instant, at Mr. Hare's tavern, in order to have their opinion upon the constitution proposed by the Federal Convention to the several states of the American union. October 10, 1787.

*Petersburg Virginia Gazette, 25 October*<sup>2</sup>

At a meeting of a number of the inhabitants of the town of Petersburg and its vicinity, at Mr. Hare's tavern, on Wednesday, October 24, 1787, to take into consideration the Federal Constitution; proposed by the late Grand Convention.

Colonel BANISTER,<sup>3</sup> in the Chair.

The proposed Constitution was read.—whereupon it was *resolved unanimously,*

That being fully impressed with the incompetency of the powers of Congress for the essential objects of government, and feeling the absolute necessity of an immediate review and amendment of the confederation, this meeting with much satisfaction beheld a general convention of deputies assembled for that purpose composed of characters the most distinguished for experience, abilities, and integrity.

That sensible as we are of the vast difficulty of forming such a plan of government, as shall at once combine the diversity of interests, and secure the rights of the respective states, subject to the general controul of one sovereign authority, we view with admiration and gratitude the wisdom, unanimity and magnanimous spirit of accommodation displayed by the late convention in the prosecution of the arduous object of their appointment.

That a work of such momentous import, framed by our best and wisest characters, upon the most ample deliberation and discussion, and founded upon the most enlarged principles and extensive information, deserves to be received with every mark of consideration and respect; and we are anxiously desirous that a state convention be im-

mediately called as we conceive every delay unworthy of the magnitude of the object, and incompatible with the urgency of our public affairs.

That we approve of the proposed plan of the federal constitution, as formed to cement the union of the states—to establish vigor and confidence in government; to extend an uniform administration of justice; to promote the general interests of commerce; and to secure respect abroad and peace at home; and that should it even be supposed that in some lesser matters the exclusive interest of this state may not have been particularly considered, yet we are free to declare, that we have not any possible hope, that under the circumstances of the several states, a better federal constitution can ever be obtained; nor have we any the smallest expectation that the like exertion of such eminent qualifications can ever again be commanded for a similar purpose, deeming it certain, that there remains now for the United States this only alternative, either by a speedy adoption of the proposed constitution, to become a great and respectable nation, or by rejecting it, to precipitate the dissolution of the union, exposed to insult and contempt, from without, to wars and dissensions from within.

That these resolutions be forwarded to the delegates of Dinwiddie and Prince George, who are requested to use their influence for immediately calling a convention to be held at as early a day as circumstances will possibly admit.

1. This issue of the Petersburg *Virginia Gazette* is not extant. The text is taken from the *Pennsylvania Packet*, of 20 October, the only reprint.

2. This issue of the Petersburg *Virginia Gazette* is not extant. The text is taken from the *Pennsylvania Packet*, of 5 November, the first reprint. The report was reprinted in six newspapers by 20 November: N.H. (1), N.Y. (1), N.J. (1), Pa. (2), Md. (1). It was also printed in the November Philadelphia *American Museum* and was summarized in the *Salem Mercury*, 20 November, and reprinted in the Providence *United States Chronicle*, 6 December.

3. John Banister, Sr. (1734–1788), a lawyer-planter, was a militia colonel during the Revolution. He represented Dinwiddie in the House of Burgesses almost continuously from 1766 to 1776, in the revolutionary conventions, 1774–76, and in the House of Delegates, 1776–78 and 1781–84. In 1778–79 he was a delegate to Congress.

### **James Madison to Thomas Jefferson New York, 24 October, 1 November (excerpts)<sup>1</sup>**

... You will herewith receive the result of the Convention,<sup>2</sup> which continued its Session till the 17th. of September. I take the liberty of making some observations on the subject which will help to make up a letter, if they should answer no other purpose.

It appeared to be the sincere and unanimous wish of the Convention to cherish and preserve the Union of the States. No proposition was

made, no suggestion was thrown out, in favor of a partition of the Empire into two or more Confederacies.

It was generally agreed that the objects of the Union could not be secured by any system founded on the principle of a confederation of sovereign States. A *voluntary* observance of the federal law by all the members, could never be hoped for. A *compulsive* one could evidently never be reduced to practice; and if it could, involved equal calamities to the innocent & the guilty, the necessity of a military force both obnoxious & dangerous, and in general, a scene resembling much more a civil war, than the administration of a regular Government.

Hence was embraced the alternative of a Government which instead of operating, on the States, should operate without their intervention on the individuals composing them: and hence the change in the principle and proportion of representation.

This ground-work being laid, the great objects which presented themselves were 1. to unite a proper energy in the Executive and a proper stability in the Legislative departments, with the essential characters of Republican Government. 2. to draw a line of demarkation which would give to the General Government every power requisite for general purposes, and leave to the States every power which might be most beneficially administered by them. 3. to provide for the different interests of different parts of the Union. 4. to adjust the clashing pretensions of the large and small States. Each of these objects was pregnant with difficulties. The whole of them together formed a task more difficult than can be well conceived by those who were not concerned in the execution of it. Adding to these considerations the natural diversity of human opinions on all new and complicated subjects, it is impossible to consider the degree of concord which ultimately prevailed as less than a miracle.

The first of these objects as it respects the Executive, was peculiarly embarrassing. On the question whether it should consist of a single person, or a plurality of co-ordinate members, on the mode of appointment, on the duration in office, on the degree of power, on the re-eligibility, tedious and reiterated discussions took place. The plurality of co-ordinate members had finally but few advocates. Governour Randolph was at the head of them.<sup>3</sup> The modes of appointment proposed were various, as by the people at large—by electors chosen by the people—by the Executives of the States—by the Congress, some preferring a joint ballot of the two Houses—some a separate concurrent ballot allowing to each a negative on the other house—some a nomination of several candidates by one House, out of whom a choice should be made by the other. Several other modifications were started.

The expedient at length adopted seemed to give pretty general satisfaction to the members. As to the duration in office, a few would have preferred a tenure during good behaviour—a considerable number would have done so, in case an easy & effectual removal by impeachment could be settled. It was much agitated whether a long term, seven years for example, with a subsequent & perpetual ineligibility, or a short term with a capacity to be re-elected, should be fixed. In favor of the first opinion were urged the danger of a gradual degeneracy of re-elections from time to time, into first a life and then a hereditary tenure, and the favorable effect of an incapacity to be reappointed, on the independent exercise of the Executive authority. On the other side it was contended that the prospect of necessary degradation, would discourage the most dignified characters from aspiring to the office, would take away the principal motive to ye. faithful discharge of its duties—the hope of being rewarded with a reappointment, would stimulate ambition to violent efforts for holding over the constitutional term—and instead of producing an independent administration, and a firmer defence of the constitutional rights of the department, would render the officer more indifferent to the importance of a place which he would soon be obliged to quit for ever, and more ready to yield to the incroachmts. of the Legislature of which he might again be a member.—The questions concerning the degree of power turned chiefly on the appointment to offices, and the controul on the Legislature. An *absolute* appointment to all offices—to some offices—to no offices, formed the scale of opinions on the first point. On the second, some contended for an absolute negative, as the only possible mean of reducing to practice, the theory of a free Government which forbids a mixture of the Legislative & Executive powers. Others would be content with a revisionary power to be overruled by three fourths of both Houses. It was warmly urged that the judiciary department should be associated in the revision. The idea of some was that a separate revision should be given to the two departments—that if either objected two thirds; if both three fourths, should be necessary to overrule.

In forming the Senate, the great anchor of the Government, the questions as they came within the first object turned mostly on the mode of appointment, and the duration of it. The different modes proposed were, 1. by the House of Representatives 2. by the Executive, 3. by electors chosen by the people for the purpose. 4. by the State Legislatures. On the point of duration, the propositions descended from good-behavior to four years, through the intermediate terms of nine, seven, six, & five years. The election of the other branch was first determined to be triennial, and afterwards reduced to biennial.



The second object, the due partition of power, between the General & local Governments, was perhaps of all, the most nice and difficult. A few contended for an entire abolition of the States; some for indefinite power of Legislation in the Congress, with a negative on the laws of the States: some for such a power without a negative; some for a limited power of legislation, with such a negative; the majority finally for a limited power without the negative. The question with regard to the Negative underwent repeated discussions, and was finally rejected by a bare majority. As I formerly intimated to you my opinion in favor of this ingredient, I will take this occasion of explaining myself on the subject.<sup>4</sup> Such a check on the States appears to me necessary 1. to prevent encroachments on the General authority. 2. to prevent instability and injustice in the legislation of the States.

1. Without such a check in the whole over the parts, our system involves the evil of *imperia in imperio*. If a complete supremacy some where is not necessary in every Society, a controuling power at least is so, by which the general authority may be defended against encroachments of the subordinate authorities, and by which the latter may be restrained from encroachments on each other. If the supremacy of the British Parliament is not necessary as has been contended, for the harmony of that Empire; it is evident I think that without the royal negative or some equivalent controul, the unity of the system would be destroyed. The want of some such provision seems to have been mortal to the antient Confederacies, and to be the disease of the modern. Of the Lycian Confederacy little is known. That of the Amphycitions is well known to have been rendered of little use whilst it lasted, and in the end to have been destroyed by the predominance of the local over the federal authority. The same observation may be made, on the authority of Polybius, with regard to the Achæan League. The Helvetic System scarcely amounts to a Confederacy, and is distinguished by too many peculiarities to be a ground of comparison. The case of the United Netherlands is in point. The authority of a Stat-holder, the influence of a Standing army, the common interest in the conquered possessions, the pressure of surrounding danger, the guarantee of foreign powers, are not sufficient to secure the authority and interests of the generality, agst. the antifederal tendency of the provincial sovereignties. The German Empire is another example. A Hereditary chief with vast independent resources of wealth and power, a federal Diet, with ample parchment authority, a regular Judiciary establishment, the influence of the neighbourhood of great & formidable Nations, have been found unable either to maintain the subordination of the members, or to prevent their mutual contests & encroachments.

Still more to the purpose is our own experience both during the war and since the peace. Encroachments of the States on the general authority, sacrifices of national to local interests, interferences of the measures of different States, form a great part of the history of our political system.—It may be said that the new Constitution is founded on different principles; and will have a different operation. I admit the difference to be material. It presents the aspect rather of a feudal system of republics, if such a phrase may be used; than of a Confederacy of independent States. And what has been the progress and event of the feudal Constitutions? In all of them a continual struggle between the head and the inferior members, until a final victory has been gained in some instances by one, in others, by the other of them. In one respect indeed there is a remarkable variance between the two cases. In the feudal system the sovereign, though limited, was independent; and having no particular sympathy of interests with the great Barons, his ambition had as full play as theirs in the mutual projects of usurpation. In the American Constitution The general authority will be derived entirely from the subordinate authorities. The Senate will represent the States in their political capacity; the other House will represent the people of the States in their individual capacity. The former will be accountable to the Constituents at moderate, the latter at short periods. The President also derives his appointment from the States, and is periodically accountable to them. This dependence of the General, on the local authorities, seems effectually to guard the latter against any dangerous encroachments of the former; Whilst the latter, within their respective limits, will be continually sensible of the abridgment of their power, and be stimulated by ambition to resume the surrendered portion of it. We find the representatives of Counties and corporations in the Legislatures of the States, much more disposed to sacrifice the aggregate interest, and even authority, to the local views of their Constituents, than the latter to the former. I mean not by these remarks to insinuate that an esprit de corps will not exist in the national Government or that opportunities may not occur, of extending its jurisdiction in some points. I mean only that the danger of encroachments is much greater from the other side, and that the impossibility of dividing powers of legislation, in such a manner, as to be free from different constructions by different interests, or even from ambiguity in the judgment of the impartial, requires some such expedient as I contend for. Many illustrations might be given of this impossibility. How long has it taken to fix, and how imperfectly is yet fixed the legislative power of corporations, though that power is subordinate in the most compleat manner? The line of distinction between

the power of regulating trade and that of drawing revenue from it, which was once considered as the barrier of our liberties, was found on fair discussion, to be absolutely undefinable. No distinction seems to be more obvious than that between spiritual and temporal matters. Yet wherever they have been made objects of Legislation, they have clashed and contended with each other, till one or the other has gained the supremacy. Even the boundaries between the Executive, Legislative & Judiciary powers, though in general so strongly marked in themselves, consist in many instances of mere shades of difference. It may be said that the Judicial authority under our new system will keep the States within their proper limits, and supply the place of a negative on their laws. The answer is, that it is more convenient to prevent the passage of a law, than to declare it void after it is passed; that this will be particularly the case, where the law aggrieves individuals, who may be unable to support an appeal agst. a State to the supreme Judiciary; that a State which would violate the Legislative rights of the Union, would not be very ready to obey a Judicial decree in support of them, and that a recurrence to force, which in the event of disobedience would be necessary, is an evil which the new Constitution meant to exclude as far as possible.

2. A constitutional negative on the laws of the States seems equally necessary to secure individuals agst. encroachments on their rights. The mutability of the laws of the States is found to be a serious evil. The injustice of them has been so frequent and so flagrant as to alarm the most steadfast friends of Republicanism. I am persuaded I do not err in saying that the evils issuing from these sources contributed more to that uneasiness which produced the Convention, and prepared the public mind for a general reform, than those which accrued to our national character and interest from the inadequacy of the Confederation to its immediate objects. A reform therefore which does not make provision for private rights, must be materially defective. The restraints agst. paper emissions, and violations of contracts are not sufficient. Supposing them to be effectual as far as they go, they are short of the mark. Injustice may be effected by such an infinitude of legislative expedients, that where the disposition exists it can only be controuled by some provision which reaches all cases whatsoever. The partial provision made, supposes the disposition which will evade it. It may be asked how private rights will be more secure under the Guardianship of the General Government than under the State Governments, since they are both founded on the republican principle which refers the ultimate decision to the will of the majority, and are distinguished rather by the extent within which they will operate, than

by any material difference in their structure. A full discussion of this question would, if I mistake not, unfold the true principles of Republican Government, and prove in contradiction to the concurrent opinions of theoretical writers, that this form of Government, in order to effect its purposes, must operate not within a small but an extensive sphere. I will state some of the ideas which have occurred to me on this subject. Those who contend for a simple Democracy, or a pure republic, actuated by the sense of the majority, and operating within narrow limits, assume or suppose a case which is altogether fictitious. They found their reasoning on the idea, that the people composing the Society, enjoy not only an equality of political rights; but that they have all precisely the same interests, and the same feelings in every respect. Were this in reality the case, their reasoning would be conclusive. The interest of the majority would be that of the minority also; the decisions could only turn on mere opinion concerning the good of the whole, of which the major voice would be the safest criterion; and within a small sphere, this voice could be most easily collected, and the public affairs most accurately managed. We know however that no Society ever did or can consist of so homogeneous a mass of Citizens. In the savage State indeed, an approach is made towards it; but in that State little or no Government is necessary. In all civilized Societies, distinctions are various and unavoidable. A distinction of property results from that very protection which a free Government gives to unequal faculties of acquiring it. There will be rich and poor; creditors and debtors; a landed interest, a monied interest, a mercantile interest, a manufacturing interest. These classes may again be subdivided according to the different productions of different situations & soils, & according to different branches of commerce, and of manufactures. In addition to these natural distinctions, artificial ones will be founded, on accidental differences in political, religious or other opinions, or an attachment to the persons of leading individuals. However erroneous or ridiculous these grounds of dissention and faction, may appear to the enlightened Statesman, or the benevolent philosopher, the bulk of mankind who are neither Statesmen nor Philosophers, will continue to view them in a different light. It remains then to be enquired whether a majority having any common interest, or feeling any common passion, will find sufficient motives to restrain them from oppressing the minority. An individual is never allowed to be a judge or even a witness in his own cause. If two individuals are under the bias of interest or enmity agst. a third, the rights of the latter could never be safely referred to the majority of the three. Will two thousand individuals be less apt to oppress one thousand, or two

hundred thousand, one hundred thousand? Three motives only can restrain in such cases. 1. a prudent regard to private or partial good, as essentially involved in the general and permanent good of the whole. This ought no doubt to be sufficient of itself. Experience however shews that it has little effect on individuals, and perhaps still less on a collection of individuals; and least of all on a majority with the public authority in their hands. If the former are ready to forget that honesty is the best policy; the last do more. They often proceed on the converse of the maxim: that whatever is politic is honest. 2. respect for character. This motive is not found sufficient to restrain individuals from injustice, and loses its efficacy in proportion to the number which is to divide the praise or the blame. Besides as it has reference to public opinion, which is that of the majority, the Standard is fixed by those whose conduct is to be measured by it. 3. Religion. The inefficacy of this restraint on individuals is well known. The conduct of every popular Assembly, acting on oath, the strongest of religious ties, shews that individuals join without remorse in acts agst. which their consciences would revolt, if proposed to them separately in their closets. When Indeed Religion is kindled into enthusiasm, its force like that of other passions is increased by the sympathy of a multitude. But enthusiasm is only a temporary state of Religion, and whilst it lasts will hardly be seen with pleasure at the helm. Even in its coolest state, it has been much oftener a motive to oppression than a restraint from it. If then there must be different interests and parties in Society; and a majority when united by a common interest or passion can not be restrained from oppressing the minority, what remedy can be found in a republican Government, where the majority must ultimately decide, but that of giving such an extent of its sphere, that no common interest or passion will be likely to unite a majority of the whole number in an unjust pursuit. In a large Society, the people are broken into so many interests and parties, that a common sentiment is less likely to be felt, and the requisite concert less likely to be formed, by a majority of the whole. The same security seems requisite for the civil as for the religious rights of individuals. If the same sect form a majority and have the power, other sects will be sure to be depressed. *Divide et impera*, the reprobated axiom of tyranny, is under certain qualifications, the only policy, by which a republic can be administered on just principles. It must be observed however that this doctrine can only hold within a sphere of a mean extent. As in too small a sphere oppressive combinations may be too easily formed agst. the weaker party; so in too extensive a one, a defensive concert may be rendered too difficult against the oppression of those entrusted with the ad-

ministration. The great desideratum in Government is, so to modify the sovereignty as that it may be sufficiently neutral between different parts of the Society to controul one part from invading the rights of another, and at the same time sufficiently controuled itself, from setting up an interest adverse to that of the entire Society. In absolute monarchies, the Prince may be tolerably neutral towards different classes of his subjects; but may sacrifice the happiness of all to his personal ambition or avarice. In small republics, the sovereign will is controuled from such a sacrifice of the entire Society, but is not sufficiently neutral towards the parts composing it. In the extended Republic of the United States, The General Government would hold a pretty even balance between the parties of particular States, and be at the same time sufficiently restrained by its dependence on the community, from betraying its general interests.<sup>5</sup>

Begging pardon for this immoderate digression I return to the third object abovementioned, the adjustment of the different interests of different parts of the Continent. Some contended for an unlimited power over trade including exports as well as imports, and over slaves as well as other imports; some for such a power, provided the concurrence of two thirds of both Houses were required; Some for such a qualification of the power, with an exemption of exports and slaves, others for an exemption of exports only. The result is seen in the Constitution. S. Carolina & Georgia were inflexible on the point of the slaves.

The remaining object created more embarrassment, and a greater alarm for the issue of the Convention than all the rest put together. The little States insisted on retaining their equality in both branches, unless a compleat abolition of the State Governments should take place; and made an equality in the Senate a sine qua non. The large States on the other hand urged that as the new Government was to be drawn principally from the people immediately and was to operate directly on them, not on the States; and consequently as the States wd. lose that importance which is now proportioned to the importance of their voluntary compliances with the requisitions of Congress, it was necessary that the representation in both Houses should be in proportion to their size. It ended in the compromise which you will see, but very much to the dissatisfaction of several members from the large States.

It will not escape you that three names only from Virginia are subscribed to the Act. Mr. Wythe did not return after the death of his lady.<sup>6</sup> Doctr. MClurg left the Convention some time before the adjournment.<sup>7</sup> The Governour and Col. Mason refused to be parties to it. Mr. Gerry was the only other member who refused. The objections

of the Govr. turn principally on the latitude of the general powers, and on the connection established between the President and the Senate. He wished that the plan should be proposed to the States with liberty to them to suggest alterations which should all be referred to another general Convention, to be incorporated into the plan as far as might be judged expedient. He was not inveterate in his opposition, and grounded his refusal to subscribe pretty much on his unwillingness to commit himself, so as not to be at liberty to be governed by further lights on the subject.<sup>8</sup> Col. Mason left Philada. in an exceeding ill humour indeed. A number of little circumstances arising in part from the impatience which prevailed towards the close of the business, conspired to whet his acrimony. He returned to Virginia with a fixed disposition to prevent the adoption of the plan if possible. He considers the want of a Bill of Rights as a fatal objection. His other objections are to the substitution of the Senate in place of an Executive Council & to the powers vested in that body—to the powers of the Judiciary—to the vice President being made President of the Senate—to the smallness of the number of Representatives—to the restriction on the States with regard to ex post facto laws—and most of all probably to the power of regulating trade, by a majority only of each House. He has some other lesser objections.<sup>9</sup> Being now under the necessity of justifying his refusal to sign, he will of course muster every possible one. His conduct has given great umbrage to the County of Fairfax, and particularly to the Town of Alexandria.<sup>10</sup> He is already instructed to promote in the Assembly the calling a Convention, and will probably be either not deputed to the Convention, or be tied up by express instructions.<sup>11</sup> He did not object in general to the powers vested in the National Government, so much as to the modification. In some respects he admitted that some further powers would have improved the system. He acknowledged in particular that a negative on the State laws, and the appointment of the State Executives ought to be ingredients; but supposed that the public mind would not now bear them; and that experience would hereafter produce these amendments.

... My information from Virginia is as yet extremely imperfect. I have a letter from Genl. Washington which speaks favorably of the impression within a circle of some extent;<sup>12</sup> and another from Chancellor Pendleton which expresses his full acceptance of the plan, and the popularity of it in his district.<sup>13</sup> I am told also that Innis and Marshall<sup>14</sup> are patrons of it. In the opposite scale are Mr. James Mercer, Mr. R. H. Lee, Doctr. Lee and their connections of course, Mr. M. Page according to Report, and most of the Judges & Bar of the general Court. The part which Mr. Henry will take is unknown here.

Much will depend on it. I had taken it for granted from a variety of circumstances that he wd. be in the opposition, and still think that will be the case. There are reports however which favor a contrary supposition. From the States South of Virginia nothing has been heard. As the deputation from S. Carolina consisted of some of its weightiest characters, who have returned unanimously zealous in favor of the Constitution, it is probable that State will readily embrace it. It is not less probable, that N. Carolina will follow the example unless that of Virginia should counterbalance it. Upon the whole, although, the public mind will not be fully known, nor finally settled for a considerable time, appearances at present augur a more prompt, and general adoption of the Plan than could have been well expected.

When the plan came before Congs. for their sanction, a very serious effort was made by R. H. Lee & Mr. Dane from Masss. to embarrass it. It was first contended that Congress could not properly give any positive countenance to a measure which had for its object the subversion of the Constitution under which they acted. This ground of attack failing, the former gentleman urged the expediency of sending out the plan with amendments, & proposed a number of them corresponding with the objections of Col. Mason. This experiment had still less effect. In order however to obtain unanimity it was necessary to couch the resolution in very moderate terms.<sup>15</sup> . . .

The summer crops in the Eastern & Middle States have been extremely plentiful. Southward of Virga. They differ in different places. On the whole I do not know that they are bad in that region. In Virginia the drought has been unprecedented, particularly between the falls of the Rivers & the Mountains. The Crops of Corn are in general alarmingly short. In Orange I find there will be scarcely subsistence for the inhabitants. I have not heard from Albemarle. The Crops of Tobo. are every where said to be pretty good in point of quantity; & the quality unusually fine. The crops of wheat were also in general excellent in quality & tolerable in quantity.

Novr. 1. Commodore [John Paul] Jones having preferred another vessel to the packet, has remained here till this time. The interval has produced little necessary to be added to the above. The Legislature of Massts. has it seems taken up the Act of the Convention, and have appointed or probably will appoint an early day for its State Convention. There are letters also from Georgia which denote a favorable disposition. I am informed from Richmond that the New Election-law from the Revised Code produced a pretty full House of Delegates, as well as a Senate, on the first day. It had previously had equal effect in producing full meetings of the freeholders for the County elections.



A very decided majority of the Assembly is said to be zealous in favor of the New Constitution. The same is said of the Country at large. It appears however that individuals of great weight both within & without the Legislature are opposed to it. A letter I just have from Mr. A. Stuart,<sup>16</sup> names Mr. Henry, Genl. [Thomas] Nelson, W. Nelson, the family of Cabels, St. George Tucker, John Taylor and the Judges of the Genl. Court except P. Carrington. The other opponents he describes as of too little note to be mentioned, which gives a negative information of the Characters on the other side. All are agreed that the plan must be submitted to a Convention.

We hear from Georgia that that State is threatened with a dangerous war with the Creek Indians. The alarm is of so serious a nature, that law-martial has been proclaimed, and they are proceeding to fortify even the Town of Savannah. The idea there, is that the Indians derive their motives as well as their means from their Spanish neighbours. Individuals complain also that their fugitive slaves are encouraged by East Florida. The policy of this is explained by supposing that it is considered as a discouragement to the Georgians to form settlements near the Spanish boundaries.

There are but few States on the spot here which will survive the expiration of the federal year; and it is extremely uncertain when a Congress will again be formed. We have not yet heard who are to be in the appointment of Virginia for the next year.

1. RC, Jefferson Papers, DLC. Printed: Boyd, XII, 270–86; Rutland, *Madison*, X, 205–20; and CC:187 (longer excerpts). For numerous alterations (most of them stylistic) made by Madison in the recipient's copy which Jefferson returned to him, see notes in Boyd, XII, 284–86. An extract from the letter, in Madison's handwriting, is in the Madison Papers, in the Library of Congress (see notes 4 and 5 below). Jefferson received this letter on 19 December and replied the next day (below).

2. Perhaps a copy of the broadside printed by John M'Lean of the New York *Independent Journal* that contained the Constitution, the resolutions of the Constitutional Convention, the letter of the President of the Convention to the President of Congress, and the resolution of Congress of 28 September submitting the Constitution to the states.

3. On 1 and 2 June Governor Edmund Randolph referred to a single executive as "the foetus of monarchy" and opposed it with "great earnestness." He recommended a three-man executive drawn from different parts of America. On 4 June Randolph and John Blair voted against a single executive, while James McClurg, George Washington, and Madison were for it. George Mason was opposed but he was absent. George Wythe was in favor but he had returned to Virginia. The proposition for a single executive was carried seven states to three (Farrand, I, 66, 88, 97).

4. Madison started his extract at this point with the sentence: "A negative in the Genl. Govt. on laws of States necessary 1. to prevent encroachts. on Genl. Govt.—2. instability & injustice in State legislation." For Madison's advocacy of a congressional negative over state laws in his letter of 19 March 1787 to Jefferson, see Rutland, *Madison*, IX, 318.

5. Madison ended his extract here.
6. George Wythe left the Constitutional Convention early in June.
7. James McClurg's last known date of attendance in the Convention was 20 July. He wrote Madison from Richmond on 5 August.
8. For Governor Randolph's objections to the Constitution, see "George Mason and Edmund Randolph in the Constitutional Convention," 12–15 September (above) and "The Publication of Edmund Randolph's Reasons for Not Signing the Constitution," 27 December (below).
9. See "George Mason: Objections to the Constitution," 7 October (above).
10. Madison probably saw the brief (but incorrect) report that was first printed in the *Pennsylvania Journal* on 17 October. This report was reprinted in three New York City newspapers between 22 and 24 October. See "Attacks on the Three Non-Signers of the Constitution," 17 October (above).
11. See "Alexandria and Fairfax County Meetings," 28 September–2 October (above).
12. See Washington to Madison, 10 October (above).
13. See Pendleton to Madison, 8 October (above).
14. John Marshall, a Richmond lawyer, represented Henrico in the House of Delegates.
15. For Lee's amendments to the Constitution, see Lee to Edmund Randolph, 16 October (above), and for Congress' actions, see CC:95.
16. See Stuart to Madison, 21 October (above).

### **James Madison to William Short New York, 24 October (excerpts)<sup>1</sup>**

... The paper which I inclose for Mr. Jefferson will shew you the result of the Convention.<sup>2</sup> The nature of the subject, the diversity of human opinion, and the collision of local interests, and of the pretensions of the large & small States, will not only account for the length of time consumed in the work, but for the irregularities which may be discovered in its structure and form. I shall learn with much solicitude the comments of the philosophical Statesmen of Europe on this new fabric of American policy. Unless however their future criticisms should evince a more thorough knowledge of our situation as well as of the true genius of Republican Government, than many of their past, my curiosity will not be rewarded with much instruction.

The Constitution has not been yet long enough before the public here to warrant any decided opinion concerning its fate. . . . Virga. I fear will be divided and extremely agitated. The Govr. & Col. Mason refused to subscribe the instrument. Their influence alone would produce difficulty. The Govr. was temperate in his opposition and may perhaps be neutral. Col. Mason will exert his influence as far as he can. His County is agst. him, and have given peremptory instructions on the subject.<sup>3</sup> On the same side are known to be the Lees, and supposed to be Mr. Henry, Mr. Harrison, and Genl. Nelson. On the other will be the weight of Genl. Washingtons name, and some exertion of his influence, the Chancellor (Mr. Pendleton), probably Mr. Wythe,

Innis, Marshal & Monroe. I am not informed of other leading characters. The general impression as far as it has come to my knowledge, is rather on the favorable side. We know nothing of the States South of Virginia. The conjectures run on the same side. . . .

1. RC, Short Papers, DLC. Printed: Rutland, *Madison*, X, 220–22; and CC:188 (longer excerpt). Short (1759–1849), a native of Surry County and a William and Mary College graduate (1779), was a lawyer who had received his license to practice after having been certified by Thomas Jefferson as “duly qualified.” Short served on the Council of State, 1783–84, and since 1785 he was Jefferson’s private secretary at the American legation in Paris.

2. See Madison to Jefferson, 24 October, 1 November (immediately above).

3. See “Alexandria and Fairfax County Meetings,” 28 September–2 October (above).

### **The General Assembly Calls a State Convention 25–31 October**

Most Virginians believed that the proposed Constitution should, in accordance with the recommendations of the Constitutional Convention and Congress, be submitted to a state convention elected by the people. George Mason wrote to George Washington that “shou’d any Attempt be made to prevent the calling such a Convention here, such a Measure shall have every Opposition in my Power to give it” (7 October, above). On 19 October, about a week before the House of Delegates resumed the consideration of the Constitution, delegate John Dawson wrote James Madison in Congress that “it appears to be the general opinion that the legislature ought to send the Constitution to the people with out any mark either of censure or approbation” (above). Madison was pleased because “The example of Virginia will have great weight” with the other states. Nevertheless, he was concerned that the “combined influence and management” of Patrick Henry and George Mason “may yet create difficulties” (to Edmund Pendleton, and to George Washington, 28 October, both below).

On 25 October, according to the order of the day, the House of Delegates formed itself into a Committee of the Whole to consider the Constitution. Francis Corbin introduced several resolutions calling a state convention. A debate followed on the first resolution: “That a Convention should be called, according to the recommendation of Congress.” Patrick Henry and George Mason opposed this resolution because it implied that the convention could not propose amendments. Henry, seconded by Mason, proposed an amendment to Corbin’s resolution, “by which the power of proposing amendments might be given.” George Nicholas opposed Henry’s motion because it suggested that the legislature believed that amendments were needed. Nicholas said that neither he nor Corbin “denied the right of the Convention to propose amendments.” John Marshall proposed “That a Convention should be called, and that the new Constitution should be laid before them for their free and ample discussion.” A resolution incorporating Marshall’s proposal, introduced by Theodorick Bland and Speaker Joseph Prentis, passed unanimously (John Pierce to Henry Knox, 26 October, below).

The other resolutions adopted by the House provided that all freeholders were eligible to sit in the convention and that convention delegates, unlike state legislators, could be officeholders and need not own property in or be residents of the county they represented. Each county was to elect two delegates; the borough of Norfolk and the city of Williamsburg were to have one each. The qualifications of the electors were the same as for elections to the legislature; this included a property requirement that excluded many adult males. The elections were to take place in March on the county or borough court day, and the convention was to meet on the fourth Monday in May at the statehouse in Richmond. The last resolution ordered that 2,000 copies of the resolutions be printed for distribution throughout Virginia and that the Governor transmit the resolutions to Congress and the state executives and legislatures.

On Friday, 26 October, the Senate received the resolutions from the House, read them, and ordered their consideration by a Committee of the Whole House on Monday, the 29th. On that day, consideration was postponed until 30 October when the committee proposed some amendments, the most important of which changed the meeting date of the convention from the fourth Monday in May to the first Monday in June. The Senate adopted the amended resolutions on the 31st, and the House concurred later that day.

The Virginia resolutions circulated widely. The unamended House resolutions were first printed in the *Virginia Herald*, 1 November (not extant), while the final amended resolutions were first printed in the *Richmond Virginia Gazette and Independent Chronicle*, 3 November (not extant). Both versions were reprinted nationally. On 14 November Governor Edmund Randolph sent broadside copies of the final amended resolutions to the state legislatures and executives. John Dixon, the state printer, printed 2,000 copies of the resolutions for dispersal by legislators to their constituents. Dixon petitioned the legislature requesting additional compensation for unanticipated expenses, which included the printing of 2,000 copies of the resolutions and 5,000 copies of the Constitution. On 2 November the House agreed to Dixon's petition and the Senate concurred on the 21st (Mfm:Va.).

On the whole, Virginians commented favorably on the resolutions. Supporters of amendments to the Constitution were pleased with the compromise fashioned in the first resolution, which they understood to allow the convention to propose amendments (*Virginia Independent Chronicle*, 31 October, and "Tamony," *ibid.*, 9 January, both below). Edmund Randolph was also pleased that the possibility of amendments was recognized. He was convinced that had the House not provided for amendments, the Constitution would have been rejected (Randolph to James Madison, c. 29 October, below. See also John Dawson to Madison, c. 10 November, below.). On the other hand, James Madison was alarmed that "Virginia has set the example of opening a door for amendments, if the Convention there should chuse to propose them" (to Thomas Jefferson, 9 December, below).

John Dawson and James Monroe, in a letter to their constituents, praised the resolutions for opening the convention to anyone (to the Freeholders of Fredericksburg, 26 October, below). "By opening the door wide,"

Dawson also noted privately, "it is probable all the eminent characters among us will be in convention" (to Madison, c. 10 November, below).

Federalists and Antifederalists were satisfied with the June date of the Convention. Federalists needed time to gather support for the Constitution and "to see what other states would do" (John Pierce to Henry Knox, 26 October, below). John Dawson also believed that it was worthwhile to wait and see what the other states might do. He speculated that an early meeting of the state Convention, without the power to propose amendments, would have resulted in a rejection of the Constitution. Time would make the states more receptive to amendments (to Madison, c. 10 November, below). George Washington, on the other hand, was uncertain about the late meeting date; it could either hinder or help the chances of ratification (to John Langdon, 3 December, below).

For other legislative actions on the Constitution, see "The General Assembly Receives the Constitution," 15–16 October (above), and "The General Assembly Adopts an Act for Paying the State Convention Delegates," 30 November–27 December (below).

*House Proceedings, Thursday, 25 October<sup>1</sup>*

The House according to the order of the day<sup>2</sup> resolved itself into a committee of the whole House on the report of the Fœderal Convention lately held at *Philadelphia*, and after some time spent therein, Mr. Speaker resumed the chair, and Mr. *Mathews* reported that the committee had, according to order, had the said report under their consideration, and gone through the same, and come to several resolutions thereupon, which he read in his place, and afterwards delivered in at the clerk's table, where the same were again read, and are as followeth;

[House Resolutions follow. See below.]

The *first* resolution was read a second time, and on the question put thereupon, agreed to by the House, *UNANIMOUSLY*.

The *second, third, fourth, fifth, sixth* and *last* resolutions were severally read a second time, and, on the question put thereupon, agreed to by the House.

*Ordered*, That Mr. *Mathews*<sup>3</sup> do carry the said resolutions to the Senate, and desire their concurrence.

*Newspaper Reports of House Proceedings and Debates*  
*Thursday, 25 October*

On Thursday last, the House of Delegates of this state took under consideration the resolution of Congress, by which the appointment of a State-Convention was recommended to the different Legislatures in the Union. The Speaker left his seat, and placed Mr. *Mathews* in the chair.

Mr Corbin opened the debate; and after having mentioned the critical situation of public affairs, and the necessity of establishing our union on a firm and unalterable basis, spoke with approbation of the new plan of federal government. He closed an elegant and judicious speech with proposing several resolutions, the principal of which was to this effect:—That a Convention should be called, according to the recommendation of Congress.

Mr. Henry rose to oppose the resolution as it then stood. He did not question the propriety or necessity of calling a Convention. No man, he said, was more truly federal than himself: But he conceived that if this resolution was adopted, the Convention would only have it in their power to say, that the new plan should *be adopted, or rejected*; and that, however defective it might appear to them, they would not be authorized to propose amendments. The resolution was, that a Convention should be called according to the recommendation of Congress. Congress had recommended that measure, according to the resolution of the Grand Convention; which was merely that a Convention might be called to give their assent and ratification. He therefore thought, that if the people acted under the resolution proposed by mr. Corbin, the extent of which was only to be ascertained by referring to the resolution of the Federal Convention, the powers of the State Convention would not be sufficient. It was possible that there might be some errors in the new government: Nay, he would not hesitate to declare, that there were errors and defects in it; and he therefore proposed the addition of some words to mr. Corbin's resolution, by which the power of proposing amendments might be given.

Mr. Corbin defended the resolution which he had proposed.

Mr. George Nicholas seconded his defence. He warmly reprobated mr. Henry's amendment; because, he said, it would convey an idea to the people of this state, and to the whole continent, that the Legislature of Virginia thought that amendments might be made to the new government; whereas he believed the truth to be, that there was a decided majority in its favour. At the same time neither he nor mr. Corbin denied the right of the Convention to propose amendments.

Mr. Mason, who had just taken his seat in the House,<sup>4</sup> rose to second mr. Henry's motion. He told the Committee that he felt somewhat embarrassed at the situation in which he then stood. He had been honored with a seat in the Federal Convention, and all knew that he had refused to subscribe to their proceedings. This might excite some surprize; but it was not necessary at that hour, he said, to make known his reasons. At a proper season, they should be communicated to his countrymen. He would however declare, that no man was more com-

pletely federal in his principles than he was:<sup>5</sup> 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: That he regarded our perfect union as the rock of our political salvation: But, that he had considered the new federal government according to that measure of knowledge which God had given him—that he had endeavoured to make himself master of the important subject—that he had deeply and maturely weighed every article of the constitution; and with every information which he could derive, either from his own reflection, or the observations of others, he could not approve it. He said, I thought it wrong, mr. Chairman,—I thought it repugnant to our highest interests,—and if with these sentiments I had subscribed to it, I might have been justly regarded as a traitor to my country. I would have lost this hand, before it should have marked my name to the new government.<sup>6</sup>

Mr. Marshal, with his usual perspicuity, stated the matter in controversy. He thought mr. Corbin's resolution improper, for the reasons stated by mr. Henry. He thought mr. Henry's amendment improper, for the reasons urged by mr. Nicholas. He wished, he said, that the future Convention should have the fullest latitude in their deliberations—that they should exercise the privilege which belonged to the free representatives of a free country, of considering fully and in every point of view, the nature of the government under which we are to live: But he thought with mr. Nicholas, that the people should have no reason to suppose that their Legislature disapproved the new federal government; and therefore proposed that the Committee should come to this resolution:—That a Convention should be called, and that the new Constitution should be laid before them for their free and ample discussion.

The Committee came into mr. Marshall's opinion, and a resolution passed accordingly, without opposition.

The speakers were mr. Corbin, mr. Henry, mr. Nicholas, mr. Mason, mr. Prentis, mr. Bland, mr. Thruston, mr. Marshall, and mr. Benjamin Harrison.

The elections for members to the Convention are to take place, (agreeable to the resolution entered into by the House of Delegates) in March, and they are to assemble at the Capitol in the City of Richmond, in the month of May next. [Petersburg *Virginia Gazette*, 1 November]<sup>7</sup>

\* \* \* \* \*

The 25th. the Assembly *unanimously* resolved, that the new Constitution be submitted to a Convention of the people for their *full* and *free investigation* and *discussion*—the Convention is to meet on the 4th

Monday of May: During the debate Gov. Henry proposed a motion to give the Convention power to *alter* the Constitution—which did not obtain—it being urged by Mr. *Corbin*, and others, that such a proceeding would convey an idea that the Legislature of Virginia thought that amendments might be made to it, when he believed THERE WAS A DECIDED MAJORITY IN ITS FAVOUR—Mr. *G. Mason* said, his conduct had been known—He had not signed the Constitution—he was federal—no man more so—but he thought the Constitution wrong—he thought it repugnant to OUR highest interests—and would have lost his hand (*holding it up at the time*) before it should have marked his name to it.

\**Quere*—Where was Mr. M. from 1775 to 1783? What was the part he then took?—Or his colleague, who *did sign the Constitution*, the *admiring world* well knows. [c. 29 October]<sup>8</sup>

\* \* \* \* \*

On Thursday last came on in the House of Delegates, the question for calling a Convention to consider the new Constitution proposed by the Fœderal Convention lately held at Philadelphia, and it is with singular pleasure we congratulate our readers on the unanimous vote of the House of Delegates for calling a Convention; but as the resolutions for that purpose are now before the Senate, we cannot speak with certainty of the time or manner in which the Convention is to be held.—The resolutions on this interesting subject were introduced by Francis Corbin, Esq. in an able and eloquent speech well adapted to the occasion, and were powerfully supported by a number of able members.—Indeed the only question seemed to be, whether the Convention should be left at large to propose amendments to the Constitution in case they should deem it advisable—and after a short but interesting debate to this point, it was agreed with equal unanimity, that the Convention could not be restrained in the discussion of this momentous business from accepting, or rejecting it, or proposing amendments, as they should see fit.—The propriety of this decision is obvious, for although it be admitted that the great leading principles of the proposed Constitution lay the foundation of a wise, safe, and happy government, it is equally certain that a change of one or two exceptionable or doubtful clauses may be made to the advantage of all the States, and without risking that union on which depends the honor, happiness, and political existence of America. [*Virginia Independent Chronicle*, 31 October]<sup>9</sup>

*House Resolutions, Thursday, 25 October*<sup>10</sup>

*Resolved, That it is the opinion of this committee, That the proceedings of the Fœderal Convention as transmitted to the General Assembly through the medium of Congress, ought to be submitted to a Con-*



vention of the people for their full and free investigation and discussion.

*Resolved, That it is the opinion of this committee, That every citizen being a freeholder in this commonwealth ought to be eligible to a seat in the Convention, and that the people therefore ought not to be restrained in their choice of Delegates by any of those legal or constitutional restrictions which confine them in their choice of members to the Legislature.*<sup>11</sup>

*Resolved, That it is the opinion of this committee, That it be recommended to each county to elect two Delegates, and to each city, town, or corporation, entitled or who may be entitled by law to representation in the Legislature, to elect one Delegate to the said Convention.*

*Resolved, That it is the opinion of this committee, That the qualifications of the Electors be the same with those now established by law.*<sup>12</sup>

*Resolved, That it is the Opinion of this committee, That the elections for Delegates as aforesaid be held at the several places appointed by law for holding the elections for Delegates to the General Assembly, and that the same be conducted by the officers who conduct the elections for Delegates, and conformably to the rules and regulations thereof.*

*Resolved, That it is the opinion of this committee, That the election for Delegates shall be held in the month of March next, on the first day of the court to be held for each county, city, or corporation respectively, and that the persons so chosen shall assemble at the state-house in the city of Richmond on the fourth Monday in May next.*

*Resolved, That it is the Opinion of this committee, That two thousand copies of these resolutions be forthwith printed, and dispersed by the members of the General Assembly among their constituents, and that the Executive transmit a copy of them to Congress, and to the Legislature and Executive of the respective states.*

*Senate Proceedings, Friday, 26 October*<sup>13</sup>

A message from the House of Delegates by Mr. Matthews:

MR. SPEAKER,—The House of Delegates have agreed to several resolutions, respecting the Federal Convention; to which they desire the concurrence of the Senate. And he delivered in the same, and then withdrew.

The said resolutions were read the first time; and ordered to be committed to a committee of the whole House, on Monday next.

*Senate Proceedings, Monday, 29 October*

The order of the day, for the House to resolve itself into a committee of the whole House, on the resolutions of the House of Delegates, respecting the Federal Constitution, being read;

*Ordered*, That the same be put off till to-morrow.

And then the House adjourned till to-morrow, 12 o'clock.

*Senate Proceedings, Tuesday, 30 October*

The House, according to the order of the day, resolved itself into a committee of the whole House, on the resolutions of the House of Delegates, respecting the Federal Constitution; and after some time spent therein, Mr. Speaker [John Jones] resumed the chair, and Mr. Southall reported, that the committee had, according to order, had the same under their consideration, and made several amendments thereto, which he was ready to report whenever the House would be pleased to receive the same.

*Ordered*, That the said report be received to-morrow.

And then the House adjourned till to-morrow, 12 o'clock.

*Senate Proceedings, Wednesday, 31 October*

Mr. Southall, according to order, reported from the committee of the whole House, on the resolution of the House of Delegates, respecting the Federal Constitution, that the committee had, according to order, had the same under their consideration and made several amendments thereto, which he read in his place, and afterwards delivered in at the clerk's table, where the same were again twice read, and on the question thereupon being put, agreed to by the House.

The said resolutions, with the amendments, were read; and on the question thereupon being put, agreed to by the House.

*Ordered*, That Mr. [Thompson] Mason do acquaint the House of Delegates therewith, and desire their concurrence to the amendments.

*House Proceedings, Wednesday, 31 October*

A message from the Senate by Mr. *Mason*;

MR. SPEAKER, The Senate have agreed to the resolutions of this House, respecting the proceedings of the Federal Convention lately held at *Philadelphia*, with several amendments; to which they desire the concurrence of this House. And then he withdrew.

The House proceeded to consider the said amendments, and the same being read, were agreed to.

*Ordered*, That Mr. *Mathews* do acquaint the Senate therewith.<sup>14</sup>

*Resolutions Calling the State Convention, 31 October*<sup>15</sup>

In the HOUSE of DELEGATES,

Thursday, the 25th of October, 1787.

*Resolved unanimously*, that the proceedings of the Fœderal Convention transmitted to the General Assembly through the medium of Congress, be submitted to a Convention of the people for their full and free investigation, discussion, and decision.

*Resolved*, That every citizen being a freeholder in this commonwealth be eligible to a seat in the convention, and that the people therefore be not restrained in their choice of Delegates by any other of those legal or constitutional restrictions which confine them in their choice of members to the Legislature.

*Resolved*, That it be recommended to each county to elect two Delegates, and to each city, town, or corporation entitled or which may be entitled by law to representation in the Legislature, to elect one Delegate to the said Convention.

*Resolved*, That the qualifications of the Electors be the same with those now established by law, for the choice of representatives to the General Assembly.

*Resolved*, That the elections for Delegates as aforesaid be held at the several places appointed by law for holding the elections for Delegates to the General Assembly, and that the same be conducted by the officers who conduct the elections for Delegates, and conformably to the rules and regulations thereof.

*Resolved*, That the election for Delegates be held in the month of *March* next, on the first day of the court to be held for each county, city, or corporation respectively, and that the persons so chosen shall assemble at the state-house in the city of *Richmond* on the first *Monday* in *June* next.

*Resolved*, That two thousand copies of these resolutions be forthwith printed, and dispersed by the members of the General Assembly among their constituents, and that the Executive transmit a copy of them to Congress, and to the Legislatures and Executives of the respective states.

*Teste*,

JOHN BECKLEY, C. H. D.

1787, October 31st, Agreed to by the Senate,

H. BROOKE, C. S.

*Governor Edmund Randolph to the State Executives and Legislatures  
Richmond, 14 November*<sup>16</sup>

I do myself the honor of inclosing to your Excellency the resolutions of our Legislature concerning the foederal constitution.

1. The House proceedings are taken from the *House Journal* and are cited by date only.

2. See House Proceedings, 16 October, in "The General Assembly Receives the Constitution," 15-16 October (above).

3. The manuscript journal and printed nineteenth-century journal of the House of Delegates and the 1828 printing of the Senate journal all indicate that Thomas Mathews carried the resolutions to the Senate. The printed eighteenth-century journal of the House of Delegates, however, states that "Mr. Lee" carried the resolutions. (The journal does not indicate whether it was Ludwell or Richard Lee.)

4. Mason arrived in Richmond on the evening of the 24th (George Washington to James Madison, 5 November, below).

5. For a commentary on this statement, see "Landholder" VI, 10 December (below).

6. See Philadelphia *Independent Gazetteer*, 27 October (below).

7. Reprinted in the *Virginia Journal*, 8 November (excerpt); the Winchester *Virginia Gazette*, 23 November; and in eleven other newspapers by 30 November: N.H. (1), Mass. (1), R.I. (1), Conn. (1), N.Y. (2), Pa. (2), Md. (1), N.C. (1), S.C. (1). Five of these reprints ended with Mason's speech. On 13 November the *Maryland Journal* printed an excerpt from this speech beginning with the second sentence, "He told the committee. . . ." This excerpt was reprinted four times by 30 November: N.H. (1), Mass. (1), Conn. (2). Summaries of Henry's and Mason's remarks were printed in the Philadelphia *Freeman's Journal* on 14 November (Mfm:Va.) and reprinted five times by 15 December: Mass. (1), N.Y. (1), N.J. (1), S.C. (1), Ga. (1).

8. The text is taken from the *Massachusetts Centinel*, 28 November, which printed it under the dateline, "From a Richmond, Virginia, paper of October 29." No Richmond newspaper was published on Monday, 29 October. The *Virginia Gazette and Weekly Advertiser* was printed on the 25th, the *Virginia Gazette and Independent Chronicle* on the 27th, and the *Virginia Independent Chronicle* on the 31st. The first two are not extant, and the third, which is extant, does not contain this item. The *Massachusetts Centinel* account, without the last paragraph, was reprinted in the Newburyport *Essex Journal*, 5 December, and the Portland *Cumberland Gazette*, 6 December.

9. Reprinted: Richmond *Virginia Gazette and Weekly Advertiser*, 1 November.

10. *House Journal*, 25 October. On 10 November the *Pennsylvania Journal* reprinted these resolutions under the dateline, "Fredericksburg, (Virginia,) November 1," indicating that they first appeared in the no longer extant *Virginia Herald* of that date. The resolutions were reprinted eight more times by 21 January: Mass. (1), Conn. (1), N.Y. (1), N.J. (1), Pa. (4). The Philadelphia *Freeman's Journal* of 24 November reprinted them with a preface by a "Subscriber" which stated that the resolutions "manifest a spirit very different from that of the aristocratic junto in this State." The first resolution was reprinted in the *Albany Gazette*, 15 November, and the Poughkeepsie *Country Journal*, 21 November. Both newspapers summarized the subsequent resolutions. (See note 15 below for the printing of the final amended resolutions.)

11. This resolution explicitly stated that the provisions of the state constitution and several laws regulating the election of members to the legislature were not applicable to the convention delegates. Members of the legislature had to be actual residents and freeholders in their counties or districts, "or duly qualified according to law." Senators also had to be twenty-five years old. The election law set property qualifications for

electors (see note 12, below) and provided that persons qualified to vote for legislators were also qualified to sit in the legislature. Several laws, however, disqualified from the legislature such officers as mayors, sheriffs, county clerks, tax collectors, inspectors of tobacco, county commissioners, tax assessors, and delegates to Congress (Hening, IX, 56–57, 299, 508–9, 550; XI, 249–50).

12. The law regulating legislative elections provided that freeholders were qualified to vote if they owned twenty-five acres and a house or fifty acres unimproved, or owned a lot with a house in a town. Special provision was made for residents of the city of Williamsburg and the borough of Norfolk. A resident could vote if he was a "house keeper," had lived in the town for six months, and either had an estate of £50 or had served an apprenticeship for five years in the town (Hening, XII, 120–22).

13. The Senate proceedings are taken from the *Senate Journal* and are cited by date only.

14. On 2 November the Senate received a message from the House that it had agreed to the Senate's amendments to the resolutions respecting the Constitution (Mfm:Va.).

15. These final amended resolutions have been transcribed from one of the 2,000 broadside copies printed by John Dixon, the printer to the commonwealth (Evans 20839; and Mfm:Va.). The resolutions, attested by the clerks of both the House and Senate, were apparently also published in Dixon's no longer extant *Virginia Gazette and Independent Chronicle* of 3 November. The *Virginia Journal* of 15 November, one of the newspapers that reprinted the resolutions, did so under the dateline, "Richmond, Nov. 3." The resolutions were also reprinted in the *Virginia Independent Chronicle*, 7 November; *Boston American Herald*, 10 December; *Providence Gazette*, 15 December; and *Kentucky Gazette*, 12 January. (See note 10 above for the printing of the resolutions passed by the House of Delegates.)

16. FC, Executive Letterbook, Vi. When Governor William Livingston of New Jersey sent the enclosed resolutions to the legislature, he wrote that they "betray great fear of its [the Constitution's] adoption, least the Dominion's domination over the smaller States should by that means be so curtailed as to reduce the *Dominion Strut* to a level with the humble & natural gait of her Sister States" (Copy, to Ephraim Harris, 3 December, Livingston Papers, MHI).

### **David Stuart to George Washington Richmond, 26 October**

[This letter has not been found. It was quoted in a letter from George Washington to James Madison, 5 November (below).]

### **Winchester Virginia Gazette, 26 October<sup>1</sup>**

Extract of a letter from a Member of the Assembly at Richmond,<sup>2</sup> to a Gentleman of distinction in this town, Oct. 18, 1787.

"SIR, At this important crisis, I think it my duty to inform you, and thro' you the inhabitants of Winchester, with every occurrence worthy your notice: And we have little, except what relates to the New Constitution, that comes under this description.

"I am sorry to tell you, that a crowd of objections and enemies have appeared against it, greater perhaps than you could have conceived; so that although there be little doubt of its reference to a Convention,

yet its way through that body must be made with opposition and difficulty. Great names within and without the houses of legislature have set their faces against it. Mr. M—s—n, and the G——r will soon present us with their reasons at large. When they appear I will transmit them to Winchester, to the end that the good people of the county may be fully possessed of the subject.

“P.S. I forgot to mention that Thursday sen’night is appointed for the decision of the New Constitution, and 5000 copies to be printed.”

1. Reprinted: Baltimore *Maryland Gazette*, 6 November; *Maryland Chronicle*, 7 November; *Carlisle Gazette*, 14 November. The first three sentences of the second paragraph were printed in the *Salem Mercury*, 4 December, and reprinted once each in Massachusetts, Pennsylvania, and Maryland by 3 January. In all of the reprinted excerpts, Mason’s name was spelled out as was the word “Governour.”

2. John Shearman Woodcock and Charles Mynn Thruston represented Frederick County in the House of Delegates; and Robert Rutherford of Winchester was a senator from the district that included Frederick County.

### **John Dawson and James Monroe to the Freeholders of Fredericksburg, Richmond, 26 October<sup>1</sup>**

*Gentlemen*, Your two petitions, accompanied by your instructions, were handed to us in due time. We flatter ourselves it is unnecessary to assure you, that on all occasions we shall be attentive to the important charge you have entrusted to us: That we shall uniformly advocate those measures which are most likely to secure peace and happiness to our country, and to those we have the honor to represent in a particular manner. Your petitions we have presented—they are referred, and will have proper attention paid to them, both by us and the house.

On yesterday we went into a committee of the whole, and now take the liberty of forwarding to you several resolutions which were unanimously agreed to. On this important business, the propriety of introducing into convention the most respectable characters among us, must strike every thinking person—the door therefore is left wide.

While, gentlemen, we assure you, our exertions shall not be wanting to promote and forward the interest of you, and our country at large, we beg leave to observe, that as it is our duty, so it will afford us pleasure to render you any personal services: And should our conduct meet with your approbation, we doubt not but we shall be honoured with your suffrages, as we shall offer you our services in the approaching convention. With much respect, we are, gentlemen, your most obedient servants,

*John Dawson.  
James Munroe.*

1. This letter, a response to the Fredericksburg Town Meeting, 20 October (above), was published in the *Virginia Herald*, 1 November (not extant). The text is taken from the *Pennsylvania Mercury* of 16 November, the only reprint.

**George Lee Turberville to Arthur Lee**  
**Richmond, 26 October<sup>1</sup>**

The house of Delegates yesterday came to a resolution that the federal plan of Government transmitted by Congress from the late Convention shou'd be deliver'd to the people for their consideration without any comment or recommendation either for or against—The Election of the Delegates to the Convention in this State is to take place on the March Court Days—and the Convention is to meet on the last Monday in May next—any Person that is a freeholder in the state is elegeble the senate have not yet concurred but as our Votes were unanimous there is very little probability of opposition from that quarter—

I have taken this early method of communicating this that you may prepare yourself if you think proper for a pole in our County<sup>2</sup>—

Messrs Madison—Carrington, Lee—Brown from Kentuckey & Mr. Cyrus Griffin are elected for Congress<sup>3</sup>—Mr. Randolph is again Governor—I am sorry that you & the rest of my Friends at New York have forgotten me—pray present me most Affectionately to yr. Brother<sup>4</sup> & tell him I hope to see him in the Convention—also to Colo. H Lee & Lady—to Messrs Madison & Carrington—

We have a great deal of Business on the carpet—& in preparation—nothing so forward as even to form conjectures upon their issue—I cou'd wish to give you my sentiments upon this Celebrated production from Philadelphia but—time is wanting—suffice it to say at present that I remain yr. most sincerely Affectionate Kinsman

1. RC, Arthur Lee Papers, Harvard University. Turberville addressed this letter to Lee at New York, where Lee served on the Confederation Board of Treasury. Turberville (1760–1798), a planter and a major in the Continental Army during the Revolution, represented Richmond County in the House of Delegates, 1785–90. He was defeated for election to the state Convention.

2. Arthur Lee considered running in Stafford or Prince William counties but gave up the idea when he realized that he had no chance of winning in either (see Lee to Richard Henry Lee, 19 February, below).

3. The election of congressional delegates took place on 23 October.

4. Richard Henry Lee was in New York as a member of Congress.

**John Pierce to Henry Knox**  
**Richmond, 26 October<sup>1</sup>**

Yesterday the Assembly in a Committee of the House took up the consideration of the constitution. Mr Corbin proposed a resolution for calling a convention empowered to ratify the constitution as handed to the state thro' Congress, to which proposal Mr Henry, Mr Harrison & Mr Mayson who are opposed to the constitution dissented and proposed that the convention be empowered to make amendments (should any be found necessary) as they beleived there were many very important Errors in it. this proposal was objected to by the friends to the constitution as holding out an Idea to the people that this assembly had considered the subject and thought amendments were necessary. on which Colo Bland and the Speaker of the House Mr. Prentice<sup>2</sup> proposed nearly the following resolution, which was unanimously agreed to—"that the plan of the national government of the U.S. as transmitted by Congress, ought to be submitted to a convention of the people, for their full, free & candid investigation and discussion". I think that the gentlemen who favor the constitution, have mistaken their point or were fearful of their force, or they would have insisted more for the words of the act of Congress.<sup>3</sup> a Mr Nicholas and a Marshal spoke in favor of the constitution, but I think the abilities of the House are mostly against it. It is ordained also that no Officer of government or non resident shall be excluded from a seat in the convention, that the representatives be two from a County, that the choice be made in March & the convention held in this city on the eighth of May next. the people are almost universally favorable to the constitution. the members of this Assembly may perhaps be equally divided. hence the spirit of accommodation among them. it was too important an object for the friends of the measure to hazzard a division. The people in several counties have instructed their assembly men to call a convention as speedily as possible. but even the friends to the constitution were willing to delay it—"to see what other states would do" The Gov. & Mr Mayson both declare that rather than the U.S. should not have a constitution, they would have this adopted; but the attempt they say must be made to alter it.—the popular objection is that the british debts must be paid if it is adopted and that the citizens are to be tried on the actions brought for them by a foederal Court and that the appeal from Law & Fact to the Supreme Court will not only deprive them of the benefit of a Jury from their vicinage but also oblige them to submit to an unnecessary expence in forwarding their evidence for



the trial. but the great opposers to the constitution say that a King Lords & Commons would be much more eligible, and prophesy destruction to the People in most tremendous manner if they accept it.

The Members of Congress for the State are the three old ones whose terms are not out and Mr Cyrus Griffin & a Mr Brown an Inhabitant of Kentuckey.

1. RC, Knox Papers, MHi. Postmarked: "Richmond, Oct. 26." Pierce incorrectly dated his letter 27 October.

2. Joseph Prentis (1754–1809), a lawyer, represented Williamsburg in the fourth revolutionary convention, 1775–76, and in the House of Delegates, 1776–77. He represented York in the House, 1777–78, James City, 1781–82, and York again, 1782–88. Prentis served as Speaker of the House from October 1786 to January 1788, when he was elected a judge of the state General Court.

3. The congressional resolution of 28 September provided that the state legislatures should submit the Constitution to conventions "chosen in each state by the people thereof in conformity to the resolves of the Convention made and provided in that case" (CDR, 340).

### Editors' Note

#### Richard Henry Lee to Samuel Adams New York, 27 October

On 5 October Richard Henry Lee wrote Samuel Adams and enclosed a copy of the amendments to the Constitution that he had proposed in Congress on 27 September. Suspecting that this letter had been "stopt" in the mails, Lee wrote Adams again on 27 October; he began his letter by copying his 5 October letter (above). Lee then reviewed the actions of Congress concerning the Constitution, reiterated that the Constitution had to be amended to protect the rights and liberties of the people, and attacked James Wilson's 6 October speech before a Philadelphia public meeting (CC:134).

For the text of Lee's letter of 27 October to Adams, see CC:199.

#### St. George Tucker to Frances Bland Tucker Richmond, 27 October (excerpts)<sup>1</sup>

My ever dear Fanny,

... You have heard I presume that the Assembly by an unanimous voice referred the Consideration of the Constitution to a Convention of the people—I feared they would not have acted so properly. I have never yet been over to *our house* since the Session began, & unless I hear of some matter of Importance probably shall not.—

... If the new Constitution takes place I believe I must turn Cat in pan once more & be a Tory, for it will I fear be down with the Whigs.

Page I find is staunch on my Side—Nelson<sup>2</sup> & myself begin to think we gather Strength. . . .

1. RC, Tucker-Coleman Papers, ViW.

2. Tucker probably refers to John Page and William Nelson, Jr., who had attended the College of William and Mary with him.

### **Philadelphia Independent Gazetteer, 27 October<sup>1</sup>**

A correspondent says that the brave Colonel George Mason, of Virginia, who nobly said that he would sooner cut off his hand than sign the new constitution, of the United States, deserves high praise; he should consider that time is only wanting to manifest the proposed constitution to be an odious system of tyranny, and therefore that his manly conduct will be attended with a growing fame; but if his conduct were not to be attended with the applauses which he is going to receive, he should consider that, as a celebrated poet expresses himself,

One self approving hour, whole years outweighs,  
Of stupid starers, and of loud huzzas.<sup>2</sup>

1. Reprinted: *New York Morning Post*, 1 November; *New Haven Gazette*, 8 November; *State Gazette of South Carolina*, 24 December; *State Gazette of North Carolina*, 7 February. During a debate in the Constitutional Convention on 31 August, Mason declared "that he would sooner chop off his right hand than put it to the Constitution as it now stands" (Farrand, II, 479). He repeated the statement in a debate in the House of Delegates on 25 October. (See "The General Assembly Calls a State Convention," 25–31 October, above.)

2. Alexander Pope, *An Essay on Man* . . . (London, 1758), Epistle IV, 38. Epistle IV was first published in 1734.

### **James Madison to Edmund Pendleton New York, 28 October (excerpts)<sup>1</sup>**

I have recd. and acknowledge with great pleasure your favor of the 8th. instt:<sup>2</sup> The remarks which you make on the Act of the Convention appear to me to be in general extremely well founded. Your criticism on the clause exempting vessels bound to or from a State from being obliged to enter &c in another is particularly so. This provision was dictated by the jealousy of some particular States, and was inserted pretty late in the Session.<sup>3</sup> The object of it was what you conjecture. The expression is certainly not accurate.—Is not a religious test as far as it is necessary, or would operate, involved in the oath itself? If the person swearing believes in the supreme Being who is invoked, and in the Penal consequences of offending him, either in this or a future world or both, he will be under the same restraint from perjury as if he had previously subscribed a test requiring this belief. If the person

in question be an unbeliever in these points and would notwithstanding take the oath, a previous test could have no effect. He would subscribe it as he would take the oath, without any principle that could be affected by either.

I find by a letter from Mr. Dawson<sup>4</sup> that the proposed Constitution is received by the Assembly with a more prompt & general approbation than could well have been expected. The example of Virginia will have great weight, and the more so, as the disagreement of the deputation, will give it more the appearance of being the unbi[a]ssed expression of the Public mind. It would be truly mortifying if any thing should occur to prevent or retard the concurrence of a State which has generally taken the lead on great occasions. And it would be the more so in this case as it is generally believed that nine of the States at least will embrace the plan, and consequently that the tardy remainder must be reduced to the dilemma of either shifting for themselves, or coming in without any credit for it. . . . Not a word has been heard from the States South of Virginia, except from the lower parts of N. Carola. where the Constitution was well received. There can be little doubt I think that the three Southern States will go right unless the conduct of Virginia was to mislead them.

I inclose two of the last Newspapers of this place, to which I add one of Philadelphia. . . .

1. RC, Madison Papers, DLC. Printed: CC:205. Endorsed by Pendleton: "Answd. Jan. 29-88." Pendleton's reply has not been found, but for a summary of it, see Rutland, *Madison*, X, 444n.

2. Printed above.

3. Madison refers to Pendleton's criticism of Article I, section 9, clause 6, of the Constitution which prohibits Congress from requiring "Vessels bound to, or from, one State, [to] be obliged to enter, clear, or pay Duties in another." Presumably, Pendleton saw no need for such a clause. Maryland delegates Daniel Carroll and Luther Martin proposed this clause on 25 August (Farrand, II, 417-18, 437, 480-81, 618).

4. See John Dawson to Madison, 19 October (above).

### **James Madison to George Washington New York, 28 October (excerpt)<sup>1</sup>**

The mail of yesterday brought me your favor of the 22d. instant.<sup>2</sup> The communications from Richmond give me as much pleasure, as they exceed my expectations. As I find by a letter from a member of the Assembly, however, that Col. Mason had not got down,<sup>3</sup> and it appears that Mr. Henry is not at bottom a friend, I am not without fears that their combined influence and management may yet create difficulties. There is one consideration which I think ought to have some weight in the case over and above the intrinsic inducements to

embrace the Constitution, and which I have suggested to some of my correspondents. There is at present a very strong probability that nine States at least will pretty speedily concur in establishing it. What will become of the tardy remainder? They must be either left as outcasts from the Society to shift for themselves, or be compelled to come in, or must come in of themselves when they will be allowed no credit for it. Can either of these situations be as eligible as a prompt and manly determination to support the Union, and share its common fortunes? . . .

1. RC, Washington Papers, DLC. Printed: Rutland, *Madison*, X, 225–26.

2. For excerpts from Washington's letter of 22 October, see David Stuart to Washington, 16 October, notes 1 and 3 (above).

3. Mason arrived in Richmond on the evening of 24 October.

**George Lee Turberville to Arthur Lee**  
**Richmond, 28 October (excerpt)<sup>1</sup>**

When I went to the post Office to put in my Letter to you I found your favor October 18th.<sup>2</sup> on the Table—but being at that time very much engaged—I referred the Answer of yrs untill ye next post—

The plan of a Government proposed to us by the Convention—affords matter for conversation to every rank of beings from the Governor to the door keeper—& the opinions appear to be as various as the persons possessing them—the enthusiastic admirers of the *thing* in toto (fortunately for us) appear the least considerable—a vast consolidated squadron is composed of those who view the plan as an admirable frame wanting only some few amendments to render it desirable—and a pretty considerable band consists of those who hold it as the engine of distruction—& never think or speak of it but with detestation and abhorrence—the extremes are certainly erroneous. As it stands—I really think your objections are unanswerable—together with some others that have great weight with me particularly ye unwarrantable & heterogeneous mixture of Legislative, Judicial & executory powers in ye senate.—That truly republican method of forcing the rulers into the character of Citizens again by incapacitating them for service for a given number of years—after having been as many in Office is forgotten—this certainly is a Barrier against oppression that we ought not to give up, & the opposition to it can only be made—by those ambitious persons who may expect to obtain those high offices—Mr. Wilsons sophism has no weight with me when he declares—that at the formation of the state Legislatures we gave up all that we did not reserve—& that in this Constitution we retain all that we do not give up, because I cannot observe upon what foundation he has

rested this curious observation<sup>3</sup>—the same reason is applicable in both cases, to my comprehension—& this points out to me the absolute necessity of a bill of rights—and that a very full & explanatory one too—where not only the Liberty of the press, the trial by Jury of the vicinage & all those great points—but even every the most trivial privilege that Citizens have a right to possess—shou'd be expressly stipulated and reserved—& the violation of them most scrupulously & Jealously guarded against—Of what consequence is the federal guarantee of republican governments to the individual states, when the power of the Militia's even is rested in the president—& when we find that the great advocate for the new plan (Mr. Wilson I allude to) is compelled to acknowledge, while he tried to support the future importance of the state Legislatures—that they will be merely Nominal—since the Election of senators—is the only instance he can produce of their existance in Action—& that the representatives shall be voted for by such persons as are qualified to vote for the largest Body of the state Legislatures—is another of his facts, which certainly makes agt. him—since the existance of them in this instance is Nominal & nothing else—

Take but the trouble to examine the mode of choosing the president & you will find—that 15 persons may Elect him—in this Choice the Representatives—(if a Majority of Votes is not in favor of one Man)—have a right to choose the president from those who are the forwardest on the poll & they are to Vote by states, take a majority of the seven smallest states & you will find 15 persons competent to the Election of a president—

I may be wrong in some of these observations—they occur from the cursorary attention which I have alone been able to give to this subject never having seen it untill within these few days—& the Business of the house has been such as to prevent me even from paying that attention to my Friends that I am bounden to pay to them—by writing as their Representative to them—

Let me request you not to forget the convention in this state come in so as to spend a fortnight in the County & you may ensure your Election<sup>4</sup>—

I shall be very much obliged to you for such peices as are furnished by the New York press both for and against this system. The newspapers that you have perused will be a regale to me for our's are stuffed with such fulsome panegyric—Or such low lifed invective, that I never pretend to examine them—

You shall receive every week an Acct. of the matters in debate—& of the measures adopted by the Legislature here. . . .

1. RC, Arthur Lee Papers, Harvard University. Printed: CC:207.
2. Not found.
3. Turberville refers to James Wilson's speech before a public meeting in Philadelphia on 6 October (CC:134). "Cincinnatus," reportedly Arthur Lee, answered Wilson in six essays printed in the *New York Journal* between 1 November and 6 December (CC:222).
4. By mid-February Arthur Lee had given up on his chances of being elected to the Convention from either Stafford or Prince William counties (Arthur Lee to Richard Henry Lee, 19 February, Westmoreland County Election, II below).

**Joseph Jones to James Madison**  
**Richmond, 29 October<sup>1</sup>**

On my arrival in Richmond the other day I found your favor of the 7th. from New York with some news papers inclosed<sup>2</sup>—Mr. Thomas Pleasants<sup>3</sup> who called on me the next day inquired whether I had lately heard from you which being acknowledged brot. forward a conversation on the new constitution and finding him a strenuous advocate for it, I asked if he had seen or read some peices in favor of it under the signature of an American Citizen; he said he had not—I then informed him I had received some papers from you, which contained three numbers on the subject and did not doubt he wod. be pleased with the perusal of them; whereupon he signified his desire to possess them—when I delivered them to him I told him it wod. not I thought be amiss [if] they were put into the Printers hands, that he might, if he thought proper, insert them in the News paper here—He said he wod. think of it, and I have not seen him since. I shall speak to him again on the subject so soon as I meet with him but have no doubt he will endeavour to have them printed.

I must confess I see many objections to the Constitution submitted to the Conventions of the States—that which has the greatest weight with me lies agt. the constitution of the Senate, which being both legislative and Executive and in some respects judiciary is I think radically bad—the President and the Senate too may in some instances legislate for the Union withot. the concurrence of the popular branch as they may make treaties and alliances which when made are to be paramount the law of the land—the State Spirit will also be preserved in the Senate as they are to have equal numbers and equal votes—It is to be feared this Body united with the President as on most occasions it is to be presumed they will act in concert will be an overmatch for the popular branch—Had the Senate been merely legislative even proportioned as they are to the States, it wod. have been less exceptionable; and the President with a member from each State as a privy Council to have composed the Executive. there is also a strong objection agt. the appellate jurisdiction over law and fact, independent

of a variety of other objections which are and may be raised agt. the Judiciary arrangement and the undefined powers of that department—I own I should have been pleased to see a declaration of rights accompany this constitution as there is so much in the execution of the Government to be provided for by the legislature and that Body possessing too great a portion of Aristocracy—The legislature may and will probably make proper and wise regulations in the Judiciary as in the execution of that branch of power the Citizens of all the States will generally be equally affected—but the reflection that there exists in the constitution a power that may oppress makes the mind uneasy and that oppression may and will result from the appellate power of unsettling facts does to me appear beyond a doubt—to rehearse the Doubts and difficulties that arise in my mind when I reflect on this part of the Judiciary power woud. I am sure to you be unnecessary—It woud. be more troublesome than usefull to recite the variety of objections that some raise some of them of more others of considerable weight—could I see a change in the Constitution of the Senate and the right of unsettling facts removed from the Court of Appeals I could with much less reluctance yeild my assent to the System—I could wish I own to see some other alterations take place but for the accomplishment of them, I woud. trust to time, and the wisdom and moderation of the legislature rather than impede the puting the new plan in motion, was it in my power, because I well know our desperate situation under the present form of Government. It is at this time very difficult to inform you what is the prevalent opinion among the people—If we are to judge of them at large from their representatives here they must be very much divided and I think the advocates for the new plan rather diminish than increases in number—You will have from the Executive an accot. of the proceedings of the Houses on the report of the Convention—I think they have taken a wise course in delivering it over to the People withot. conveying sentiments of approbation or Disapprobation. As yet nothing of consequence excepting the referring to the People the new Constitution, has been done in the assembly—Tomorrow<sup>1</sup> they are to discuss the recommendation of Congress respecting British debts. I think there will be a majority in the Delegates for the repeal of the laws—how it will go down in the Senate I am unable to calculate. You shall be occasionally informed how we go on—

1. RC, Madison Papers, DLC.

2. Madison's letter of 7 October (not found) contained Tench Coxe's "An American Citizen" I-III, which Coxe had requested that Madison have reprinted in Virginia. See "The Republication of An American Citizen I-IV in Virginia," 11 October-c. 15 December (above).

3. Pleasants was a Goochland County planter-merchant.

4. On the 30th the matter was postponed to the 31st. See Edmund Randolph to James Madison, c. 29 October, note 6 (below).

**Arthur Lee to Edward Rutledge**  
**New York, 29 October (excerpt)<sup>1</sup>**

... The proposed Constitution begins to undergo a very serious discussion. The first impression was so favorable, that you will not be surprised at its losing ground. This change of sentiment is such as to render it very doubtful, whether it will be adopted even in Pennsylvania. In this State it is thought there is already a majority against it, & in Virginia the opposition is formidable. For my own part, I do not like it. The want of a promised declaration of rights, when by some exceptions in the Body of it, things, in which no power is expressly given, implies that every thing not excepted is given; is a very material defect. The strange & dangerous combination of Legislative, executive, & judicial Powers in the Senate; violates every idea I have of a good & wise Constitution. To what purpose is the power of Impeachment given to the Representative, when it is triable before the Senate which advising in all great matters of State, especially foreign; wou'd frequently be Judges & parties? The Representation in England is about one Member to every 10,000, with us it is to be 1 to 30,000. They have the sole controul of the purse—with us the Senate can amend money bills—with them Impeachment is a high power, a serious terror, with us, it is to be a shadow—All this is calculated to ensure a feeble Representative & a powerful Senate—that is to sacrifice the Democracy to the Aristocracy. Now tho' I wish to see the Aristocracy have its due weight yet, I can never agree that they shall trample upon the People, & I am persuaded, that a due balance is the best gaurd to the Aristocracy itself, otherwise it will soon run riot & lose itself in a despotism, as in Denmark & Sweden.

1. RC, Pinckney Family Papers, DLC. Printed: CC:210. There is no addressee, but the recipient was Edward Rutledge (1749–1800), a Charleston lawyer-planter and a signer of the Declaration of Independence. Rutledge was elected to the South Carolina Convention, where he voted to ratify the Constitution in May 1788. His brother was John Rutledge and his law partner was his brother-in-law Charles Cotesworth Pinckney, both former delegates to the Constitutional Convention.

**Jean Savary de Valcoulon to William Short**  
**Richmond, 29 October (excerpts)<sup>1</sup>**

... The New confederative Constitution inspires the admiration of the majority, but if a person inept in these matters might be allowed to give his opinion, I would have wished that given the great powers



of the president, the term of his office were shorter, that it were for only two years with the liberty of re-electing him for 2 more and a formal Exclusion for a period of 6 or 10 years more or less; the fear of seeing this office filled for life and by hereditary succession would have made me insert this specific clause from the very beginning of the constitution: The experience of all epochs proves that all bodies take on an individual character that makes them try to increase their tenure and their prerogatives and that they always succeed, in doing so while taking on the powers that were given to them by the people, who can then offer no more than individual and ineffectual resistance: Venice provides an Example of this policy, the different tribunals watched over and inspected themselves; and those that gradually had more power, had a proportionally less Long duration—at least the individuals in office:<sup>2</sup> Since my idea is not new to any politician and because I am convinced that the necessity and the difficulties of a shorter term for the office of the president has been debated, I believe it is urgent and indispensable that the work of the constitution be adopted as it is, I am an enthusiast and I send you enclosed an address that I had inserted in the Richmond newspaper in english: The assembly is sitting at this moment and this Constitution occasions debates and has already created some divisions in the State, several people take their authority from the refusal of Governor Randolph and of Mr. Masson to sign it and I believe that they will repent for the evil that they can cause, Their views are doubtless sincere and honorable, but I believe and I tell you, that as soon as the majority approves it, they must sign. . . .

[P.S.] I had word just now that the constitution was agreed to in the house of delegates Mr P. Henry & Mr Masson were strongly opposed to it.

1. RC, Short Papers, DLC. Savary, a young French immigrant serving as an agent for a French firm in a claim against Virginia, had speculated in western lands with Albert Gallatin.

2. See "A True Friend" in which the author wrote "that the greater the power is with which it invests its governors, the shorter should be the limits of its duration . . ." (6 December, below).

**Edmund Randolph to James Madison**  
**Richmond, c. 29 October<sup>1</sup>**

My dear friend

I have omitted to write to you since my return home,<sup>2</sup> from an inability to obtain so accurate a grasp of the Opinions prevailing here, as to justify me in communicating the politics of our legislature.

The first raptures in favor of the constitution were excessive. Every town resounded with applause. The conjectures of my reasons for refusing to sign were extraordinary, and so far malicious, as to suppose, that I was chagrined at not carrying every point in my own way, or that I sought for popularity. These were the effluvia until the assembly met.

A diversity of opinion appeared immediately on the convening of that body; which gave as evidence of the good fruit from one of the revised laws, by being punctual to the day.<sup>3</sup> Among the heroes of opposition were Mr. Henry, Mr. Wm. Cabell, Colo. Bland and Mr. French Strother.<sup>4</sup> A great ferment was kept up, until thursday last [25 October], when, contrary to my expectations the debate for calling the convention was conducted with temper, and a vote passed Unanimously for that purpose, *freely to discuss and deliberate on the constitution*. This is a happy and politick resolution; for I am thoroughly persuaded, that if it had been propounded by the legislature to the people, as *we*<sup>5</sup> propounded it, the constitution would have been rejected and the spirit of union extinguished.

At present the final event seems uncertain. There are many warm friends for taking the constitution altogether without the alteration of a letter; among these are Colo. Nicholas and Mr. F. Corbin. But I suspect, that the tide is turning. New objections are daily started, and the opinions of Mr. H—y gain ground. He and I have had several animated discourses; but he recedes so far from me, that we must diverge after a progress of half a degree further; An incidental question is allotted for tomorrow, by which it will be known how the party *positively* against the constitution stand as to number. A motion was postponed until that day for repealing the laws against the recovery of british debts.<sup>6</sup> Much of the repugnance to this motion will be founded on the danger of every defendant being hurried sooner or later to the seat of the foederal government. This is the most vulnerable and odious part of the constitution. I shall therefore conclude, if the acts be repealed, that the majority of the legislature may be said to have overcome the most exceptionable points.

As to the *recusants*,<sup>7</sup> we have been spoken of illiberally at least. Mr. Mason has declared in assembly that altho' he is for amendments, he will not quit the union, even if they should not be made. I have thought proper to postpone any explanation of myself, except in private, until Every thing is determined, which may relate to the constitution. I have prepared a letter, and shall send you a copy in a few days.<sup>8</sup> I see the Penna. papers abounding with eulogiums on some, and execrations on others, whose opinion they know not substantially.

Mr. Pendleton, who is here has expressed himself to this effect: that the constitution is very full of radical faults, & that he would adopt it with a protest as to its imperfections, in order that they may be corrected at a future day—

The bar are generally against it. So are the judges of the general court. So is Wiley Jones of North Carolina.<sup>9</sup>

In short I am persuaded, that there must be strong exertions made to carry it through, and my letter will not be the least conducive among the other supports to its adoption in the end.

Why would you not give me your opinion as to the scheme I proposed in my letter from the Bowling Green.<sup>10</sup> I am now convinced of the impropriety of the Idea, but I wish to open to you without reserve the innermost thoughts of my soul, and was desirous of hearing something from you on this head.

Colo. Mason has said nothing quoad te [respecting you] and you may rest yourself in safety in my hands: for I will certainly repel the smallest insinuation

You were elected by 126 out of 140. I for the second year by 137 out of 140.<sup>11</sup> So that you see, circumcision and uncircumcision avail nothing<sup>12</sup>—I sent your appointments on the other day—

The people of this town are still in rage for the constitution and Harvie<sup>13</sup> among the most strenuous. I have inquired about the reports concerning myself, and if popularity had been my object, as some supposed, I should have overshot my mark.

Pardon this medley, written in a croud, and be assured of my most affectionate friendship—

1. RC, Madison Papers, DLC. Randolph misdated the letter 23 October. Several events described in the letter occurred after 23 October. For the dating of the letter, see Rutland, *Madison*, X, 231n; and note 6 (below).

2. Randolph last wrote Madison on 30 September (above), the day after he had arrived in Bowling Green, Caroline County, en route home to Richmond.

3. For the influence of the election law of 1785 in obtaining a quorum of the House of Delegates on its first scheduled day, see the headnote to "The General Assembly Receives the Constitution," 15–16 October (above).

4. Strother represented Culpeper in the state Convention, where he voted against ratification of the Constitution.

5. Randolph refers to the Constitutional Convention.

6. Article IV of the Treaty of Peace (1783) provided that no impediments should prevent creditors from collecting bona fide debts—a provision that was widely violated by some of the states. On 13 April 1787 Congress sent the states a circular letter urging them to repeal acts that violated the Treaty (JCC, XXXII, 177–84). On 30 October the Committee of the Whole House on the state of the commonwealth of the House of Delegates put off the order of the day to the next day. The committee deliberated on 31 October, but reached no conclusions. On 17 November the committee reported a resolution on the Treaty of Peace. During the debates in mid-November, Patrick Henry "attacked the constitution of the Union in the strongest terms and endeavored to sow

the seeds of Jealousy against the federal court, the new-england states and the spirit of the Union itself" (John Pierce to Henry Knox, 19 November, below).

7. Randolph refers to himself and George Mason, both of whom had refused to sign the Constitution in the Constitutional Convention.

8. For Randolph's letter to the Speaker of the House of Delegates which was dated 10 October, see "The Publication of Edmund Randolph's Reasons for Not Signing the Constitution," 27 December (below).

9. Willie Jones of Halifax County, N.C., had refused election to the Constitutional Convention and voted against ratification in the North Carolina Convention in August 1788.

10. See note 2 above.

11. On 23 October the legislature reelected Madison to Congress and Randolph as governor.

12. Galatians 6:15.

13. John Harvie was register of the state land office.

### **James Madison to Archibald Stuart New York, 30 October (excerpt)<sup>1</sup>**

I have been this day favored with yours of the 21st. instant & beg you to accept my acknowledgments for it. I am truly sorry to find so many respectable names on your list of adversaries to the federal Constitution. The diversity of opinions on so interesting a subject, among men of equal integrity & discernment, is at once a melancholy proof of the fallibility of the human judgment, and of the imperfect progress yet made in the science of Government. Nothing is more common here, and I presume the case must be the same with you, than to see companies of intelligent people equally divided, and equally earnest, in maintaining on one side that the General Government will overwhelm the State Governments, and on the other that it will be a prey to their encroachments; on the one side that the structure of the Government is too firm and too strong, and on the other that it partakes too much of the weakness & instability of the Governments of the particular States. What is the proper conclusion from all this?—that unanimity is not to be expected in any great political question, that the danger is probably exaggerated on each side, when an opposite danger is conceived on the opposite side—that if any Constitution is to be established by deliberation & choice, it must be examined with many allowances, and must be compared not with the theory, which each individual may frame in his own mind, but with the system which it is meant to take the place of, and with any other which there may be a probability of obtaining.

I cannot judge so well as yourself of the propriety of mixing with the adoption of the federal Constitution a Revision of that of the State. If the latter point could be effected without risk or inconveniency to the former, it is no doubt desirable. The practicability of this will

depend on the degree of unanimity with which it would be undertaken. I should doubt extremely whether the experiment could safely be made. Might not the blending these two things together unite those who are unfriendly to either, and thus strengthen the opposition you have to contend with? In case the Genl. Government should be established it will perhaps be easy to follow it with an amendment of our own Constitution. The example will have some influence by proving the practicability & safety of such experiments. And if the Convention think fit, they may lay a proper train of themselves for bringing the matter about. . . .

1. RC, Stuart Papers, ViHi. Printed: Rutland, *Madison*, X, 232–33.

**James Breckinridge to John Breckinridge**  
**Richmond, 31 October (excerpt)<sup>1</sup>**

Dear Johnny

. . . Every corner of the city resounds with politicks—The new constitution is the chief subject of their debates—Its enemies seems determined to hold out untill the last & its advocates public[ly] declare the antifederalists, as the[y] call them, are enemies to their country—Colo. Harvie a few days since mounted his *Rostrum* at a meeting of the inhabitants of the town & delivered a most elaborate harangue [in?] defence of the constitution<sup>2</sup>—Henry & Mason are most violent adversaries in the house [and?] the opinion & reasons of the latter are treated with the most deference—how it [will] terminate god only knows—but it is generally believed it will be submitted to the consideration of the convention, which is to meet in May next at this Place—I wish you would endeavour to obtain a seat—Your friends here are extremely anxious that you should—

I have enclosed you the Registers Rect. for your plat—also have sent you Davis's paper of the 26th. in which you'll see Wilson on the new constitution<sup>3</sup>—Are you for or against it—some have it here that you [are] opposed to it—those who have asked me I have told your opinion was in favour of it—I hope I was not wrong—write me upon this subject if you please—

I expect to be here at least ten days yet & will again write you before I leave the place. . . .

1. RC, Breckinridge Family Papers, DLC. There is no place of writing, but the internal evidence indicates that the letter was written from Richmond. James Breckinridge (1763–1833), a Botetourt County surveyor and speculator in Kentucky lands, lived in Williamsburg from November 1786 to December 1788. While the legislature was in session, he sometimes traveled to Richmond to visit his cousin Francis Preston. James and John Breckinridge were brothers.

2. See the Henrico County meeting, 22 October, note 2 (above).

3. James Wilson's speech of 6 October to a public meeting in Philadelphia was reprinted in Augustine Davis' *Virginia Independent Chronicle* on 24 October.

**James McClurg to James Madison  
Richmond, 31 October<sup>1</sup>**

I am to thank you for the favor you did me in inclosing a copy of the new constitution; which has ever since been the principal topic of political conversation in every company. It was at first reciev'd with a prepossession in it's favor almost enthusiastic, in our towns especially. The circumstances, however, which in this state particy tended to excite Suspicion & jealousy, have causd this disposition to subside sooner than it might otherwise have done; & every man's mind is turn'd to a subtle investigation of ye plan. Various indeed are the objections made to it; but those which strike only the most moderate, & most federal, are confin'd chiefly to the Senate. Nor do they object to the equal representation of ye States in ye Senate, so much as to ye additional weight thrown into that branch of ye Legislature, by combining it with ye Presidt. in ye high executive offices of Government. It is supposed that ye obligation of a common Interest may connect them in a dangerous Junto; & on this account, they imagine the Senate to be ye worst court that could have been contriv'd for the Impeachment of ye President. They concieve too that ye Senators, in their executive business, may become liable to Impeachment, tho' they cannot see by what court they can be tried.

I see, in a pamphlet publish'd at Philada. in defence of ye Constitution, a serious Objection made to ye clause which empowers Congress to regulate the manner, time, & place, of chusing ye Representatives of ye people in ye several States.<sup>2</sup> This has been reechoed here; & it has not been easy to find a sufficient reason for it's Insertion. Some have objected also to the Influence of the Presidt. in the house of representatives as capable of producing his reelection, even when the majority of ye constitutional electors are against him.

These are Objections made by Men heartily dispos'd towards an energetic federal government, & concieving yt defects in its frame must be equally obnoxious to ye people of all ye States, they hope to see them amended. For my part, I am so fearful of it's Loss, that I should be willing to trust ye remedy of it's defects to ye reason moderation & experience of ye future Congress. By the by, what is to become of the State debts, when all ye Sources of Revenue in ye states are seiz'd by Congress?

1. RC, Madison Papers, DLC. McClurg (1746–1843), a Richmond physician, was

educated at the University of Edinburgh in Scotland. During the Revolution, he was physician-general and director of hospitals for the Commonwealth of Virginia. He was a member of the Council of State from 1784 to 1794. After Richard Henry Lee refused to serve, McClurg was appointed to replace him as a delegate to the Constitutional Convention. McClurg's last known date of attendance in the Convention was 20 July.

2. McClurg refers to *An Examination into the Leading Principles of the Federal Constitution* . . . by "A Citizen of America" (Noah Webster) which was offered for sale in Philadelphia on 17 October (Mfm:Pa. 142, pp. 25-26, 49-50, of the pamphlet).

### Virginia Independent Chronicle, 31 October

Mr. W——'s speech to the meeting at Philadelphia,<sup>1</sup> says a correspondent, is really a laughable performance. *When the people, said the orator, established the powers of legislation under their separate governments, they vested their representatives with every right and authority, which they did not in explicit terms reserve; but the congressional authority is to be collected from the positive grant alone, expressed in the instrument.* This, it seems, is so self-evident a principle, as to be never in danger of being questioned in future, and it will no doubt be sufficient security for posterity to know, that a Pennsylvania attorney established it; and from thence thought himself sufficiently authorised to draw the following conclusion. "Hence it is *evident* that in the former case every thing which is not reserved is given, but, in the latter the reverse prevails, and every thing which is not given is reserved." Bravo J——y! this is rare security for the liberty of the press, "that sacred palladium of national freedom."

The futility of this assertion, that, "the trial by jury is abolished in civil cases," is detected by him, "taking the advantage of his professional experience," and from this we learn, that it is not yet abolished, but that it may, if Congress think fit; but he undoubtedly knows, that juries are found inconvenient in excise business. He says, that *the vesting of a power in Congress to keep up a standing army in time of peace is no new prerogative, because it is exercised at present on the banks of the Ohio:* But this subtle reasoner did not consider, that it is now a time of war on the banks of the Ohio.

*There never was a charge, said he, made with less reason than that of the dread of an aristocracy from this Federal Constitution, and he proves it by Mr. Adams's doctrine of balances;*<sup>2</sup> but neither he, nor the *balancer*, ever considered the futility of that doctrine in a country, where the members composing the different departments of government are necessarily of the same rank, have the same views and interests, and where the only balance, which it was of consequence to attend to, is that between the governors and the governed, has been unfortunately forgotten in this Fœderal Constitution.

In the next place he tells us, much to the purpose, that *those who have used the word, corporation, are not aware of its extent, that though in common parlance, it signifies petty associations, it may be applied even to the Fœderal Union.* In the same manner, it may be said, that those, who make use of the word, *Chief Magistrate,* applied to our governor, do not know the extent of it; as it may also be applied to the *Grand Sultan.* But the strength of his argument is yet to come, for he plainly *proves* that the Fœderal Constitution does not annihilate the state governments, because it calls them *Legislatures.* They would be cross children indeed, who would cry for a whistle when they get something in the shape of one, especially, when the same *whistle* is given to it.

But why shall we be so wayward as to be alarmed at Congress's having the power of internal taxation and of laying on excise duties, do not we hear how he says: "I will venture to predict, that the great revenue of the United States must and always will be raised by impost, for being less obnoxious and more productive, the interests of the government will be best promoted by the accommodation of the people." It would seem then, that dominion not revenue was the motive of inserting it; but no matter, let us give up our liberties, there is no danger, he says we shall be kindly used, and that we shall have a LEGISLATURE, sure never there was as more explicit bill of rights!!! He says, that it is only interested people, who set their faces against the Fœderal Constitution, it is really a pity that it should miscarry, for he has given the public so striking a specimen of his abilities, that, no doubt, he would get much practice in the supreme Fœderal Court, should it be thought advisable to allow the benefit of council there.

1. A reference to James Wilson's speech to a public meeting in Philadelphia on 6 October (CC:134) which was reprinted in the *Independent Chronicle* a week earlier.

2. See Richard Henry Lee to John Adams, 3 September, note 3 (above).

### Virginia Independent Chronicle, 31 October<sup>1</sup>

Mr. Printer, "To be or not to be" is now the question!—The moment is at hand when America will rise respected and affluent, or sink into contempt, anarchy, and perhaps a total dissolution of our short existence as a nation.

Had the united wisdom of the universe been collected into one center, it is evident they could not have devised more effectual means for our happiness and prosperity than the late convention, whose proceedings resulted from a consummate knowledge and investigation of our situation, and mutual sacrifices for the common end of our general government.



Since the measures of th[is?] convention have become public, I have mixed with the various classes of mankind, and I am happy to assure you the enthusiasm is general, and determined to support the new constitution as the only ultimatum upon which our commercial and political existence rests. I must also remark, that I have found some opposition, but in pressing their objections, they are lost in perplexity;—hence it is evident they are actuated by personal views instead of that pure *amor patrea* which ought to inspire every virtuous American in the present crisis—A crisis pregnant in events the most important America has ever yet witnessed, since it not only embraces the happiness of this generation but of millions who are yet to rise out of the womb of futurity.

I hope in God therefore this dangerous Junto will meet with that execration and contempt they so justly merit; for unless the constitution, that is presented to us is implicitly and speedily adopted, I tremble to anticipate the probable consequences, which will not fall short of a dissolution of our fœderal chain, and perhaps some links of it cemented to foreign yokes. May that power who has led us thus far into maturity avert such an evil, is the ardent prayer of, Dear Sir, Yours, &c.

1. Reprinted: *Pennsylvania Packet*, 24 November; *New York Morning Post*, 1 December; *Charleston Columbian Herald*, 6 December; *Massachusetts Gazette*, 14 December. Each of these newspapers reprinted this item as an "Extract of a letter from North Carolina." The *Columbian Herald* reprinted it under the dateline "Norfolk, November 7," indicating that the no longer extant *Norfolk and Portsmouth Journal* of that date probably was the first newspaper to reprint the item as an "Extract of a letter from North Carolina." Either the *Journal* or the *Herald* made numerous stylistic changes as well as some substantive ones in the text of the letter; these changes were adopted by the subsequent newspapers that reprinted this item. For the altered text, see Mfm:Va.

### **Archibald Stuart to James Madison Richmond, 2 November**

For this letter, see Henrico County and Orange County elections (II below).

### **The Problem of Debt Collection, 2, 7 November**

The two letters printed below, written by the firm of Logan & Story and by Thomas Pleasants, Jr., express the concerns held by creditors and debtors in Virginia and in many parts of the United States. Logan & Story was a mercantile partnership in Petersburg which served as a commercial agent for Stephen Collins, a Philadelphia merchant. Pleasants was a Goochland County planter and merchant. In the first letter Logan & Story advised Collins on how to go about suing someone for the recovery of a debt. Once a suit was filed in either the county courts or in the General

Court, the creditor could charge ten percent interest annually on the uncollected debt. Appellants had to post treble the value of the suit as security. Judgments could be expected in about a year from county courts and no sooner than four years from the General Court. The entire legal process might take seven years. Minton Collins of Richmond was more succinct. He told Stephen Collins that he had learned "that a litigious Man can keep you out of your property as long as he pleases, where the Sum is large, & worth contending for . . ." (to Stephen Collins, 26 November, Mfm:Va.).

*Logan & Story to Stephen Collins*  
*Petersburg, 2 November (excerpt)*<sup>1</sup>

. . . Our Laws are generally good—It is the administration that gives us pause. There are upwards of 4.000: Suits now enter'd on that Docket in the General Court. and the number is continually encreasing. Where this will end the Lord only knows—Should an Act pass to extend the term of the Courts sitting—it is thought the number of Executions that would issue—would be too heavy for our Government to bear—And that such a rapid transfer of Property would altogether stop the movement of our Machine—If the new Constitution should not be adopted or something similar we are of Opinion such is the Interest & Influence of Debtors in our State that every thing will be at Risk—The only prospect that presents is to keep things quiet—annihilate every species of Credit—And employ those Lawyers only who are fonder of dispatching Business than in elaborate displays of their Eloquence when nobody is advantaged by it. . . .

*Thomas Pleasants, Jr., to Stephen Collins*  
*Petersburg, 7 November*<sup>2</sup>

I am about to answer your letter of ye 20th ult, without knowing what answer to give—after what has already passed upon this disagreeable and to me painful subject; I can make no further promises because I am still uncertain if they will be better performed; indeed if I were to make any promise you Could have little, or no faith or reliance in them. Every thing has turned out Contrary to my expectations—and it is hardly possible to give you an adequate Idea of the present distressed and ruinous state of this Country—no one Can Count upon any thing, not immediately within his grasp—No Money is to be borrowed—no property will Command the Cash—and no reliance Can be placed in the Collection of debts—thus Circumstanced, what Can I say, or what Can I write that will afford you satisfaction?—I can indeed tell you that I feel for your situation, and am truly unhappy

that it is not in my power yet to relieve you—and I Can Moreover add that from the time I saw you to this day, my whole time and attention has been taken up in endeavouring to settle My affairs which has unavoidably led into a series of Vexatious law suits, which seem as if they never would have an end—indeed from the want of proper energy in the Laws of this Country, it is doubtful if I shall ever see an end to this business—in most instances I am obliged to travel thro' all the Chicanery & Subterfuge of which they are Capable; which are so tedious and perplexing that in Many instances the debts will not be recieved in seven Years—indeed it would seem as if this Country Could not much longer go on without a reformation—the friends to order and Good Government seem to have lost hopes of relief at Home and are looking up to the Federal Constitution for redress, but in this Hope there is too Much reason to fear we may be disappointed.<sup>3</sup> I have been so long accustomed to see things on the opake side, that I may perhaps have drawn too gloomy a picture of the present situation of things, and I sincerely wish it may turn out otherwise, but in every event, my unceasing labour, will be used to discharge my debts—and I may further say that the debt due to you will be among the first paid—and that I have good reason to expect that if not wholly discharged a Considerable impression will be Made upon it out of the present Crop—that is between this & the Mo. of June next. It is U[n]necessary to say More, unless I Could say something More to the purpose—

1. RC, The Papers of Stephen Collins & Son, DLC.

2. RC, *ibid.* Pleasants had, for some time, been an advocate of a stronger central government. On 25 November 1786 he was one of five commissioners appointed in accordance with a legislative resolution calling for a meeting with commissioners from Maryland to “communicate the regulations of commerce, and duties proposed by each state, and to confer on such subjects as may concern the commercial interest of both states, and within the power of the respective states.” (An invitation was also extended to Pennsylvania to appoint commissioners to attend the meeting.) These resolutions were placed before Congress for approval in late February 1787 and in mid-March a committee reported favorably on them. Congress, however, rejected the committee’s report on 8 May. The opposition maintained that “all partial regulations of commerce were impolitic as they tended to procrastinate and impede the adoption of a general system” (*House Journal* [16 October 1786–11 January 1787] [Richmond, 1787], 28–29, 63; and Rutland, *Madison*, IX, 362–63, 363n–64n). Pleasants was probably not disappointed when he learned of Congress’ action. About a week earlier, he had written Governor Randolph, expressing his belief that a two-state agreement would not do any good. He wanted a general commercial system and believed that the need for such a system would become apparent to the forthcoming Constitutional Convention (2 May, William P. Palmer et al., eds., *Calendar of Virginia State Papers . . .*, [11 vols., Richmond, 1875–1893], IV, 280).

3. Minton Collins told Stephen Collins that he had “no chance” of collecting debts “unless the New Government takes place, which will meet with much obstruction here, as they do not like to give up an atom of their consequence, & there are some clauses, which affect some of our great Men very much” (26 November, Mfm:Va.).

**William Graham to Zachariah Johnston  
Rockbridge, 3 November<sup>1</sup>**

I should be very happy to have an Evenings conversation with you at this important crisis and the more so because I know our Political views are nearly the same—The Fœderal Constitution has made its appearance here I am mistaken if you are not in opposition to it and should be glad to know your Sentiments—I think a vigorous opposition will be necess[ary] if we mean to claim the Privilege or even Name of freeman any longer—I will intrust you with a secret I have been solicited by some friends to write a Pice against it to open the Eyes of the People—I have determined to write but [have?] not determined to publish—I hope you will give me your candid opinion—The News papers do not circulate in the back parts perhaps a Pamphlet containing about 30 pages struck upon a Type of the same size with the constitution printed by Dixon<sup>2</sup> would be of most general use—You will pleas to consult Col. Arthur Campbell and Col. [H?] Lee<sup>3</sup> I can trust them both—If you should judge such a publication necessary you in conjunction with these Gentlemen will enquire how and at what rates 1000 or 2000 Copies can be printed—The plan will be “To prove it is arbitrary—To prove it will be very expensive and lastly that it is inadequate to the End proposed[’]” If these things can be established as I think they clearly can it should be rejected

1. RC, Washington and Lee University, Lexington, Va. The letter was addressed to “Cap. Johnston,” who was in Richmond representing Augusta in the House of Delegates. Graham (1746–1799), a graduate of the College of New Jersey (Princeton), was rector and president of Washington Academy (Washington and Lee University) in Rockbridge County from 1776 to 1796. In 1784 he was a member of the convention that drafted a constitution for the State of Franklin, and in 1788 he was defeated for a seat in the Virginia Convention. Johnston (1742–1800), a planter, represented Augusta in the House of Delegates from 1778 to 1792, and in 1785–86 he was chairman of the committee on religion when the legislature adopted the act establishing religious freedom (January 1786). He voted to ratify the Constitution in the state Convention and was a presidential elector in 1789.

2. State printer John Dixon, on order of the legislature, had printed 5,000 copies of the Constitution as a sixteen-page pamphlet (Evans 20806).

3. Campbell was county lieutenant and justice of the peace for Washington County. Henry Lee, a surveyor, represented Bourbon in the state Convention, where he voted against ratification of the Constitution.

**Bushrod Washington to Robert Carter  
Richmond, 4 November<sup>1</sup>**

Well knowing how entirely our Country is cut off from information on public affairs, I take the liberty of enclosing you a copy of the federal Constitution and of the Resolutions of our house thereon. I have no doubt but that you will discover some imperfections in it, but

when it is considered that it is the child of mutual concessions between States different in Situation and Interest, and that without some Efficient Government we must shortly be involved in Anarchy that certain road to Despotism. I think that we should not hesitate concerning its adoption. The two important subjects, whether paper money should be adopted, or property suffered to be tendered in discharge of debts were yesterday debated, and without opposition an *Unanimous* Resolution given in the Negative. I am sanguine about the happy consequences of this virtuous discrimination. So vital a stab to such hopes in future will restore confidence between Individuals and bring into circulation a considerable quantity of money which fear and diffidence had locked up.

1. Printed: Henkels Catalogue, No. 1074, Part II (18 March 1913), Item 281, p. 26. Bushrod Washington (1762–1829), a lawyer and George Washington's nephew and heir, had studied law with James Wilson of Philadelphia. He represented Westmoreland in the House of Delegates and in the state Convention, where he voted to ratify the Constitution. In 1798 he replaced his mentor James Wilson on the U.S. Supreme Court. Carter of "Nomini Hall" (1728–1804) was a Westmoreland County planter. He served on the Council of State from 1758 to 1775, when he retired from public life. Carter had first opposed independence from England, but then became a patriot.

### Thomas Wilson to Archibald Stuart

4 November<sup>1</sup>

Mon chere Monsieur

ex[c]ited by that natural affection which reigns so predominant in my breast to all mankind, but more especially to those with whome [I] have been acquainted, and still more by being under obligations, than wh[ich] none can be more binding, I have now sat-down to write to you—I am very well and spend my time agreeably studying Coke's Littelton and reading french; I endeavour to let no day pass without adding something to my stock, tho' imperseptable, yet one day I hope it may be worth opening—

I spent three days last week in Staunton (saltans ut solebam) where I was very industrious to find the general, as well as private opinions of individuals concerning the proposed Constitution; and I was surprised to find it well aproved of almost without exception—I say I was surprised because a few days before in Rockbridge I had heard it characterised as one of the most villanous peases of arbitrary usurpation tending directly to the overthrowing of all liberty among Citizens [&?] quickly terminate in absolute monarchy introduced by some blood thirsty Precedent [President] who will swim to the t[h]rone [---][---][---] his Vessel guided by the [---][---][---] Seals

stretched with a [---][---][---] [his trusted?] Soldiers who [---][---][---]der the defensless in hopes of obtaining plunder, and being applauded by their aspiring Leader, who is aiming at power, no matter how it be obtained—O! tempora, O mores shall we who a few years ago so unanimously engaged in warding off British usurpation, now tamely submit to the home bread Monster of a form equally detestable if viewed when striped of its disguise—surely the God of heaven has forsaken us because of our many fold iniquities, and we blind Mortals are suffered to precipitate ourselves into temporal misery, which will probably terminate in eternal perdition; for the Constitution is de[i]stical in principle, and in all probability the cumposers had no thought of God in all their consultations, eaven the oath that binds the Precedent [President] does not mention his name, & it appears as if we were hereafter to depend upon the honor of infidles in affairs the most interesting; and when the wicked are high in place then inniquity doth rais its deformed head, and walks in open day with haughty looks—O Lord of heaven we intreat that thou in thy infinite goodness wouldest ward off the impending stroke—this Sr. is the genuine language of Rock. or at least as much of it as I have had an opportunity of conversing with—Vale Domine—

1. RC, Stuart Papers, ViHi. The right-hand edge of the first page is missing thus causing the loss of one or two letters at the end of most lines. The second page of the manuscript is torn. The place of writing does not appear in the letter. Wilson (1765–1826) was reading law with Stuart, who resided in Staunton but who was in Richmond attending the House of Delegates. In 1789 Wilson moved to Morgantown, Monongalia Co., where he was admitted to the bar. Wilson served in the state Senate, 1792–96, 1800–4; the House of Delegates, 1799–1800, 1816–17; and the U.S. House of Representatives, 1813–15.

**George Washington to James Madison**  
**Mount Vernon, 5 November<sup>1</sup>**

Your favor of the 18th. Ulto. came duly to hand.<sup>2</sup>—As no subject is more interesting, and seems so much to engross the attention of every one as the proposed Constitution, I shall, (tho' it is probable your communications from Richmond are regular and full with respect to this, and other matters, which employ the consideration of the Assembly) give you the extract of a letter from Doctr Stuart,<sup>3</sup> which follows—

“Yesterday (the 26th [25th] of Octr) according to appointment, the calling of a Convention of the people was discussed.—Though no one doubted a pretty general unanimity on this question ultimately, yet, it was feared from the avowed opposition of Mr. Henry and Mr. Har-

riſon, that an attempt would be made, to do it in a manner that would convey to the people an unfavourable impreſſion of the opinion of the Houſe, with reſpect to the Conſtitution: And this was accordingly attempted.—It was however ſoon baffled.—The motion was to this effect; that a Convention ſhould be called to adopt—reject—or amend—the propoſed Conſtitution.—As this conveyed an idea that the Houſe conceived an amendment neceſſary, it was rejected as improper.—It now ſtands recommended to them, on (I think) unexceptionable ground, for ‘their full and free conſideration’.—My colleague<sup>4</sup> arrived here on the evening before this queſtion was taken up: I am apt to think that the opponants to the Conſtitution were much diſappointed in their expectations of ſupport from him, as he not only declared himſelf in the full-eſt manner for a Convention, but alſo, that notwithstanding his objections, ſo federal was he, that he would adopt it, if nothing better could be obtained.—The time at which the Convention is to meet, is fixed to the firſt of June next.<sup>5</sup>—The variety of ſentiments on this ſubject was almoſt infinite; neither friends or foes agreeing in any one period.—There is to be no excluſion of perſons on acct. of their Offices.—[’]

Notwithstanding this deciſion the accounts of the prevailing ſentiments without, eſpecially on James River and Weſtwardly, are various;—nothing deciſive, I believe, can be drawn.—As far as I can form an opinion however, from different perſons, it ſhould ſeem as if Men judged of others, by their own affection, or diſaffection to the propoſed government.—In the Northern Neck the ſentiment I believe, is very generally for it.—I think it will be found ſuch thro the State

The Doctor further adds—“The ſubject of Britiſh debts was taken up the other day when Mr. Henry, reflected in a very warm declamatory manner, on the circular letter of Congreſs, on that ſubject.<sup>6</sup>—It is a great and important matter and I hope will be determined as it ſhould be notwithstanding his oppoſition”

So far as the ſentiments of Maryland, with reſpect to the propoſed Conſtitution, have come to my knowledge, they are ſtrongly in favor of it; but as this is the day on which the Aſſembly of that State *ought* to meet, I will ſay nothing in anticipation of the opinion of it. Mr. Carroll of Caſolton, and Mr. Thoſ. Johnson,<sup>7</sup> are declared friends to it.—

1. RC, Emmet Collection, NN.

2. See above.

3. David Stuart’s letter of 26 October has not been found. Washington acknowledged it in his reply of 5 November (immediately below). Though Washington dates the letter as 26 October, internal evidence (notes 5 and 6, below) indicates that parts of the letter muſt have been written at a later date.

4. Madison put an asterisk here and at the bottom of the page, where he wrote "Col: Mason." Mason and Stuart represented Fairfax in the House of Delegates.

5. On 25 October the House of Delegates had proposed the fourth Monday in May as the date for the state Convention to meet. On the 31st the Senate amended this to the first Monday in June, and the House agreed on the same day.

6. The debate referred to probably took place on 31 October (Edmund Randolph to Madison, c. 29 October, note 6, above).

7. Charles Carroll of Carrollton, a planter and signer of the Declaration of Independence, was a member of the Maryland Senate. Thomas Johnson, a lawyer-planter and a Maryland senator, voted to ratify the Constitution in the Maryland Convention in April 1788.

### **George Washington to David Stuart Mount Vernon, 5 November (excerpt)<sup>1</sup>**

I thank you for the communications in your letters of the 16th and 26th Ult<sup>o</sup>.<sup>2</sup> both of which came safe.—It gives me pleasure to hear that the Assembly has sent the Constitution to a Convention by an unanimous vote, unstamped with marks of disapprobation.—If Mr. Charles Lee<sup>3</sup> however, has been able to form a just opinion of the sentiments of the Country with respect to it; it is, that the major voice is opposed to it—particularly in the Southern & Western parts of the State.—Is this your opinion, from what you have seen—heard—and understood?—

Maryland, tho' the Assembly has not yet met (from which source any thing can have been drawn) is, we are told, exceedingly well disposed to the adoption of it.—Nay further, that Mr. Chase is become a convert to it.—The accts. from the States Northward & Eastward speak the same language, though the papers team with declamation against it, by a few—a paper in favor of it, written as I am informed by, or under the auspices of Mr Wilson, in numbers, I herewith send you.<sup>4</sup>—

With respect to the payment of British debts, I would fain hope (let the eloquence or abilities of any man, or set of men in opposition be they what they may) that the good sense of this Country will never suffer a violation of a public treaty, nor pass acts of injustice to Individuals.—Honesty in States, as well as in Individuals, will ever be found the soundest policy.<sup>5</sup>—

We have nothing new in this quarter.—The Constitution which is submitted seems to have absorbed all lesser matters. . . .

1. RC, Accession 8122, ViU. Printed: Fitzpatrick, XXIX, 302–3.

2. Neither letter has been located. Washington, however, quoted extracts from them in his 22 October and 5 November letters to James Madison. The extract from Stuart's 16 October letter has been printed above under that date.

3. Charles Lee of Fairfax County, the brother of Henry "Lighthorse Harry" Lee and Richard Bland Lee, was the naval officer of the South Potomac District.



4. Washington probably refers to the essays by "An American Citizen" that were written by Tench Coxe of Philadelphia, a political ally of James Wilson. Coxe wrote "An American Citizen" IV at the request of Wilson, Benjamin Rush, and others (Coxe to Madison, 21 October, CC:183-B). See "The Republication of An American Citizen I-IV in Virginia," 11 October-c. 15 December (above).

5. For Stuart's statement about the British debts in his letter of 26 October, see Washington to Madison, 5 November (immediately above).

**George Mason to George Washington**  
**Richmond, 6 November (excerpt)<sup>1</sup>**

... I take the Liberty of enclosing a Copy of the Resolutions upon the proposed federal Government by which it will appear that the Assembly have given time for full Examination & Discussion of the Subject, and have avoided giving any Opinion of their own upon the Subject. . . .

1. RC, Washington Papers, DLC. Printed: Rutland, *Mason*, III, 1011-12. In the omitted portions of the letter, Mason commented on other matters before the House of Delegates.

**Archibald Stuart to John Breckinridge**  
**Richmond, 6 November (excerpt)**

For this letter, see Albemarle County Election (II below).

**Archibald Stuart to James Madison**  
**Richmond, 9 November (excerpt)<sup>1</sup>**

Yrs of ye 30th. Octr.<sup>2</sup> came to hand yesterday, & has afforded me infinite satisfaction to hear that ye probability is that most of ye Northern States will adopt ye foederal Govt—I have been for some time uncommonly Anxious on this subject lest the weakness & inefficacy of ye State Governments should become so notorious & so disgusting to ye people as to drive them into concessions of liberty much beyond that point which is actually necessary for Good Government—Should it however fail in the first instance I hope it will prove a Rock of Salvation on which we may rest in our career to that fatal extreme—

Ye Paper inclosed contained a piece signed *Publius* with which I am extremely pleased, from his introduction I have the highest expectations from him<sup>3</sup>—If it would not impose too great a task upon you I would request that his subsequent papers may be sent to me, 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.<sup>4</sup> . . .

1. RC, Madison Papers, DLC. Printed: Rutland, *Madison*, X, 245–47. This letter was postmarked at Richmond on 12 November.

2. See above.

3. See “The Republication of The Federalist in Virginia,” 28 November 1787–9 January 1788 (below).

4. See “The Republication of An American Citizen I–IV in Virginia,” 11 October–c. 15 December (above). For the “small pamphlet” mentioned by Stuart, see “Richmond Pamphlet Anthologies,” c. 15 December (below).

### **Edward Carrington to Thomas Jefferson New York, 10 November (excerpt)<sup>1</sup>**

Mr. Madison and myself have done ourselves the honor to write you very fully as late as the 23d. ult<sup>2</sup>—but as the Chevalier Jones<sup>3</sup> is but now about to sail in a Merchant Man for Holland, from whence he means to go directly to Paris, I just use this additional opportunity to inclose you the papers from the period of our former letters to this date. they contain sundry peices upon the subject of the New Constitution & will serve to shew you the sentiments of its opponents, but you are not to conclude from the number of them that they shew the general sense of the people. we have learned from Virginia that several Men of considerable influence are in the opposition, amongst whom Mr. Henry is numbered—it appears however, by the papers that the new project is getting much into fashion in that state—amongst the papers inclosed you will see the issue of several formal assemblies of the people<sup>4</sup>—the legislature have directed that a convention be held in May, for the purpose of, “adopting, amending or rejecting” the proposed Government<sup>5</sup>—the long postponement was occasioned by unfriendly intentions towards it, but I apprehend the rapidity of the movements of the other states in the business, will, by that time, have brought so many into the adoption, that even its enemies will see the *necessity* of joining. . . .

1. RC, Jefferson Papers, DLC. Printed: Boyd, XII, 335–37.

2. For both letters, see above. James Madison’s letter was dated 24 October, 1 November.

3. John Paul Jones, the naval hero of the Revolution, did not leave New York City until 11 November. He carried letters from Carrington, William Grayson, James Madison, and George Washington to either Thomas Jefferson or William Short in Paris. Jones arrived in Paris by 19 December (CC:Vol. 2, pp. 83n, 397, 485; Vol. 3, pp. 203, 204n).

4. Carrington refers to the town and county meetings held between 28 September and 24 October that supported the Constitution and instructed their delegates to the House of Delegates on that matter.

5. See George Washington to James Madison, 5 November, note 5 (above).

**John Dawson to James Madison****Richmond, c. 10 November (excerpt)<sup>1</sup>**

... From the information we have received here, there is very little doubt, but the States South of this will adopt the new constitution—what will be done here is very uncertain—The opponents to it are many, able, and busy—Converts are daily made—inclod you will receive the resolutions of the assembly and will, with me agree, I think, that they are exceedingly proper—by opening the door wide, it is probable all the eminent characters among us will be in convention—by fixing the meeting of the *convention* to so late a day we shall be able to act on the determinations of the other states, and to determine ourselves as circumstances may point out—had the convention met at an early day, and the question have been, will you take this constitution, as offered? I am persuaded a majority would have said No—I also am of opinion there can be no time so unfavourable for this state to offer amendments as the present—the other states are adopting the Constitution with avidity, and would pay little attention to any proposed amendment—but if the Government is a bad one it will press hard upon other states, and make them less ave[r]se to amend it—

1. RC, Madison Papers, DLC. Printed: Rutland, *Madison*, X, 247–49. There is no place or date of writing on the letter. Dawson's description of the actions of the House of Delegates indicates that it must have been written in Richmond around 10 November. The omitted portion of the letter treats other subjects before the House.

**William Grayson to William Short****New York, 10 November (excerpts)<sup>1</sup>**

I have received your favor, for which I am much obliged; the Convention, at Philada. about which I wrote you, have at length produced (contrary to expectation) an entire new constitution; This has put us all in an uproar. . . . 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. Harrison Genl. Nessen,<sup>2</sup> Patrick Henry, Thruston, Zane,<sup>3</sup> Rich. H. Lee, & Co.—George Mason, most of the Judges of the Genl. Court cum multis aliis [i.e., along with many others] 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. . . .

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, trials 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.—

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 nouz) 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.<sup>4</sup> 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. . . .

[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. Printed: CC:248; and LMCC, VIII, 678–80 (both have excerpts not included here). The first page of this letter was marked by Grayson: "By favor of Commodore [John Paul] Jones," who left for France the next day. The letter was endorsed by Short (in Paris) as received on "Dec. 21."

2. Former Governor Thomas Nelson, Jr.

3. Probably Isaac Zane, a miller, merchant, and distiller, who represented Shenandoah in the House of Delegates. He was defeated for election to the state Convention.

4. See Daniel 2:31–36, and 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.

**George Washington to Alexander Hamilton**  
**Mount Vernon, 10 November (excerpt)<sup>1</sup>**

I thank you for the Pamphlet; and for the Gazette contained in your letter of the 30th Ult.—For the remaining numbers of Publius, I shall acknowledge myself obliged, as I am persuaded the subject will be well handled by the Author.

The New Constitution has, as the public prints will have informed you, been handed to the people of this state by an unanimous vote of the Assembly; but it is not to be inferred from hence that its opponents are silenced;—on the contrary, there are many, and some powerful ones—Some of whom, it is said by *overshooting* the mark, have lessened their weight: be this as it may, their assiduity stands unrivalled, whilst the friends to the Constitution content themselves with barely avowing their approbation of it.—Thus stands the matter with *us*, at present;—yet, my opinion is, that the Major voice is favourable. . . .

1. RC, Hamilton Papers, DLC. Printed: Syrett, IV, 308–9. Washington responds to Hamilton's letter of 30 October enclosing *The Federalist* 1 (*ibid.*, 306) which was printed in the New York *Independent Journal* on 27 October and reprinted in two other New York City newspapers on the 30th. See "The Republication of The Federalist in Virginia," 28 November 1787–9 January 1788 (below). Hamilton (1757–1804), a New York City lawyer, was a lieutenant-colonel in the Continental Army from 1777 to 1783, serving as Washington's aide-de-camp for the first four of those years. He was a delegate to Congress in 1782, 1783 and 1788; to the Annapolis Convention in 1786; and to the state Assembly in 1787. In the Constitutional Convention, Hamilton was a member of the Committee of Style and the only New York signer of the Constitution. He wrote a majority of *The Federalist* essays.

**George Washington to Bushrod Washington**  
**Mount Vernon, 10 November (excerpt)<sup>1</sup>**

In due course of Post, your letters of the 19th. & 26th. Ult.<sup>2</sup> came to hand and I thank you for the communications therein—for a continuation in matters of importance, I shall be obliged to you.—

That the Assembly would afford the People an opportunity of deciding on the proposed Constitution I had scarcely a doubt, 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 assiduous active than its Friends) would endeavor to stamp it with unfavourable impressions in order to biass the Judgment that is ultimately to decide on it, this is evedently 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 charactors to be convinced, nor will their local views yield to argaments 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 was representing Westmoreland in the House of Delegates.

2. Neither letter has been located.

**Alexander Donald to Thomas Jefferson  
Richmond, 12 November (excerpt)<sup>1</sup>**

. . . You will no doubt have seen before this time the result of the deliberations of the Convention, which was assembled at Philadelphia last Summer, for revising, and amending the Foederal Constitution—I am sorry to say it is like to meet with strong opposition in this State, at this moment I do believe, that a great majority of the People approve of it, but I can easily conceive, that interested men will do every thing in their power, between this & the electing of our State Convention, to poison the minds of the People, & get them persuaded to give their

votes for such Gentlemen as they know are decidedly against the adoption of the New Constitution, I will not presume to be competent to give an opinion on such a Complex subject, but I can see that there may be some objections made to it, but still it is my sincere opinion, that the Adoption of it will be the salvation of America, For at present there is hardly the semblance of Law or Government in any of the states, And for want of a Superintending Power over the whole, a dissolution seems to be impending, I staid two days with General Washington at Mount Vernon about Six weeks ago,<sup>2</sup> He is in perfect good health, & looks almost as well as he did Twenty years ago.—I never saw him so keen for any thing in my Life, as he is for the adoption of the new Form of Government, As the eyes of all America are turned towards this truly Great & Good man, for the First President, I took the liberty of sounding him upon it, He appears to be greatly against going into Publick Life again, Pleads in excuse for himself, His Love of Retirement, & his advanced Age, but Notwithstanding of these, I am fully of opinion he may be induced to appear once more on the Publick Stage of Life—I form my opinion from what passed between us in a very long & serious conversation as well as from what I could gather from Mrs. Washington on same subject. . . .

1. RC, Jefferson Papers, DLC. Printed: Boyd, XII, 345–48. Jefferson's reply of 7 February (below) was alluded to by Patrick Henry in the state Convention on 9 June (IV below). Donald (d. 1795), a close friend of Jefferson, was a Richmond tobacco merchant. At about this time, he became Robert Morris' agent in Virginia.

2. Donald arrived at Mount Vernon on 5 October and left two days later.

### **John Pierce to Henry Knox Richmond, 12 November (excerpts)<sup>1</sup>**

When I wrote to you<sup>2</sup> I informed you of the act as formed by the House of Delegates for calling a convention. it was altered by the senate to what you will find by the enclosed paper, which is the one now adopted by the legislature. the policy of the state is against the constitution and the union itself. a great majority of the members of the Legislature are opposed to it—but the body of the people at large continue in favor of it. I am however of opinion, that when the representatives now here return to their homes, that they will influence the people generally against it—& it will fall. . . .

The House of Delegates have this day employed themselves in voting another remonstrance to Congress requesting the navigation of the Mississippi. this was unnecessary as one has been made already for that purpose.<sup>3</sup> but Mr Henry introduced it, to shew in a forcible manner how the commercial interests of the Southern States are sacrificed by



the Northern whenever it suits their convenience. This gentleman fires his shot at the new constitution every opportunity.

1. RC, Knox Papers, MHi. In the omitted portion of the letter, Pierce comments on other matters before the House of Delegates.

2. See Pierce to Knox, 26 October (above).

3. In August 1786 John Jay, the Secretary for Foreign Affairs, asked Congress to alter his instructions so that he could negotiate a treaty with Spain forgoing the American use of the Mississippi River for twenty-five years in exchange for commercial concessions from Spain. (See CC:46.) On 29 November the Virginia House of Delegates passed resolutions protesting Jay's proposal and calling for instructions to the state's congressional delegates to oppose any cession of America's right "to the free and common use of the river Mississippi." The Senate concurred on 7 December. Congress received these resolutions on 19 April 1787 (JCC, XXXII, 216n). On 12 November the House of Delegates passed another set of resolutions and a committee was appointed to prepare instructions for the state's congressional delegates.

### **Caleb Wallace to James Madison**

**Fayette County, Ky., 12 November (excerpt)<sup>1</sup>**

... I have had an opportunity of conversing only with a few intelligent acquaintances on the merits of the American Constitution recommended by the late Federal Convention who seem to be well pleased therewith; and I wish it may be cordially embraced by every member of the Union.

1. RC, Madison Papers, DLC. Printed: Rutland, *Madison*, X, 249–51. This letter was addressed to Madison in Orange County, but he had not yet returned to Virginia. On 30 January Madison's father forwarded this letter to Madison in New York City, stating that it "was brot. from Kentuckey by Mr. Thos. Jones" (Orange County Election, II below). Wallace (1742–1814), a graduate of the College of New Jersey (Princeton), a former clergyman, and a lawyer, was an associate judge of the District Court of Kentucky. He represented Lincoln in the House of Delegates, 1783–84, and was an active supporter of Kentucky statehood.

### **Virginia Independent Chronicle, 14 November<sup>1</sup>**

*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 fœderal 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.*<sup>2</sup>

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 outhings us.<sup>3</sup> 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 it 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 fœderal court, to drag a citizen with whom he has any money transaction, from Georgia to the fœderal 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.<sup>4</sup>

“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.<sup>5</sup> 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 item was reprinted, without the last two paragraphs, in the *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. Translation: “That which carelessness puts to flight, or of which human nature is insufficiently wary.”

3. 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: R.I. (1), Conn. (1), N.Y. (2), Pa. (1).

4. A reference to the governmental organization of the Northwest Territory, which Virginia ceded to Congress in December 1783 and which Congress accepted in March 1784. On 5 and 16 October 1787 Congress appointed three New Englanders and two Pennsylvanians to places "of honor, influence, or profit" (JCC, XXXIII, 610, 686).

5. On 22 October Virginia delegate William Grayson wrote James Monroe that "A very considerable emigration will take effect from the five Easternmost States." Grayson enumerated groups from Massachusetts, Rhode Island, Connecticut, New York, and New Jersey (LMCC, VIII, 659). See also Virginia Delegates to the Governor of Virginia, 3 November, *ibid.*, 672-74.

## A True Friend

### Virginia Independent Chronicle, 14 November<sup>1</sup>

To the INHABITANTS of VIRGINIA.

DEAR COUNTRYMEN, The critical instant which is to determine our existence as a nation, or our annihilation, draws near; this is the moment of crisis which is to verify, or contradict the European prediction, that, the American states will be crushed under the weight of their independence, by the troubles and divisions which shall arise amongst them.<sup>2</sup>

Far from seeing our agriculture improve, our commerce flourish, our happiness and our inward tranquility increase, our reputation and our credit enlarge and extend itself abroad, (as we had reason to flatter ourselves) we have constantly seen the contrary since the epoch of our independence; our evils have accumulated and are become of a very alarming nature; our enemies abroad, and in our very bosom exult in putting our present situation in parallel with what it was before the revolution, and deceiving us on the causes, will not fail to attribute the source of our misfortunes to our scission with Great-Britain.

Let us examine, my dear Virginians, how it is possible, that being free by the rights of independence, from the constraints, fetters and prohibitions, which the metropolis used to impose on our agriculture, our industry and our commerce—that being no more slavishly subjected to favor the British manufactures, trades and marine—that being no longer under the monopoly of that nation which used to direct our luxuries, our tastes and our consumptions as it suited her, which

used to encourage, or in a manner proscribe our culture according to her advantage, and which was the sole carrier of our imports and exports; how is it possible, I say, that having in our power to preserve within ourselves the riches that we have loaded her with, we are really more unhappy, with so many means to promote our happiness: The enigma is very easy to unfold; it is because we have not done a single thing that we ought to have done; it is because we have been satisfied with the bare name and appearance of liberty, and have continued to remain really, in the chains of British slavery. We have religiously preserved the fancies, prejudices and customs, which they had stamped on our minds for the produce of their manufactures. From thence it comes that their merchants have an advantage on those of all other nations who daily grow weary and remove:

We still consume profusely their tea, china, East-India goods, beer, rum, &c. which carry away our specie, instead of paying all attention, and using ourselves to our beer, cider, fruit and grain brandies, which we can manufacture among us. We draw from England and Ireland candles, butter, cheese, salt beef, potatoes, and lastly, all the commodities which our soil can produce so abundantly, we even use the coals which they ballast their vessels with, and which are so plenty among us.

While this nation as much jealous as she is wise in her principles of commerce, not satisfied with her famous act of navigation, passed another act in July 1783, excluding American vessels from any trade with her islands, either for our, or her own commodities, we have shewn in our assembly of the same year, only an impotent zeal and patriotism, by an act in retaliation, which for want of being unanimously promulged by the other twelve states, turned to our disadvantage. Therefore we have ever since seen our ports filled with English vessels, which are not only the carriers of their own commodities, but also of our produce, and thus take away our specie by freights and seamens wages, besides the inconveniency of seeing (in case of war) all our property on sea in the power and at the mercy of our enemy. By means of feigned titles of American property, and under our colours, they are yet allowed in our ports, the same privileges as our subjects, while by real titles they enjoy in their own the British prerogatives.

France has offered us some advantages in her free ports. She allows us a trade with her islands limited to certain articles. What have we done, and what can we do to requite it, and obtain more prerogatives? And what can we do to guard against the prohibitions of other nations? As long as we shall only be able to pass partial resolutions, crossed, and rendered useless by the other legislative powers.

It is then very obvious that we have enjoyed none of the great advantages, which independence promised us, and we see ourselves deprived of the assistance, advances and credit, which the metropolis, used to sell us so dear, and which all nations would be so eager to offer us were they to find a part only of the immense profits, which Great-Britain used to draw from it, and could they find in America, the punctuality and security, which alone gain credit and support confidence. We have the best mortgage to offer, which is immense and fruitful lands. For this axiom is certain, *nothing is lent those that have nothing, and credit is offered, at its lowest rate, to those that offer the best securities*. Therefore as long as the law will subsist in Virginia that the creditor cannot seize, lay attachment and sell the land of his debtor, at the epoch the debt fall due, it is as we had nothing, and as long as it will be by the tediousness of the courts of justice almost impossible to force the debtor, we shall not find money lenders, none but usurers will offer, that will ruin us.—Specie of course will turn its course towards other states that will have better and more political laws.

America (and principally Virginia) is of necessity a borrower. The extent of her lands which demand great advances to grub them up, her commerce just rising of which the first funds ought to be laid, and her manufactures of chief wants which ought to be established, require assistance and credit. When we were under the tuition of Great-Britain, she presided over our laws, and in a manner digested them. We could pass no act tending to hurt, or annihilate the rights and interests of British creditors; consequently they did not fear to advance considerable sums, on which they drew an annual interest higher than the rate in England, besides the profits arising from a trade in which the balance was always in their favor, and which has brought us five millions of pounds sterling in their debt. Those services and advances, though so dearly bought, were however indispensable, and augmented in a greater proportion the mass of the produce of population, and of our territorial riches. By running in debt with the mother country, America increased really in power. We may from thence judge how much more rapid and prodigious her progress would be, was she, (as she might) by her union and unanimity, to purchase at this moment her assistance cheaper, and in a way less burdensome for her. It would be then only she would enjoy the advantages of her liberty and of her independence.

We have seen how much our predilection, prejudices and customs, have favored the skill and endeavors of the British to keep us under their subjection; let us now examine what use we have made of our liberty as sovereign states. Far from having a fixed and combined plan

of commerce for the thirteen states, analogous to that of the nations, with whom we are or wish to be connected, and conforming our regulations, to their exemptions, privileges and prohibitions, so as to maintain an equal balance of the advantages which they offer us, and keep for themselves our several legislative powers, have passed acts to cross and oppose one another reciprocally! Being disunited and rivals, the European nations, and principally Great Britain, have preserved all their advantages, and still keep us under the slavery of their prohibitive laws.

At the time that Great Britain withdrew her assistance and her credit, and demanded reimbursements, some states drove away the lenders and destroyed the general confidence, by opposing the uniform tax, which congress wanted to establish, to pay the arrears of the money borrowed during the war, and for the extinction of capitals since that time, the European nations have seen nothing in us but divided states, legislative powers jealous, contradictory and faithless. Even the owners of large capitals among us, have sent their pecuniary fortunes to foreign countries; the scarcity of specie is become extraordinary by these causes united together; the distrust is become general, and from thence all our evils have originated. The interest on money has risen to an enormous rate; all transactions upon trust have been ruinous for the person who asked for credit; what would have been looked upon as usury and punishable, is become legal and authorised by the circumstances. Our public funds have fallen into contempt; our most sacred engagements loose the 4-5ths of their value, and as a state of constraint and distress ends by the corruption of the principles of honor and delicacy among nations, as well as among individuals. Some legislative powers have passed acts contrary to the treaty of peace and to the general fœderation; others have emitted paper money, which the creditors were forced to receive, notwithstanding its depreciation. The course of justice has been stopped by riotous mobs, and even in this state where the citizens has acquired the character of being mild, generous and honest, the public jails have been broke open; the office of titles and records has been burned, and in all the public papers, and even in the house, the question whether an instalment of debts, paper money, or a deduction of the 4-5ths of public debts shall be established, is seriously debated, and they seem to hesitate only on the choice of those means. The planter accuses the merchan[t] of being the cause of his distress; the latter complains of the former; the state is in confusion, and is threatened with a total ruin.

In perceiving, dear countrymen, the causes of our distresses, and seeing clearly that we have turned against ourselves, the immense ad-

vantages which our independence should have procured us, you also feel at the same time the inefficaciousness of the remedies, which these writers propose you in the public papers. Instead of tracing back to the origin of our evils, and from reinstating the confidence and credit, which alone can revive our agriculture, our marine, our commerce, and our finances, they would end by their entire ruin, were we to follow their advices of infidelity and dishonesty, by breaking our engagements. They are like these ignorant physicians, who without knowing and seeking into the nature of the disease, improperly apply a violent remedy, which occasions an immediate death. Our true physicians are those whom we have assembled in Convention, and not those obscure writers who in great part are our enemies. That assembly of wise and learned men, presided by a hero, has duly examined the source of our evils proceeding from a want of union, strength, regularity and unanimity in the government, which excluded credit, help, confidence, and reputation, as well within as without the states. She has seen our agriculture suffer for want of advances, our commerce and our marine sinking before it has taken a rise, as much by our jealousies between states, as by the struggle against the nations more experienced and more constant in their principles of trade. Finally, she presents us her work, the result of her patriotic labors, not as a perfect thing, which it is only in the power of the divinity to accomplish, but as what suits best the present critical and pressing circumstance.

We must expect that this new constitution will meet with contradictions, and in the number, with some antagonists, who under the veil of the love of the public good, and liberty, will endeavor to raise doubts and fears, either to hinder or delay its execution. It lays in our power to distinguish a few, and to discover their secret motives. Some addicted either by inclination, or by interest to British connections, and to the former dependence, will remove as much as possible whatever is contrary to it; others will apprehend to see the functions and the perquisites of their offices diminished; others will fear that good order and regulations once established, will lead to the payment of public and private debts; others will be humbled to see that the state assemblies, shall be confined to interior regulations, when Congress will be invested with the great objects of general administration; others will lament that it will be no more in their power to pass acts contradictory to those of the fœderation, and prohibitive laws to cross the interests and commerce of the other neighbouring states; others will raise our fears and jealousy on the advantages that some states will find, and on the too great powers granted to Congress, as if they were not all to draw their natural advantages from this association,



and as if we had reason to apprehend reunited and balanced powers, which we give and take at our will and pleasure; and lastly, some few others will find it difficult to reconcile themselves to this simple and natural idea, of thirteen provinces making but one state, whose glory and prosperity will necessarily effect that of the parts which composes it intimately, and which was the original and sublime plan of the fœderation, which we have but very imperfectly executed.

I therefore invite you, my dear countrymen, to make use of your natural knowledge, and of the lessons of the time past, and to guard against such writers. Read, and reflect on the new constitution; it secures us inviolably our rights and prerogatives as a republican nation, preciously preserving the nature of a government purely democratical. By the nomination of our representatives, without distinction or inheritance, it will procure us the order, strength and unanimity indispensable for a nation. Let us benefit of the consideration we enjoy amongst the other confederate states, and of the confidence they repose in our wisdom, and let us decide by our example those that may hesitate to adopt.

We may flatter ourselves that with labour and œconomy, it will render us in a short space of time a happy, powerful, and recommendable people.

1. Reprinted: *Pennsylvania Packet*, 28 November.

2. This idea was a favorite theme of the supporters of a strong central government and the Constitution. For example, on 26 January 1787 English clergyman and political writer Richard Price wrote Benjamin Rush of Philadelphia that "At present the power of Congress in Europe is an object of derision rather than respect, at the same time the tumults in New-England, the weakness of Congress, the difficulties and sufferings of many of the states, and the knavery of the Rhode-Island Legislature, form subjects of triumph in this country. The conclusion is that you are falling to pieces, and will soon repent of your independence" (CC:22. For similar arguments, see *Commentaries on the Constitution, passim*). An extract of Price's letter was printed in the Philadelphia *Independent Gazetteer* and four other Philadelphia newspapers on 16 May. Within a month it was reprinted in thirty-five other newspapers (three in Virginia) and in the Philadelphia *American Museum*.

**Charles M. Thruston to the Mayor of Winchester  
Richmond, 15 November (excerpts)<sup>1</sup>**

I duly received both the memorial of the merchants of Winchester, respecting duties on inland importations, &c. and the instructions of the freeholders of the county to their Delegates. These have been, and shall be, paid all proper attention to; the former having been presented immediately after its reception, and, I wish I could say, with a prospect of redressing the just grievances complained of.<sup>2</sup> However, no decision has yet been had on it. The former [latter] has been published in the

Gazette, and met with the approbation of the judicious.<sup>3</sup> (Every person, who has the least pretence to a knowledge of politics or government, is engaged here on the important subject of the new Federal Constitution, and the most respectable names appear in the number of the *pros.* and *cons.* That you and the good people of the town may form some idea of the question, as it stands at present, I will take the liberty of giving you a short list of those said to be on one side and the other. I will place at the head of those for it, Judge Pendleton, who is looked up to as the President of the Convention to be held in June, Nicholas[,] Wythe, Blair, the Pages,—Johnson, Stuart, Harvie, Jones, Wood,<sup>4</sup> and a multitude of others. Against it.—First, as the leader of this party, Henry[,] Mason, Governor Randolph, Lawson,<sup>5</sup> John Taylor, with most of the General Court Lawyers, and many of the Judges, the Nelsons, R. H. Lee, (in many instances father against son) and many others. In a word, the division of the multitude is great; but, after all, it appears to me, the party in favor of the Constitution must prevail; the signature and approbation of our great and good Washington, will give it a preponderancy to weigh down all opposition. . . .)

N. B. Through you, I must beg a communication of this to the town.

1. This item has been excerpted from a letter printed in the Winchester *Virginia Gazette* on 23 November with this preface: "The following letter has been received by the Mayor of this town, from C. M. THRUSTON, Esq. one of the Representatives for Frederick county, in the General Assembly of this State." The text in angle brackets was reprinted in the *Maryland Journal* on 18 December and in twenty-seven other newspapers by 16 February: N.H. (1), Mass. (7), R.I. (2), N.Y. (7), Pa. (6), S.C. (3), Ga. (1). The *Salem Mercury*, 8 January, printed the names of the persons for and against the Constitution and paraphrased the sentence about George Washington. For the complete text of the letter, see Mfm:Va.

Colonel Charles Mynn Thruston (1738–1812), a planter, had served in the Continental Army during the Revolution and had been an Anglican clergyman. He represented Frederick in the revolutionary conventions, 1775–76, and in the House of Delegates, 1782–84, 1785–88.

2. On 6 November this undated petition, signed by nineteen Winchester merchants and traders, was presented to the House of Delegates and read. It was referred to the Committee of the Whole House on the state of the commonwealth. The petitioners asked for the repeal of all laws that imposed duties on goods and merchandise imported from other states. They were pleased that the Constitution prohibited duties on interstate trade; such duties were against "the Spirit of the Union." Virginia, they said, was wrong to have adopted such duties; the constitutional provision demonstrated that the Convention believed "that no such Duties ought to have been heretofore imposed." (For the petition, see Mfm:Va.)

3. For the instructions of the Frederick County freeholders to their legislative delegates—Thruston and John Shearman Woodcock—see Frederick County Meeting, 22 October (above). These instructions were printed in the Winchester *Virginia Gazette* on 26 October, and reprinted in the *Virginia Journal* and the *Virginia Independent Chronicle* on 1 and 7 November, respectively.

4. Probably Brigadier General James Wood of Frederick County, a large landowner and member of the Council of State.

5. Probably Robert Lawson, a Prince Edward County planter-lawyer and member of the House of Delegates. He voted against ratification of the Constitution in the state Convention.

### **Winchester Virginia Gazette, 16 November**

How much it redounds to the honor of a nation, says another correspondent,<sup>1</sup> to see unanimity prevail in all proceedings where the welfare of the whole community is equally concerned. But how disgraceful does it appear, when, by the diabolical machinations of a few designing individuals, the minds of the people are suffered to be corrupted, and anarchy stalks triumphant through the land. Be wise, ye people of America! the crisis is near at hand, when your country, like a blazing star, will illumine this western hemisphere, or, like a blasted flower, wither and decay.

1. The previous paragraph states: "The uniform conduct of Timothy Tranquil, says a correspondent, is certainly deserving of every commendation that can be bestowed on any character ancient or modern. While some, with a warmth nearly bordering on enthusiasm, extol the merits of the new Constitution, and others, with equal avidity, are endeavouring to point out its defects, Tim, in conformity to the old adage, has determined, '*not to say pro. or con. till there is a peace.*'" "Timothy Tranquil" has not been identified.

### **James Madison to Edmund Randolph New York, 18 November (excerpt)<sup>1</sup>**

I returned hither yesterday from Philada. to which place I had proceeded under arrangements for either going on to Virginia or coming back as I might there decide. Your very affectionate favor of the 23d Ult:<sup>2</sup> found me in Philada. after traveling to N. York, and I should have answered it before my return, had any matters for communication occurred worth the expence of postage. I did not make any observations on the scheme mentioned in your letter from the Bolling-Green,<sup>3</sup> because it had an object which I thought it unadvisable to pursue, because I conceived that my opinion had been fully made known on the subject, and I wished not unnecessarily to repeat or dwell on points on which our ideas do not accord, and because I considered that part of your letter merely as a friendly communication, and a pleasing pledge of your confidence and not as a subject on which my ideas were wished. So much indeed was this the case, that at the time of answering that letter, I had not considered the expedient with sufficient accuracy, as a means of attaining the end proposed, to justify any opinion or remarks touching its fitness. The difficulty which struck me on subsequent attention to it, and which seemed insuperable

was that several Legislatures would necessarily have provided for a Convention, and even adjourned before amendatory propositions from Virginia could be transmitted. . . .

1. RC, Madison Papers, DLC. Printed: Rutland, *Madison*, X, 252–53. Madison marked the address page “*private*.”

2. Randolph had misdated his letter; it is printed under c. 29 October (above).

3. See Randolph to Madison, 30 September (above), which was written while Randolph was en route to his home in Richmond.

### James Madison to George Washington New York, 18 November (excerpts)<sup>1</sup>

Your favor of the 5th. instant<sup>2</sup> 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’s who were setting out for Virginia.<sup>3</sup>

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 enclose 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.<sup>4</sup> 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.<sup>5</sup> . . .

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

2. See above.

3. Robert and Gouverneur Morris, both of whom represented Pennsylvania in the Constitutional Convention, left Philadelphia by 12 November for Virginia, where they

hoped to collect the debts that were due Robert Morris. While in Virginia, they attended the debates of the state Convention.

4. On 30 November Washington sent these first seven essays of *The Federalist* to David Stuart in Richmond for republication. (See "The Republication of *The Federalist* in Virginia," 28 November 1787–9 January 1788, below.)

5. Alexander Hamilton, John Jay, and James Madison wrote *The Federalist*. The fourth individual under consideration was Rufus King. (For the authorship of *The Federalist*, see CC:201.) Madison's first contribution, number 10, first appeared on 22 November (CC:285).

**John Pierce to Henry Knox  
Richmond, 19 November<sup>1</sup>**

After a debate of several days the house of del[e]gates have agreed that the British debts shall be paid and that the act of Congress respecting the Treaty shall be passed, with this proviso, that the same shall not become a law of the State until the twelve other states shall pass it. Mr Henry in his harrangues respecting this question attacked the constitution of the Union in the strongest terms and endeavored to sow the seeds of Jealousy against the fœderal court, the new-england States and the spirit of the Union itself. the industrious propogation of these prejudices will have a great effect. and probably will in this legislature cause the state to withhold her current supplies to Congress. The money now in the Treasury which was designed for the Union, it is whispered is to be laid out in final settlement certificates as the most eligible method for defraying the States quota of the national debt.<sup>2</sup> I have had the honor to receive yours of the 4th. and shall continue to give you such information as I think will be amusing.

[P.S.] The enclosed extract shews the manner of touching up the passions on the Union

1. RC, Knox Papers, MHi.

2. For the payment of Virginia's congressional requisitions, see Archibald Stuart to John Breckinridge, 21 October, note 4 (above).

**James Hughes to Horatio Gates  
Alexandria, 20 November (excerpts)<sup>1</sup>**

... The Federal constitution is universally approved of *here*. In the lower parts of the State, I find it is not quite so popular, & that all the efforts eloquence of Patrick Henry (whose opposition you seem'd so much to dread) will be exerted agt. it in the Convention. but with this information I also acquir'd the grateful intelligence that *his* influence, is not nearly so great, as it formerly was. Col. Simms,<sup>2</sup> who is a warm friend to the measure, has declared himself a candidate for the Convention & is universally approved of. Dr Stewart, will probably be

the other member. Should Col. Mason offer himself he would hardly get twenty votes in the whole County<sup>3</sup> for, he has made himself odious, by an illiberall abuse of the Commissioners of the Turnpike, & an attempt, to divide the Town, from the County.<sup>4</sup> Robt. Morris & Gouverneur Morris, have been some days in this town, they say, the Constitution will be adopted by most of the eastern States, wether Nine, approve of it or not. & it is hinted, that should the people in the lower parts of this State, be inimical to it (which from the Information I have, I think they will not) a Division, will take place & this part of the State accede to the Confederacy; which it is said, is a measure, which will inevitably soon draw in the whole State, as the Constitution is every where approved of by the lower & middle Ranks of the people. I have seen Col. Masons objections;<sup>5</sup> only a few of them are even plausible, that which is most so, is the following. "That as the Regulations of Commerce are to be determined by a bare Majority, The Eastern States, who will compose that Majority, may prevent the exportation of the produce of the Southern ones who have no Shipping in foreign bottoms; & become themselves, their Carriers at their own prices"—This is, supposing that the members are determined, from the first instant to abuse the power intrusted to them.—but Such abuses it may be said, should be guarded against. I think they are; for this is an evill which will cure itself. for supposing it to prevail; to what remedy would the People of the Southern States resort. the answer is apparent. to the building of Shipping; for which they have at present all the materials. & Untill that happens, is it not better, the People of the Eastern States should be the Carriers, than, as is at present the case, the subjects of Great Britain. I ought to apologize for offering you, my own observations on this subject. But convinc'd, how much you wish to see the Government adopted, I persuaded myself that every trifle relating to it would be in some measure interesting. . . .

[P.S.] Before you censure me for having written a very hasty letter, consider that I have done it at a very busy time—

1. RC, Emmet Collection, NN. Hughes, a lawyer, was in Alexandria to attend the Fairfax County court. He had just visited Gates at the latter's plantation "Travellers Rest" in Berkeley County. Gates (c. 1727–1806), a former major general in the Continental Army, commanded the Northern Army in 1777 and defeated General John Burgoyne at Saratoga. He was president of the Board of War in 1777 and 1778 and commander of the Southern Army in 1780. Gates served under Washington at Newburgh in 1782 and 1783. He was elected president of the Virginia Society of the Cincinnati in 1783 and Vice President of the national society the next year.

2. Charles Simms, a former lieutenant colonel in the Continental Army and an Alexandria lawyer, represented Fairfax in the state Convention, where he voted to ratify the Constitution.

3. Mason was elected from Stafford.

4. See Rutland, *Mason*, III, 1010–11, 1013–16, 1016–19, 1023–24, 1025–26.
5. Mason's objections circulated widely in manuscript before they were published in the *Virginia Journal* on 22 November. See "George Mason: Objections to the Constitution," 7 October (above).

### The Union Society Considers the Constitution Richmond, 21 November 1787–5 January 1788

The Union Society, also known as the Political Society, generally met weekly to debate a wide variety of topics. The society was "composed of most of the enlightened characters in the lower parts of Virginia" (*Philadelphia Independent Gazetteer*, 5 January, below).

On 17 November the Richmond *Virginia Gazette and Independent Chronicle* published a notice that several questions would be discussed by the Union Society at a meeting to be held on Wednesday evening, 21 November, beginning "precisely at six o'clock." The questions were:

"A full consideration of the Fœderal Government lately recommended by the Convention.

"Whether a prohibition upon the import of spirituous liquors will be advantageous to this state, and how far it will affect the agriculture thereof?

"Whether in the present state of this commonwealth, agriculture or manufactures ought most to be encouraged?" (The *Gazette* for 17 November is not extant. This notice was reprinted in the *Pennsylvania Packet* on 29 November, under the dateline, Richmond, 17 November. It was also reprinted in the Baltimore *Maryland Gazette* on 4 December.)

No minutes exist for the Society's meetings, but the advertisement above and the letters printed below indicate that the Society met on 21 and 28 November, and 5 and 13 December. Among the speakers, Patrick Henry spoke against the Constitution; George Nicholas and probably John Harvie in support. On 13 December the Society voted in favor of the Constitution by a vote of 128 to 15. See also George Washington to James Madison, 10 January (below).

*Samuel McCraw to James Breckinridge*  
*Richmond, 28 November (excerpt)*<sup>1</sup>

... I know not one occurrence that has taken p[lace] since your departure, worthy your Notice. The Fœderal Government, has and still continue to be a mean of discovering more of the Welch Blood in our Citizens, than I ever imagined they possessed:—Colo. Harvie<sup>2</sup> still labours in obviating the many objections to this immaculate Constitution; this Ev'ning I expect to hear him hold forth on this Subject.—tis the second Ev'ning that has been Appropriated in the Robin-Hood for the discussion of this Subject,—you cannot conceive how amazingly the number of this Society increases, and the expectation of many much hightend, in consequence of Gov. & Rob. Morris's being in Town. As they are notoriously known to be favorites to this system, I

hope to have the Satisfaction of hearing one or both of them on this all important Subject. . . .

*Stephen Hollingsworth to Levi Hollingsworth*  
*Richmond, 29 November (excerpt)*<sup>3</sup>

. . . the Constitution seems to gain ground it has been debated for three nights in the Union society, & its expected the yeas, & nays, will be taken the Next night, for the Particulars of this, & every other Matter in the line of Polliticks you are Referred to Messrs Pollard, & Ford, who have been in the Midst of them while in haste your Affectionate Brother

*David Stuart to George Washington*  
*Richmond, 4 December (excerpt)*

[This letter has not been found. It was quoted in a letter from George Washington to James Madison, 7 December (below).]

*James Breckinridge to John Breckinridge*  
*Richmond, 14 December (excerpt)*<sup>4</sup>

Dear Johnny,

. . . I attended one of their [i.e., the House of Delegates] societies last evening to hear their debate on the new constitution: G Nicholas gave us a harangue which lasted an hour but not so much to the amusement of the company as was expected from the abilities of the Gentleman & time he took to prepare himself; After the subject was pretty fully discussed the sense of the house was taken & a great majority were in favour of the ratification of the proposed constitution. Then came on another Question, whether it would be politic in Virginia to prohibit the importation of foreign liquors and after being agitated with a great deal of warmth was decided in the negative.<sup>5</sup>

Do you hold a poll for convention? I hope not; there will be so much contention & party work that I think it would be impossible to please. Write me on this subject & let me know your opinion about the proposed constitution. Its enemies here are daily increasing & new objections started, which induces me to think it will not be ratified untill amended.

Would write you more fully but have not time, am now fixing for my return to Wmsburg tomorrow morning. Have begun Blackstone & am exceedingly pleased with him; read scarcely any thing but Law neither do I intend it untill I obtain a licence.



Have caught the ague since I went to Wmsburg; it shook me pretty severely; but I believe have now got clear of it.  
[P.S.] Pray write to me frequently.

*Tench Coxe to James Madison*

*Philadelphia, 28 December (excerpt)*<sup>6</sup>

... The political Society of Richmond (whose respectability I know not) have approved of it after a formal discussion by a great Majority.

*Pennsylvania Gazette, 2 January*<sup>7</sup>

In the Political Society lately instituted at Richmond, in Virginia, the new federal constitution was the subject of a public debate. After three evenings spent in discussing it, the *Yeas* in favour of it were 128, the *Nays* were only 15. The members of this society consist of the principal characters in Virginia. The principal Speaker against the government was Patrick Henry, Esq;—the principal Speaker in favour of it was Mr. Nicholas. It is expected there will be the same majority in favour of the government in the State Convention.

*Philadelphia Independent Gazetteer, 5 January*<sup>8</sup>

The political society at Richmond, Virginia, having discussed the new federal government, very fully took the question on it, when upwards of 100 were in favor of it, and only 15 against it. This society is composed of most of the enlightened characters in the lower parts of Virginia. The western counties of that state have been much in favor of it, from its first appearance.

1. RC, Breckinridge Family Papers, ViU. This letter, postmarked at Richmond on 30 November and sent by stage, was addressed to James Breckinridge, Esquire, student in Williamsburg. Samuel McCraw, a Richmond lawyer, was John Harvie's son-in-law.

2. John Harvie (1742–1807) represented West Augusta in the revolutionary conventions, 1775–76, and in the House of Delegates in 1776–77; and Albemarle in 1777. He was a delegate to Congress in 1777–78 (signed the Articles of Confederation); register of the state land office, 1780–91; mayor of Richmond, 1785–86; and a presidential elector, 1789. Harvie was a lawyer and a merchant.

3. RC, Hollingsworth Papers, PHi. Stephen (1749–1822) and Levi Hollingsworth (1739–1824) were merchants, Stephen in Richmond and Levi one of the wealthiest merchants in Philadelphia. The letter was hand delivered by William Pollard, a Philadelphia merchant.

4. RC, Breckinridge Family Papers, DLC. This letter was carried by William Cabell, Sr. The letter was docketed as answered on 25 January (below).

5. In early November Patrick Henry introduced into the House of Delegates a bill to prohibit the importation of foreign distilled spirits and for imposing duties on certain imports. The bill was debated for some time and finally dropped on 27 December. On that day Edmund Randolph wrote James Madison: "The prohibition of the importation

of spirituous liquors is gone & indeed cannot be executed, even if it was to be enacted into a law."

6. RC, Madison Papers, DLC. Printed: Rutland, *Madison*, X, 347-48.

7. This item was reprinted in the *Virginia Independent Chronicle* on 16 January, and in twenty-six other newspapers by 19 March: N.H. (2), Mass. (7), R.I. (1), Conn. (5), N.Y. (3), N.J. (1), Pa. (4), S.C. (2), Ga. (1). It was also reprinted in the January issue of the Philadelphia *American Museum*.

8. The *Gazetteer* printed this item a second time on 8 January. It was also reprinted in the *Pennsylvania Packet*, 8 January; Baltimore *Maryland Gazette*, 11 January; *New York Journal*, 12 January; and *Pittsburgh Gazette*, 16 February. A correspondent in the *Independent Gazetteer*, 11 January, wrote that "the account of the Richmond Society, having taken the new constitution under consideration, seems to want confirmation, as it is not noted in the Richmond papers."

### Joseph Jones to James Madison Richmond, 22 November (excerpts)<sup>1</sup>

. . . The Assembly have not yet passed any act of consequence. British debts—installments and the circuit or district plan of jurisprudence, are under consideration—there is great diversity of Opinion on these subjects—one party presses forward the removing impediments to the fullfillmt. of the Treaty—another for removing the legal impediments by one bill and introducing installmts. by another: a third class think the recommendation of Congress respecting the Treaty had better lye unmoved untill the convention shall have decided on the new constitution of Government—the introducer of the British debt proposition suspending the law if it shall pass untill the other States pass similar laws is the introducer of the plan of installments for these and all other private debts; and from the manner in which the business is managed will probably loose the whole. . . .

The New plan of Government is still very much the subject of conversation—I mix little in the croud and am unable as yet to form any estimate whether it gains or looses ground with the Members of the legislature—wherever I hear the subject agitated I find Gentlemen pretty much divided, each party appear to maintain their opinions with apparent zeal—after a while more temper will prevail and the excellencies or defects of the System be treated with less prejudice and more moderation. I much doubt whether the people in this State whatever may be the situation of mens minds in other States are yet ripe for the great change which the new plan will ultimately effect—There would have been less repugnance to it here had the judiciary been less exceptionable and the Executive and legislative had been separate. The true line could it have been hit was to have yeilded full management of all exterior matters to Congress, leaving interior matters to the States, so far as the power of regulating trade as well between other

nations as the States w<sup>o</sup>d. have admitted of—with a Court of Appeals properly constituted for administering justice ultimately to all alike, and with some means of coercion, not violent or military. some such improvements our State from all I can learn would have not hesitated in yeilding their assent to—the great change proposed will I think meet with strong opposition though it may be adopted. [Could?] the constitution of the Senate be varied and the Judiciary be better established than it now stands on the paper I could more willingly give the Constitution my assent—As it stands I shall receive it with reluctance. the 4th. Number of the American Citizen has been printed here in Davis's paper<sup>2</sup> the three numbers you sent me were printed and in the same paper.

1. RC, Madison Papers, DLC. Printed: Rutland, *Madison*, X, 255–57. Docketed by Madison: "Novr. 27. 1787."

2. "An American Citizen" IV was reprinted in Augustine Davis' *Virginia Independent Chronicle* on 21 November, while numbers I–III were reprinted on 7 November. (See "The Republication of An American Citizen I–IV in Virginia," 11 October–c. 15 December, above.)

### **Brutus**

#### **Virginia Journal, 22 November (excerpt)**

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. . . ."*<sup>1</sup>

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.

1. At this point the *Virginia Journal* printed George Mason's objections. For the text and a discussion of Mason's objections, and the identification of Tobias Lear as "Brutus," see "George Mason: Objections to the Constitution," 7 October (above), and Lear to John Langdon, 3 December (below).

### **Horatio Gates to James Madison**

#### **Travellers Rest, 26 November (excerpt)<sup>1</sup>**

. . . every thing I hear, every thing I know, convinces me, that unless we have as Speedily as possible a Firm, Efficient, Federal Constitution establishd, all must go to Ruin, and Anarchy and Misrule, blast every Hope that so Glorious a Revolution entitled us to Expect.

1. RC, Madison Papers, DLC. Printed: Rutland, *Madison*, X, 272–73.

### **From Miles King**

#### **Richmond, 26 November (excerpt)<sup>1</sup>**

. . . I am glad to hear the New Constitu[t]ion is Well Receivd. in the Northern & Midle States, I am Certain their is a Majority for it in this State tho there is some Respectable Characters very Much Oposed to it, there is some Objections to it to be sure but if they Cant Amend it (which I dont think [they] Can untill after the adoption of it) I think it best to take it as it is and Make a tryall of it, as I think with you the old one will no longer do, I fear Mr Henry Wishes to desolve the

Union if that should be the Case we are Undone tho I hope we have good Men sufficient in this State to prevent his Schemes taking place, we are going on very sloly in Business and I never saw so little done for the time we have been setting, Mr Henry is on a Wild plan trying to prohibitt the Importation of all kinds of Spiritts what I am Certain his plan never Can be Carried into execution a Higher duty would Answer Much better, and every days Experiences proves the Necessity of the adoption of the New Constitu[t]ion, we have again damd. paper Money and I hope will Ever be the Case Unless made under the Authority of the New Congress then I think some Might Answer, Mr Nicklas has Introduced. a plan for Installing all Debts, I am Certain he will not Carry his point knowing it to be Wrong for the Assembly to Intefere with private Contracts, the Credit of the State seems to revive as the Assembly is determined to Comply with all Engagmets made by them and pay their Debts as fast as they Can. . . .

1. RC, RG 217, Records of the United States General Accounting Office, Miscellaneous Treasury Accounts of the First Auditor (formerly the Auditor) of the Treasury Department [1790-1840], No. 2314, Statement of the Account of William Ballard, Deceased, DNA. King originally dated the letter "Virginia Hampton," but then crossed out "Hampton" and wrote "Richmond" above it. King (1747-1814), a Hampton merchant, represented Elizabeth City County in the House of Delegates, 1777-79, and almost continuously from 1784 to 1798, and in the state Convention, where he voted to ratify the Constitution.

**Louis-Guillaume Otto to Comte de Montmorin  
New York, 26 November (excerpt)<sup>1</sup>**

. . . 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 the 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 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. . . .

1. RC (Tr), Correspondance Politique, États-Unis, Vol. 32, ff. 401-4, Archives du

Ministère des Affaires Étrangères, Paris. Printed: CC:294. This letter was endorsed as received on 21 January. Otto (1754–1817) had been France's chargé d'affaires since 1785 and continued to be its principal diplomat until the Comte de Moustier, the minister plenipotentiary, arrived in America in mid-January 1788. The Comte de Montmorin (1745–1792) was France's Minister of Foreign Affairs.

### Virginia Independent Chronicle, 28 November<sup>1</sup>

*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.'<sup>2</sup> 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?<sup>3</sup> 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 emissary, 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.

2. Exodus 7:8–13.

3. In 1785 the Pennsylvania legislature prohibited tax collectors from breaking into houses and seizing property “until oath or affirmation be made by some credible person affording sufficient foundation for the same, before some judge of the supreme court or justice of the peace of the proper county” or commissioner or warden (James T. Mitchell and Henry Flanders, comps., *The Statutes at Large of Pennsylvania from 1682 to 1801* [16 vols., Harrisburg, Pa., 1896–1911], XI, 576–77).

### Editors' Note

#### The Republication of The Federalist in Virginia 28 November 1787–9 January 1788

Between 27 October 1787 and 28 May 1788, eighty-five numbers of *The Federalist*—written by “Publius” (Alexander Hamilton, John Jay, and James Madison)—were published in several New York City newspapers and in two volumes published by John and Archibald M’Lean

of New York City. The essays were hailed by many Americans as the best defense of the Constitution. (For a full discussion of the authorship, circulation, and impact of *The Federalist*, see CC:201.)

On 21 November John M'Lean announced in his *Norfolk and Portsmouth Journal* that "At the request of several respectable Subscribers to this paper, we shall next week present the public with the first number of the FEDERALIST, addressed to the inhabitants of New-York, and continue the same in regular numbers as they come to hand. These pieces are universally admired for elegance of style, persuasive expression, as also a comprehensive knowledge in the intricate paths of political science, and are read by all with that avidity which works of superior merit deserve." The first six numbers of *The Federalist* appeared in the Norfolk newspaper by 9 January.

Alexander Hamilton, the author of *The Federalist* 1, sent a copy of the essay to George Washington at Mount Vernon on 30 October (Syrett, IV, 306). Washington thanked Hamilton for the essay and stated that "For the remaining numbers of Publius, I shall acknowledge myself obliged, as I am persuaded the subject will be well handled by the Author" (10 November, above). Also on 30 October, James Madison forwarded the first essay to Archibald Stuart, a member of the House of Delegates in Richmond. On 9 November Stuart wrote Madison that he was "extremely pleased" with the essay and expressed "the highest expectations" for the author. Stuart also asked that "subsequent" numbers of "Publius" be forwarded to him (above).

Edward Carrington, a Virginia delegate to Congress, sent the first twenty-four essays to Stuart. Stuart, claiming that the author's "greatness is acknowledged universally," turned the essays over to John Dixon of the Richmond *Virginia Gazette and Independent Chronicle* for republication (Stuart to James Madison, 14 January, below). Only a few issues of Dixon's newspaper are extant; two issues—22 and 29 December—contain Nos. 4 and 5. Nos. 1–3 possibly appeared in the issues of 1, 8, and 15 December. Dixon possibly also reprinted several of *The Federalist* essays in a pamphlet anthology which he was reportedly compiling in mid-December. (For more on this anthology, see "Richmond Pamphlet Anthologies," c. 15 December, below.)

James Madison sent copies of *The Federalist* to George Washington and Edmund Randolph. On 18 November Madison forwarded to Washington Nos. 1–7 and said that "From the opinion I have formed of the views of a party in Virginia I am inclined to think that these observations on the first branch of the subject [the importance of the Union] may not be superfluous antidotes in that State, any more than in this [New York]." If Washington agreed, Madison requested that

Washington ask one of his "confidential correspondents at Richmond" to have the essays reprinted there. Madison said that three people (including himself) were engaged in writing the essays (above). In his letters of 30 November and 7 and 14 December, Madison sent Washington Nos. 8–22 (Rutland, *Madison*, X, 283–84, 327; and CC:327). On 2 December Madison forwarded two essays to Edmund Randolph in Richmond, again identifying himself as one of the authors. He indicated that one of the other authors had been a member of the Constitutional Convention (CC:314). Speculation about the authorship was not uncommon in Richmond. For example, on 18 December Joseph Jones wrote Madison that "Publius is variously ascribed to M–d–n–H–lt–n–J–y" (Rutland, *Madison*, X, 330).

On 30 November George Washington, to counter writers who were advocating separate confederacies, sent *The Federalist* 1–7 to David Stuart, a Fairfax County member of the House of Delegates, for republication in a Richmond newspaper. Washington believed that the essays, which emphasized the importance of the Union, were written by "able men; and before they are finished, will . . . place matters in a true point of light" (below). On 7 December Washington wrote Madison that he had forwarded the essays to someone in Richmond, stating that they would "have a good effect" (below). On the 22nd Washington sent Stuart all of the "subsequent numbers" that he had received (Fitzpatrick, XXIX, 341). David Stuart presumably turned the essays over to Augustine Davis who reprinted *The Federalist* 1–3 in his *Virginia Independent Chronicle* on 12, 19, and 26 December.

Virginia newspapers probably stopped reprinting *The Federalist* by mid-January because it had become known that the essays would be published as a pamphlet. Besides, the state's weekly newspapers could not keep up with a series in which thirty essays had appeared by the end of December. As early as 2 December James Madison had informed Edmund Randolph that he understood that the printer "means to make a pamphlet of them" (CC:314). On 2 January John M'Lean of the New York *Independent Journal* announced his intention to print *The Federalist* in book form. Two weeks later he printed an almost identical advertisement in his *Norfolk and Portsmouth Journal* (CC:406).

Volume I of *The Federalist*, containing thirty-six essays, was offered for sale in New York City on 22 March, in Norfolk on 2 April, and in Richmond on 23 April. Volume II, containing forty-nine numbers, was advertised in New York City on 28 May, in Norfolk on 4 June, and in Richmond on 11 June. Many volumes were also forwarded from New York City to individuals in Virginia. For example, Alexander Hamilton, upon the request of James Madison, shipped fifty-two copies of

both volumes to Virginia, probably in preparation for the Virginia Convention. (For a full discussion of the circulation of these volumes, see "The Circulation of the Book Version of The Federalist in Virginia," 2 April, III below).

**William Shippen, Jr., to Thomas Lee Shippen  
Philadelphia, 29 November (excerpt)<sup>1</sup>**

... Cyrus Griffin<sup>2</sup> is in Town on his way to Congress & lamented today to Bishop White<sup>3</sup> (who enquired after his friend T.L.S) that all the leading men in Virginia (except G. Washington) were opposed to the new Constitution—What a pity it is that good man was in the Convention & that he lodged in the house of R. Morris & rode every Sunday wth. G. Morris they certainly misled him. Your Uncle R.H. [Richard Henry Lee] was much grieved at it, as it must mortify the General exceedingly to see all his sensible countrymen differ in opinion with him—Griffin is also of opinion from what he has heard that the Carolinas & Georgia will wait for & be guided by the decision of Virginia.—The Citizens of New York were much pleased at the first appearance of the new Form of Government—but now tis very unfashionable to say a Word in its favor. Jay was taken in ye gilded Trap but now thinks it a very dangerous one.<sup>4</sup> if Virginia & New York reject it, it will work heavily. . . .

1. RC, Shippen Family Papers, DLC. Dated: "Philadelphia 29. Novr. 1787. 10 oClock." Another excerpt, which deals with Pennsylvania, is printed in RCS:Pa., 424. Thomas Lee Shippen (1765–1798), the son of William Shippen, Jr., was studying law at Inner Temple in London.

2. Griffin was appointed a Virginia delegate to Congress on 23 October.

3. William White of Philadelphia was pastor of Christ Church and the Episcopal bishop of Pennsylvania.

4. On 24 November the Philadelphia *Independent Gazetteer* printed a statement from an unidentified correspondent alleging that John Jay, the Confederation Secretary for Foreign Affairs, "who at first was carried away" with the Constitution, was "now very decidedly" opposed to it. Jay was reported to have said that the Constitution was "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, continued the correspondent, the Constitution went "by the name of the *gilded trap*." On 7 December the *Gazetteer* printed Jay's denial in which he advised Americans to adopt the Constitution (CC:290 A–B). Neither of these two items is known to have been reprinted in Virginia. After George Washington saw the item reprinted in the *Maryland Journal* on 30 November, he wrote James Madison on 7 December expressing his disbelief (CC:328). Madison replied on 20 December that the item "was an arrant forgery" (below).

**The General Assembly Adopts an Act for Paying  
the State Convention Delegates, 30 November–27 December**

The resolutions of 25–31 October calling a state Convention did not provide for the payment or privileges of the Convention delegates. According to James Monroe, these matters, "especially the former were

thought the subject matter for an act & were separated from them" (to James Madison, 6 December, below). David Stuart, on the other hand, thought that the failure to provide for payment had been simply an unfortunate omission (to George Washington, 4 December, quoted in Washington to Madison, 7 December, below).

On 30 November the House of Delegates, according to the order of the day, went into a Committee of the Whole House on the state of the commonwealth and discussed the issue of the payment of the state Convention delegates. The *House Journal* does not give the details of what occurred in the committee, but letters written by several delegates describe what transpired. (See Archibald Stuart to James Madison, 2 December; James Monroe to Madison, 6 December; and David Stuart to Washington, 4 December, quoted in Washington to Madison, 7 December, all below.)

In the Committee of the Whole House, Samuel Hopkins, Jr., introduced resolutions to provide payment for the delegates to the state Convention and for delegates to a second "fœderal convention, in case such a convention should be judged necessary" to consider amendments to the Constitution. The resolutions also called upon the General Assembly to provide for the expenses of "deputies to confer with the convention or conventions of any other state or states in the union" if the state Convention "should deem it proper." Patrick Henry and George Mason seconded Hopkins' motion.

In the debate that followed, Federalists urged that the resolutions be stated in "General terms which should not discover the sense of the house on ye Subject." They believed that the resolutions implied support for amendments. George Mason countered by saying that the resolutions were "not declaratory of our opinion." After considerable debate, the Committee of the Whole House agreed to the resolutions, which the House agreed to by a sixteen-vote majority. The House then appointed a committee to bring in a bill pursuant to the resolutions.

For the unfavorable Federalist reaction to these resolutions, see Archibald Stuart to James Madison, 2 December; Henry Lee to Madison, 7 December; George Washington to Madison, 7 December; Madison to Archibald Stuart, and to Washington, 14 December; Rufus King to Jeremiah Wadsworth, 23 December; and Washington to Madison, 10 January, all below.

On 4 December, according to order, Patrick Henry reported a bill from the committee. The bill provided that the state Convention could propose amendments to the Constitution and appoint delegates to a second federal convention. The bill also made provision for deputies to attend a second federal convention and for deputies who might be appointed to confer with other state conventions.

The House debated and amended the bill in the Committee of the Whole House on 7 December, where all reference was stricken to a second convention or the appointment of delegates to confer with other conventions. The amendments were considered by the committee on 8 December and amended further. The amended bill, though still not mentioning amendments or a second convention, provided for "Such reasonable expences as may be incurred in case the Convention to meet in this state on the first Munday in June next should deem it necessary to hold any

Communications with any of the sister states or the Conventions thereof which may be then mett—or should in any other manner incur any expence in collecting the sentiments of the union respecting the proposed Federal Constitution. . . .” On 11 December the engrossed bill was passed unanimously. The Senate accepted it the next day.

On 11 December, George Lee Turberville reported that Patrick Henry had declared his intention of bringing in a bill to promote a second federal convention, and “that the speakers of the two houses shou’d form a Committee of Correspondence to communicate with our sister states on that subject” (George Lee Turberville to James Madison, 11 December, below). On 26 December Meriwether Smith moved that the legislature send a circular letter to the other state legislatures, “intimating the likelihood of amendment here.” The House, however, “changed” his motion (Edmund Randolph to James Madison, 27 December, below). On 27 December the legislature instructed Governor Randolph to forward the act of 12 December to the state executives and legislatures. Accordingly, Randolph sent a broadside copy of the act to each state executive on 27 December and enclosed another copy to be given to each legislature.

For the publication of the original resolutions of 30 November and the act of 12 December, see notes 1 and 14, respectively (below).

For the legislature’s earlier actions, see “The General Assembly Receives the Constitution,” 15–16 October, and “The General Assembly Calls a State Convention,” 25–31 October (both above).

#### *House Proceedings, Friday, 30 November<sup>1</sup>*

The House according to the order of the day resolved itself into a committee of the whole House on the state of the commonwealth, and after some time spent therein Mr. Speaker resumed the chair, and Mr. *Thruston* reported that the committee had, according to order, again had the state of the commonwealth under their consideration, and had come to several resolutions thereupon, which he read in his place and afterwards delivered in at the clerk’s table, where the same were again twice read and agreed to by the House as followeth;

Whereas it is provided by a resolution of the 25th day of *October* last, that the proceedings of the fœderal convention be submitted to a convention of the people for their full and free investigation, discussion, and decision;<sup>2</sup> but no provision has been made for ascertaining their privileges, or defraying the expences of the members of the said convention, during their session and travelling to and from the same; and in case the said convention should judge it expedient to propose amendments to the said fœderal constitution, no provision has been made for defraying the expences or ascertaining the allowance to be made such deputies.

*Therefore, Resolved, That it is the opinion of this committee, That provision ought to be made as well for ascertaining the privileges and pay*

of the members of the convention recommended to be held as aforesaid, as for the allowance to be made the deputies to a fœderal convention, in case such a convention should be judged necessary.

*Resolved also, That it is the opinion of this committee, That if the convention of the representatives of the people of this commonwealth appointed to meet on the first Monday in June next, should deem it proper to send a deputy or deputies to confer with the convention or conventions of any other state or states in the union, the General Assembly will make provision for defraying the expences thereof.*

*Ordered, That a bill or bills be brought in pursuant to the said resolutions, and that Mr. Thruston, Mr. Henry, Mr. Mason, Mr. Hopkins, Mr. Meriwether Smith, Mr. Ronald, Mr. Lawson, and Mr. Bullitt do prepare and bring in the same.*

*House Proceedings, Tuesday, 4 December*

Mr. Henry presented according to order, a bill Concerning the convention to be held in June next, and the same was received and read the first time, and ordered to [be] read a second time.

On a motion made, a bill Concerning the convention to be held in June next, was read the second time, and ordered to be committed to a committee of the whole House on Friday next.

*House Bill Concerning the State Convention*

*Tuesday, 4 December<sup>3</sup>*

Whereas it is provided, by a Resolution of the 25th. day of October last, that the proceedings of the Fœderal Convention be submitted to a Convention of the people, for their full and free Investigation, discussion, and decision; but no provision hath been made for ascertaining the privileges, or defraying the expences of the Members of the said Convention, during their Session, and travelling to, and from the same:<sup>4</sup> and in case the said Convention should judge it expedient to propose Amendments to the said Fœderal Constitution, and for that purpose to appoint Deputies to a second Fœderal Convention, no provision hath been made for defraying the expences or ascertaining the allowance to be made such Deputies. Be it therefore enacted by the General Assembly, that the Members of Convention, chosen agreeably to the said Resolution of the 25th. day of October last, shall have, possess, and enjoy, in the most full and ample Degree to all intents and purposes, all and every the privileges which are had, possessed, and enjoyed, by members elected to, and attending on the General Assembly. And for ascertaining, as well the pay of the Members of the

said Convention, as the allowance to be made to the Deputies to a second Fœderal Convention, in Case such a Convention be judged necessary; be it enacted, that ten shilling per Day be paid to each Member of the Convention, to be chosen agreeably to the afore mentioned Resolution, for each Days Attendance, *and* the same allowance for travelling, *and* ferriages, and in Cases of sickness as is made to Members of the General Assembly; and also that \_\_\_\_\_ be allowed to such Deputies as may be appointed to a second Fœderal Convention; if the same shall be deemed necessary. And be it enacted that in case the said Convention appointed to be held in June next, as aforesaid, shall deem it proper to send a Deputy or Deputies to confer with the Convention or Conventions of any other State or States in the Union on the Subject of the proposed plan of the Fœderal Government, such Deputy or Deputies shall be allowed and paid \_\_\_\_\_ And be it farther enacted, that the several sums of Money beforementioned shall be paid by the Treasurer ~~out of any unappropriated Money in his hands,~~ to the several Claimants under this Act (out of the money arising from \_\_\_\_\_ and if the same shall not be sufficient out of any unappropriated money in the Treasury)<sup>5</sup>

*House Proceedings, Friday, 7 December*

The House according to the order of the day resolved itself into a committee of the whole House on the bill, "Concerning the convention to be held in *June* next," and after some time spent therein, Mr. Speaker resumed the chair, and Mr. *Dawson* reported that the committee had, according to order, had the said bill under their consideration, and made several amendments thereto, which they had directed him to report whenever the House should think proper to receive the same.

*Ordered,* That the said report be received to-morrow.

*Amendments to House Bill Concerning the State Convention*

*Friday, 7 December*<sup>6</sup>

Line the 5th.<sup>7</sup> Strike out from the word "same" to the end of the Bill and insert

Be it therefore enacted by the General Assembly that the Members of the said State Convention, chosen in conformity to the said Resolution of the twenty fifth day of October last, shall have, possess, and enjoy, in the most full and ample manner, all and every the privilege and privileges which Members elected to, and attending on the General Assembly are entitled to. And moreover shall be allowed the same pay



for travelling to, attending on, and returning from the said Convention as is allowed to Members of the General Assembly for travelling to, attending on, and returning from the same.

Be it further enacted, that the said Convention shall be and they are hereby empowered, to make such reasonable allowances to the Officers of the said Convention for their services, as shall be by the said Convention deemed necessary.<sup>8</sup>

And whereas other necessary expences may be incurred by the said Convention in consequence of measures which they may judge it necessary<sup>9</sup> to take, under the powers by which they shall act, the nature of which measures, not being known the necessary expences which may be attendant thereon cannot be provided for fully at this time: Be it therefore enacted, that all other necessary expences, which may result in consequence of any regulation, or proceeding of the said Convention, consistent with the powers under which they shall act, shall be defrayed by the State; and the Executive are hereby empowered to draw on the Treasurer for any sum not exceeding \_\_\_\_\_ Pounds, which the said Convention may judge necessary for the purposes aforesaid.

And be it further enacted, that all monies drawn for, under this Act, shall be paid by the Treasurer out of the monies arising from \_\_\_\_\_ and if the same shall not be sufficient, out of any unappropriated money in the Treasury

*House Proceedings, Saturday, 8 December*

Mr. *Dawson* reported from the committee of the whole House, according to order, the amendments agreed to yesterday, to the bill Concerning the convention to be held in *June* next, and he read the same in his place, and afterwards delivered them in at the clerk's table, where the same were again twice read, amended, and agreed to by the House.

*Ordered*, That the bill with the amendments be engrossed and read a third time.

*Amendments to House Bill Concerning the State Convention*  
*Saturday, 8 December*<sup>10</sup>

And whereas it is essential to the safety and happiness of the people of this and other states in the union that the most friendly Sentiments towards each other should be cherished and the greatest unanimity should prevail at all times but more particularly during the deliberations concerning the great and important change of Government which hath

been proposed by the Federal Convention—and it is necessary to make provision for the payment of Such reasonable expences as may be incurred in case the Convention to meet in this state on the first Munday in June next should deem it necessary to hold any Communications with any of the sister states or the Conventions thereof which may be then mett—or should in any other manner incur any expence in collecting the sentiments of the union respecting the proposed Federal Constitution in such manner as to keep up that friendly intercourse & preserve that Unanimity respecting any great change of Government which it is the Duty & wish of this Legislature to promote & cherish

Be it therefor enacted that a sum of money not exceeding \_\_\_\_\_ pounds shall be preserved<sup>11</sup> in the Treasury subject to the order and disposal of the Convention appointed to meet in the City of Richmond on the first Munday in June next for defraying the expences of the Members thereof or any other expences as beforementioned and that Such money shall be made good from the funds now appropriated or which may hereafter be appropriated to the support of Civil Government and provided the said fund should by any means prove deficient then such deficiency shall be made good from any unappropriated money in the Treasury.

*House Proceedings, Tuesday, 11 December*

An engrossed bill “Concerning the convention to be held in *June* next” was read the third time, and the blanks therein filled up.

*Resolved unanimously*, That the bill do pass, and that the title be, “An act concerning the convention to be held in *June* next.”

*Ordered*, That Mr. *Dawson* do carry the bill to the Senate and desire their concurrence.

*Senate Proceedings, Tuesday, 11 December*<sup>12</sup>

A message from the House of Delegates by Mr. Briggs:

MR. SPEAKER,—The House of Delegates have passed a bill “concerning the Convention to be held in June next;” . . . And he delivered in the same, and then withdrew.

The said bill was read the first time, and ordered to be read the second time. . . .

The bill, “concerning the Convention to be held in June next;” was read the second time, and ordered to be committed to a committee of the whole House to-morrow.

*Senate Proceedings, Wednesday, 12 December*

The House, according to the order of the day, resolved itself into a committee of the whole House, on the bill "concerning the Convention to be held in June next;" and after some time spent therein, Mr. Speaker resumed the chair, and Mr. Anderson reported, that the committee had, according to order, had the said bill under their consideration, and made no amendments thereto.

*Ordered,* That the said bill be now read the third time.

The said bill was read the third time; and on the question being put, that the same do pass,

It was resolved in the affirmative.

*Ordered,* That Mr. Anderson do acquaint the House of Delegates therewith.<sup>13</sup>

*An Act Concerning the State Convention*

12 December<sup>14</sup>

SECTION I. Whereas it is provided by a resolution of the twenty-fifth day of *October* last, that the proceedings of the Fœderal Convention be submitted to a Convention of the people for their full and free investigation, discussion and decision; but no provision hath been made for ascertaining the privileges, or defraying the expences of the members of the said Convention, during their session, and travelling to and from the same,

SECT. II. *Be it therefore enacted by the General Assembly,* That the members of the said state Convention, chosen in conformity to the said resolution of the twenty-fifth day of *October* last, shall have, possess, and enjoy, in the most full and ample manner, all and every the privilege and privileges which members elected to, and attending on, the General Assembly, are entitled to. And moreover shall be allowed the same pay for travelling to, attending on, and returning from, the said Convention, as is allowed to members of the General Assembly for travelling to, attending on, and returning from the same.

SECT. III. *Be it further enacted,* That the said Convention shall be, and they are hereby empowered to make such reasonable allowances to the officers of the said Convention for their services as shall be by the said Convention deemed necessary. AND WHEREAS it is essential to the safety and happiness of the people of this and other states in the union, that the most friendly sentiments towards each other should be cherished, and the greatest unanimity should prevail at all times, but more particularly during the deliberations concerning the great and important change of government which hath been proposed by

the Fœderal Convention, and it is necessary to make provision for the payment of such reasonable expences as may be incurred, in case the Convention to meet in this state on the first *Monday* in *June* next, should deem it necessary to hold any communications with any of the sister states or the Conventions thereof which may be then met, or should in any other manner incur any expence in collecting the sentiments of the union respecting the proposed Fœderal Constitution, in such manner as to keep up that friendly intercourse and preserve that unanimity respecting any great change of government, which it is the duty and wish of the legislature to promote and cherish:

SECT. IV. *Be it therefore enacted*, That a sum of money not exceeding eight thousand pounds shall be reserved in the treasury subject to the order and disposal of the Convention appointed to meet in the city of *Richmond* on the first *Monday* in *June* next, for defraying the expences of the members thereof, or any other expences as before mentioned, and that such money shall be made good from the funds now appropriated, or which may hereafter be appropriated, to the support of civil government; and provided the said fund should by any means prove deficient, then such deficiency shall be made good from any unappropriated money in the treasury.

*House Proceedings, Wednesday, 26 December*

A motion was made that the House do come to the following resolution;

*Resolved*, That the Governor be desired to transmit to the Executive and Legislature of the respective states a copy of the act passed at the present session, intituled "An act concerning the convention to be held in *June* next."

And the said resolution being twice read, was, on the question put thereupon, agreed to by the House.

*Ordered*, That Mr. *Mathews* do carry the resolution to the Senate and desire their concurrence.

*Senate Proceedings, Thursday, 27 December*

A message from the House of Delegates by Mr. Richard Lee:

MR. SPEAKER,—The House of Delegates have . . . agreed to a resolution, that the Governor be desired to transmit to the Executive and Legislature of the respective States, a copy of the act of Assembly, concerning the convention to be held in *June* next; to which they desire the concurrence of the Senate. And he delivered in the same, and then withdrew. . . .

The resolution of the House of Delegates, that the Governor be desired to transmit to the Executive and Legislature of the respective States, a copy of the act passed at the present session, entitled "an act, concerning the convention to be held in June next," was twice read; and on the question thereupon being put, agreed to by the House.

*Ordered*, That Mr. Browne do acquaint the House of Delegates therewith.<sup>15</sup>

*Governor Edmund Randolph to the President of Delaware*  
*Richmond, 27 December*<sup>16</sup>

Pursuant to a resolution of the General Assembly of this Commonwealth, I do myself the honor of transmitting to your Excellency, two copies of their act, intituled "An act concerning the convention to be held in June next." One of them is inclosed for your own perusal, the other I wish to be submitted to the Legislature of your State.

1. The House proceedings in this section are taken from the *House Journal* and are cited by date only. These proceedings, excluding the first paragraph, were printed in the *Virginia Independent Chronicle* on 9 January; and reprinted in the *Pennsylvania Packet*, 12 January (without the names of the committeemen in the last paragraph), *Philadelphia Independent Gazetteer*, 22 January, *Pennsylvania Herald*, 23 January, *Annapolis Maryland Gazette*, 31 January, and *Carlisle Gazette*, 6 February.

2. This is the form of the resolution as amended by the Senate on 31 October. (See "The General Assembly Calls a State Convention," 25–31 October, above.)

3. MS, Papers of the House of Delegates, Bills of a General Assembly . . . Oct. 15, 1787, Vi. This document, in a clerk's handwriting, was apparently made from a draft in Patrick Henry's handwriting. (Henry's draft is also in the Papers of the House of Delegates.) The clerk's copy is docketed in two different hands. The first docketing, possibly in Henry's handwriting, reads: "A Bill/concerning the Con/-vention to be held/ in June next." The second, written in two stages, reads: "December 4th: 1787./read the first time and a/second and Committed to a Committee/of the whole House on friday next." This is followed on the next line by the words, in the same hand, "to be Engrossed." For these documents, see Mfm:Va.

4. Everything from this point is lined-out, pursuant to the amendment adopted on 7 December. See Amendments to House Bill, 7 December.

5. The text in angle brackets was added by someone other than the clerk. These changes were made before the entire section was lined-out.

6. MS, Papers of the House of Delegates, Bills of a General Assembly . . . Oct. 15, 1787, Vi. For this document, see Mfm:Va.

7. See note 4 (above).

8. On 8 December the House further amended this bill by replacing the last two paragraphs with two new paragraphs. The clerk struck out these last two paragraphs and inserted the direction: "(See A)." See note 10 (below).

9. The word "necessary" was lined-out and "proper" was substituted.

10. MS, Papers of the House of Delegates, Bills of a General Assembly . . . Oct. 15, 1787, Vi. This is the amendment referred to as "A" in Amendments to House Bill, 7 December.

11. In the act, the word is "reserved."

12. The Senate proceedings printed in this section are taken from the *Senate Journal* and are cited by date only.

13. On 13 December the Senate informed the House that "They have also passed the bill 'Concerning the convention to be held in *June* next.'"

14. *Acts Passed at a General Assembly of the Commonwealth of Virginia* . . . [15 October 1787–8 January 1788] (Richmond, [1788]), 12 (Evans 21549; and Hening, XII, 462–63). For another eighteenth-century printing of the *Acts*, see Evans 21548. The act was also printed as a broadside (Evans 20842). Upon order of the legislature, it was sent by Governor Randolph to the other state executives (see House Proceedings, 26 December, and Senate Proceedings, 27 December).

The act was printed in the *Virginia Independent Chronicle*, 9 January, immediately preceded by an "Extract from the Journal" of the House of Delegates for 30 November which contained the original resolutions introduced on that day (see note 1, above). The act was also printed in the *Richmond Virginia Gazette and Weekly Advertiser* on 10 January. It was reprinted in the *Pennsylvania Packet*, 22 January; *Charleston Columbian Herald*, 11 February; *Massachusetts Centinel*, 22 March (except paragraphs 2 and 3); and *Newport Mercury*, 31 March (except paragraphs 2 and 3). At the point they omitted paragraphs 2 and 3, the *Centinel* and *Mercury* included this bracketed insert: "Then follows a clause, granting the same privileges and pay to the members of Convention, as to the members of the General Assembly."

15. The House received the message later that day, 27 December.

16. RC, Executive Records, Delaware State Archives. Enclosed was the broadside version of the 12 December act (Evans 20842).

### George Washington to David Stuart Mount Vernon, 30 November (excerpts)<sup>1</sup>

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 sub-

mitted 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.<sup>2</sup> . . .

Certificate & Commutation taxes I hope will be done away by this Assembly.—And that it will not interfere either with public treaties, or private contracts. Bad indeed must the situation of that Country be when this is the case.—With great pleasure I received the information respecting the commencement of my Nephews political course<sup>3</sup>—I hope he will not be so buoyed up by the favourable impression it has made as to become a babbler.—

If the Convention *was* such a tumultuous, & disorderly body as a certain Gentleman has represented it to be,<sup>4</sup> 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 Washingtonia, William L. Clements Library, University of Michigan. Printed: Fitzpatrick, XXIX, 323–24.

2. On 18 November James Madison had sent Washington the first seven numbers of *The Federalist* (above. See also "The Republication of *The Federalist* in Virginia," 28 November 1787–9 January 1788, above.).

3. Bushrod Washington was serving his first and only term in the House of Delegates.

4. Possibly a reference to George Mason who wrote Washington on 7 October that with "a little Moderation & Temper, in the latter End of the Convention" his objections to the Constitution might have been removed (above).

**Meriwether Smith, Charles M. Thruston, John H. Briggs, and  
Mann Page, Jr., to Governor Edmund Randolph  
Richmond, 2 December<sup>1</sup>**

It has been reported in various parts of the state, that the reasons which governed you in your disapprobation of the proposed *Fœderal* Constitution, no longer exist; and many of the people of this Commonwealth have wished to know what objections could induce you to refuse your signature to a measure so flattering to many principal characters in America, and which is so generally supposed to contain the seeds of prosperity and happiness to the United States.

We are satisfied, sir, that the time is passed, when you might with propriety have been requested to communicate your sentiments to the

General Assembly on this subject; but, as you have been pleased to favor us with your observations in private, and we conceive they would not only afford satisfaction to the public, but also be useful by the information and instruction they will convey, we hope, you can have no objection to enable us to make them public through the medium of the Press. We have the honor to be, with respectful esteem, Sir, your most obedient servants,

1. Governor Randolph responded to this letter on 10 December (below). Both of these letters were printed in the pamphlet edition of Randolph's 10 October letter to the Speaker of the Virginia House of Delegates. See "The Publication of Edmund Randolph's Reasons for Not Signing the Constitution," 27 December (below). Both the 2 and 10 December letters were reprinted in the *Virginia Independent Chronicle*, 2 January, the Richmond *Virginia Gazette and Weekly Advertiser* and the Petersburg *Virginia Gazette*, 3 January, and in the January issue of the Philadelphia *American Museum*, as well as in five other newspapers: N.Y. (1), Pa. (3), Md. (1).

Smith (1730–1794), a planter, was a member of Congress, 1778–79, 1781, and the Council of State, 1776–77, 1779–80, 1782–85. He also represented Essex in the House of Burgesses, 1775–76, the revolutionary conventions, 1774–76, and in the House of Delegates, 1776–77, 1778, 1781–82, 1785–89. A strong supporter of amendments, he voted against ratification of the Constitution in the state Convention. Briggs (c. 1755–c. 1810) represented Sussex in the House of Delegates, 1784–90, and voted against ratification of the Constitution in the state Convention. Mann Page, Jr. (c. 1749–1803) was a lawyer whose plantation, "Mansfield," was near Fredericksburg in Spotsylvania County. He also owned a plantation in Gloucester County. He represented Spotsylvania in the revolutionary conventions, 1774–76, and almost continuously from 1772 to 1790, he represented Spotsylvania or Gloucester in the House of Delegates. Page served in Congress in 1777.

### Archibald Stuart to James Madison Richmond, 2 December (excerpts)<sup>1</sup>

... We counted the money in the Treasury yesterday & found there £30,136:6.5. & Tobo. to the Amount of £9,692:7:4½. Of this we have appropriated six thousand pounds Cash & ye Whole of ye Tobo. to ye purchase of Government securities to be laid out under the Direction of ye Executive—it is true ye Bill for this purpose is not actually passed but it is ordered to be read ye third time & its friends are as 3 to 1<sup>2</sup>—

It is my Opinion from conversing with the Members that we shall comply with ye Requisitions of Congress so far as to pass an Act on the subject but I believe the funds will be doubtful; it being ye General wish to possess ourselves of a large proportion of the Publick securities before an Appreciation takes place under the New Government—

A Resolution was brought forward the day before yesterday for paying the members to Convention in June their Wages & securing to them Certain priviledges &c seconded by P:H:<sup>3</sup> & Mason which after



making Provision for ye purposes aforesaid goes farther & sais that should ye Convention think proper to propose Amendments to ye Constitution this state will make provision for carrying the same into effect & that Money shall be advanced for ye Support of Deputies to the Neighbouring States &c—This Many of us opposed as improper & proposed that the same provision should be made in General terms which should not discover the sense of the house on ye Subject but after a Long Debate the point was carried against us by a Majority of sixteen—In the Course of ye Debate P:Hy: Observed that if this Idea was not held forth our southern neighbours might be driven to despair seeing no door open to safety should they disapprove the new Constitution—Mason on the subject was less candid than ever I knew him to be—from the above mentioned Vote there appears to be a Majority vs ye Govt. as it now Stands & I fear since they have discovered their Strength they will adopt other Measures tending to its prejudice from this circumstance I am happy to find Most of ye States will have decided on ye Question before Virginia for I now have my doubts whether She would afford them as usual a good Example. . . .

I do not Wish you to forget that yr friends are all anxious that you should come into ye Convention—

Colo. T Mathews<sup>4</sup> will write to you his intentions of having you elected for ye Borough of Norfolk should you think proper—

1. RC, Madison Papers, DLC. Rutland, *Madison*, X, 290–93. In the omitted portions of the letter, Stuart discussed other issues debated in the House of Delegates.

2. On 1 December the House debated the bill in the Committee of the Whole and ordered it engrossed and read a third time. It became law on 14 December. The act provided for the creation of a sinking fund for the redemption of state and continental securities (Hening, XII, 452–54. See also Archibald Stuart to John Breckinridge, 21 October, note 4, above.).

3. Patrick Henry.

4. Thomas Mathews represented the borough of Norfolk in the House of Delegates.

### **Tobias Lear to John Langdon Mount Vernon, 3 December<sup>1</sup>**

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 [at] 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.<sup>2</sup>—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.<sup>3</sup> 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. 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 letter<sup>4</sup> 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.—

1. RC, Langdon/Elwyn Papers, NhHi.

2. Lear had sent Langdon a copy of a manuscript version of Mason's objections on 19 October, along with his analysis of Mason's motives (above).
3. See "Brutus," *Virginia Journal*, 22 November (above) and 6 December (below).
4. See Washington to Langdon, 3 December, note 2 (immediately below).

**George Washington to John Langdon  
Mount Vernon, 3 December<sup>1</sup>**

I have received your letter of the 6th Ult. and am much obliged to you for the information contained in it.—I am happy to find these dispositions in your part of the Continent are so favourable to the proposed plan of Government:<sup>2</sup> if the true interest of the United States was consulted I think there could be but little opposition to it in any part of the country.—

The Publick papers have undoubtedly announced to you, before this, the proceedings of the legislature of this State upon the business—they have appointed the convention to meet on the first monday in June; whether putting it off to so late a period will be favourable or otherwise, must be determined by circumstances, for if those States whose conventions are to meet sooner should adopt the plan I think there is no doubt but they will be followed by this, and if some of them should reject it, it is very probable that the opposers of it here will exert themselves to add this State to the number.

1. FC, Washington Papers, DLC.

2. Langdon had written Washington on 6 November that "I have not heard a single person object to the plan & very few find fault even with a single sentence, but all express their greatest desire to have it establish'd as soon as may be" (*ibid.*).

**Editors' Note**

**The Virginia Reprinting of Benjamin Franklin's Last Speech  
in the Constitutional Convention, 5–15 December**

On 17 September the Constitutional Convention began its last day's session by reading the engrossed Constitution. James Wilson then read a speech written by fellow Pennsylvania delegate Benjamin Franklin. In this speech, Franklin explained why he supported the Constitution, even though he did not entirely approve of it. Franklin, however, did not enumerate his objections, assuring the Convention that he "never whisper'd a Syllable of them abroad." He believed that a strong central government was necessary and that it was unlikely that "any other Convention" could make a better Constitution. In fact, Franklin was astonished that the Constitution was "so near to Perfection." He expected "no better" Constitution and he was "not sure that it is not

the best." Franklin asked that all members of the Convention sign the Constitution; this would give the people greater confidence in it.

Some time after the Constitutional Convention adjourned, Benjamin Franklin sent a copy of the speech to Daniel Carroll, a Maryland delegate. On 29 and 30 November, Maryland's Convention delegates appeared before the state House of Delegates in Annapolis, and on 2 December Carroll informed Franklin that he had read the speech to the House in order to refute statements made by Convention delegate Luther Martin, who Carroll believed had misrepresented Franklin. Carroll told Franklin that he "had not communicated" the speech to anyone but Marylanders Thomas Johnson, Charles Carroll of Carrollton, and the Reverend John Carroll "untill this occasion, nor have I suffered any copy to be taken nor will not *without y<sup>r</sup> permission* to persons *I can depend on* to be used 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" (CC:304-C).

On 5 December, three days after Daniel Carroll had written to Franklin, the *Virginia Independent Chronicle* printed a version of Franklin's speech that was almost identical with the copy sent to Carroll. "A.B.," who asked the *Chronicle* to print the speech, said: "Your readers may depend that the following speech is genuine. The late members of the federal convention who heard it delivered will readily allow it to be so.—How it came into my possession is a question which only Dr. Franklin has a right to examine; and however sensibly I might feel his displeasure for thus publishing it without his consent, I think the risque of offending him is over-balanced by the service I may render my country in disseminating those principles it contains, of modest deference for the opinions of others.—How many states and even families have been thrown into confusion by opiniative obstinacy which might have long remained united and happy by 'mutual deference and concession.'" The last four words were quoted from the letter that George Washington, as President of the Constitutional Convention, had written to the President of Congress on 17 September (CDR, 305; and CC:76).

Franklin's speech was reprinted in the *Virginia Journal* on 13 December at the request of "Several Gentlemen" of the town of Alexandria who assured the *Journal's* readers that the speech was "genuine." Augustine Davis of the *Virginia Independent Chronicle* also reprinted the speech in his pamphlet anthology that was issued around 15 December—*Various Extracts on the Federal Government* . . . (see "Richmond Pamphlet Anthologies," c. 15 December, below). The speech was also

reprinted in the December issue of the Philadelphia *American Museum* and by 16 February in nine other newspapers: N.J. (1), Pa. (5), Md. (1), S.C. (1), Ga. (1).

The text of the speech that Franklin sent to Daniel Carroll is printed as CC:77-A. For a different version of the speech, first published in the *Boston Gazette* on 3 December with Franklin's knowledge, see the headnote to CC:77. No Virginia reprints of this second version have been located.

### **Virginia Independent Chronicle, 5 December<sup>1</sup>**

*Extract of a letter, dated Nov. 17, 1787, from a gentleman in the back parts of Virginia, to his friend in Richmond.*

"The resolution of the Assembly for calling a convention, have just come to hand. They are in the highest degree excellent. There is not an expression omitted, which I could wish to have in.—They will do honor to that respectable body, and be a laudable example to the sister states, and to the world; for freedom generosity, and magnanimity: Whilst the low craft, and timid precipitancy, of a junto in Pennsylvania,<sup>2</sup> must be held in contempt by every generous mind, let his sentiments of the fœderal constitution, be what they may."

1. Reprinted: Philadelphia *Independent Gazetteer*, 12 December; *Trenton Mercury*, 18 December.

2. A reference to the hurried call of the Pennsylvania Convention by the Assembly on 28–29 September. (See Alexander White, Winchester *Virginia Gazette*, 22 February, note 4, below.)

### **Americanus I**

#### **Virginia Independent Chronicle, 5 December<sup>1</sup>**

Mr. Davis. Sir, That all power originally resides in the people; that the object of all free governments should be the happiness of its subjects; that governments are not instituted to promote the advantages of those, who govern, but to secure the prosperity of those, who are governed; that all men are by nature free, and that one man is not superior to another than, that by consent of all, he is raised above all; that, when a man agrees to undertake the administration of public affairs, and swears to the faithful discharge of it, he must expect the performance will be exacted, or revenge will be taken by those, whom he deceives; that the people have an indefeasible right to institute, amend, or annihilate governments, when it seemeth good unto them; and that all persons employed, in the administration of public affairs, are responsible to God, as men, and to the people, as their servants;

are truths too sacred and too firmly established to require any illustrative proofs.

When we were engaged in an obstinate and perilous war, nobly contending for the sacred rights of humanity, it was conceived essentially necessary to consolidate our strength by a foederal union. Under the auspices of this confederacy, defective as it was, and by the glorious exertions of as virtuous an army as ever shed blood in the cause of freedom, we secured our liberties and established our independence. But experience soon convinced us, that the powers of the confederation were inadequate to the purposes, for which it was instituted. It was found, that a want of energy prevailed in our national Assembly, and that jealousies pervaded our local legislatures; that the pressing requisitions of Congress were treated with haughty contempt; that the continental treasury was exhausted and government unable to discharge the necessary debts, which were contracted during the war, and for the punctual payment of which, the credit of the United States was solemnly pledged. It was found, that the national character was rapidly depreciating in the opinion of foreign nations; that our commerce was decaying, from the want of a sufficient power to protect it; and that, European nations, improving the advantages of our unhappy, disunited situation, circumscribed our trade, and imposed such restrictions, as they thought most advantageous to themselves, and detrimental to us. To complete the full measure of our calamities, it was found, that civil insurrections had disturbed the tranquility of some of the states, and that all were, in a peculiar manner, liable to be invaded. To obviate these grievances by enlarging, in the amplest manner, the powers of the Foederal Government, and to advance the United States to that station of importance and respectability which they ought to possess among the nations of the world, it was proposed to call a *General Convention*. Strongly impressed with a conviction of its superior magnitude, the different states nominated some of their choicest sons to compose this body and assist its deliberations. Perhaps the whole world could not select an equal number of men better qualified to execute the arduous task, for the accomplishment of which, they were delegated. After four months serious and solemn deliberation, they submitted to the consideration of the United States a system of government which will reflect immortal honor on the memory of those patriots who composed it, and will, if adopted, entail perpetual happiness on millions now existing and on millions yet unborn. It is the legitimate offspring of the combined abilities and integrity of our country, and discovers, in a conspicuous manner, the characteristic features of its parents. It is the result—to use the expressive language of the

recommendatory letter to Congress—"of a spirit of amity and of that mutual deference and concession, which the peculiarity of our political situation rendered indispensable."<sup>2</sup> How happy should I be, was my obscure name enrolled in the honorable catalogue of those patriotic members, who gave it the sanction of their approbation by annexing their names! Illustrious men! your memories will live for ever; distant posterity will joyfully celebrate your praise, and piously invoke you as the ostensible authors of their political happiness!

It is not, Sir, my intention to enter into the merits of the Fœderal Constitution, nor attempt to elucidate its principles and arrangements. I confess myself inadequate to so extensive and important a disquisition. But, the insidious attempts, which have been clandestinely and industriously made to misrepresent and destroy it, induce me to employ my humble exertions in its defence. The extraordinary and unaccountable secession of three members, who, from secret reasons, positively refused to sign it,<sup>3</sup> has unhappily multiplied its enemies, and justified the more designing opposition of others. What could induce men, of such respectable characters and acknowledged abilities to act in this manner, cannot be discovered. How much they contributed to the formation of the constitution, of which parts they approve, or what part they condemn, are circumstances not yet known. Disappointed ambition, offended vanity and resentment for defeated hopes, sometimes assume the appearances of public spirit; and by an unhappy peculiarity of circumstances, these are the uncharitable suspicions, which the malicious may, perhaps, entertain of their conduct. That these were the motives, which actuated them, far, very far be it from me, to insinuate. But, hitherto they have been strangely silent. The principles, upon which their opposition was founded, are still kept profound secrets, and the reasons, that influenced them to refuse their assent, are not yet communicated to the public. By this unpardonable omission, they have rendered themselves liable to censure—perhaps too they have not weighed the consequences of committing their reputations to the licentious discourses and malicious opinions of the world, without saying any thing in justification of their singular conduct.

The objections, which are made to the Fœderal Constitution, are addressed more to the passions, than to the judgment. And as men are more influenced in their opinions by the feelings, than by reason, the arguments, which have been employed against the *new plan*, are calculated only to inflame and disgust. That temperance and moderation, which ought to be observed in such serious investigations, are forgotten, and every idea is expressed in the warmest language of the

passions. How ungenerous and illiberal, this is, let the dispassionate determine.

The first objection, which has been fabricated against the new constitution, is conveyed in language extremely virulent, and expressed in this disingenuous form "that the *president possesses kingly powers.*" I must, Sir, be excused, should I, upon this point, dilate a little to detect the futility of this assertion. For this purpose, let us impartially enquire into the manner, in which the *president* is elected, and then investigate the power with which he is personally invested.

The *president* is elected in an indirect manner by the citizens of the different states, and in such a mode as the respective legislatures may direct. He can continue in office no longer than four years, at the expiration of which time, he returns to the common mass of citizens and another election, conducted in every respect like the preceding one, will take place. Here, Sir, it may be necessary to make one remark. From the manner in which the *president* is elected, it must be acknowledged, that he is amenable to the people, and that they may have him removed from office, when he misapplies the powers, with which he is entrusted. It is a maxim universally true, that the power, which creates, can also annihilate.

The power, which the *president* exercises is not inherent in the man, but conferred. It is not conferred that he should be exalted superior to his fellow-citizens and raised above controul. It was given to him for the benefit of the community and to render him a willing and happy instrument of good to the people. Besides, his power is limited in such a manner as to preclude every apprehension of influence and superiority. Should he, however, at any time be impelled by ambition, or blinded by passion, and boldly attempt to pass the bounds prescribed to his power, he is liable to be impeached and removed from office; and afterwards he is subject to indictment, trial, judgment, and punishment according to law. Are not these sufficient checks upon his conduct? Do these look like kingly dignities? Is it possible for a man, circumstanced as he is, to become dangerous to the liberties of his country? I appeal to the unbiassed minds of every man for an answer.

What are then the mighty powers which he possesses distinct and separate from the *senate*? He shall have a negative upon all bills. But, if two thirds of each house, upon reconsideration, should agree to the bill, it shall become a law, and the president's negative will be no impediment; he shall have power to grant reprieves and pardons for offences against the United States, except in cases of impeachment; he shall take care, that the laws be faithfully executed, and shall commission all the officers of the United States. In every other instance,



he can accomplish no object, effect no design, without the concurrence of the *senate*. Thus authorised and thus fettered, I do not see any act, that the *president* can, of himself, perform, which ought to render him an object of apprehension. We do not swear allegiance to him. He can exercise no power, but that which we confer upon him. No man can, in himself, claim a right over us. In our political capacities, we will continue as free as the most absolute sovereigns.

Shall we, then, reject the Fœderal Constitution for the visionary pre-eminence of a name? Have we realized the consequences of such a measure? Are we impressed with a full conviction of the dangerous situation of national affairs? Do we see the evils, which are impending over our heads, and from the destructive pressure of which, a vigorous Fœderal Government can only save us?

The crisis is perhaps the most alarming, that ever occurred in the annals of the United States. It is pregnant with the most important consequences. It awes and interests the feelings of every patriot.

Can a government exist without a strong executive power? Can the national character be preserved without the punctual performance of our contracts? Can the union exist without an adequate fœderal head? My God! have we contemplated, for a moment, the consequences that would attend its dissolution?

(*To be continued.*)

1. The second part of "Americanus" was printed in the *Chronicle* on 19 December (below).

2. See the President of the Convention to the President of Congress, 17 September (CDR, 305).

3. "Americanus" refers to Elbridge Gerry, George Mason, and Edmund Randolph.

**Don Diego de Gardoqui to Conde de Floridablanca  
New York, 6 December (excerpts)<sup>1</sup>**

My dear sir. Being informed by the bearers of my communications of May and July, in which I sent Your Excellency my last confidential letters numbers 16 and 17, that they had reached you. I refrain from tiring you with duplicates, and I take this opportunity which seems safe, to express my sincere hope that the delay which I experience in receiving Your Excellency's orders is not due to ill health.

Since that time I have communicated to Your Excellency in detail as much as opportunity has permitted and in particular the progress and results of the Philadelphia Convention and my journey to see General Washington.

My reception was cordial and I was given all the attention that was my desire.

He manifested a desire for the affairs of our two nations to be settled amicably and showed signs of being convinced by my reasoning, but he has many misgivings about the settlers on the banks of the Ohio and the Mississippi.

He promised me to do what he could to help settle our differences, but said this would be difficult until after the establishment of the new government.<sup>2</sup>

After mature reflection I have formulated my idea of what we can expect, and I confess to Your Excellency with the greatest sincerity, that I believe I can negotiate the Treaty if the new plan of government is established, because leading persons, whom I have sounded out with as much tact as I possess, seem favorable, but it will be necessary, Your Excellency, to undeceive ourselves; I mean to say, that they will not depart from their position of refusing expressly to cede the right they claim to the navigation of the Mississippi, and they will agree to the treaty only when they see no way to avoid it, and for the purpose of gaining fifteen or twenty years in order to be able to talk to us in another tone, because the intention of all of the Southern States, and of the multitudes who (now more than ever) are trying to migrate is to get nearer to our possessions and to that River. . . .

It seems probable that the plan of government suggested by this Convention will be ratified by the required nine States, perhaps during next year, in spite of the opposition which is expected from the important states of Virginia and New York.

The first is divided into two factions composed of its leading citizens, and they have postponed the Meeting of their state Convention to consider the matter until May.<sup>3</sup>

Although no one knows what will happen in this convention, it is asserted that the Governor and his faction, which is the strongest, are violently opposed to the constitution. It is to be expected that their assembly will meet as usual at the beginning of the year and that in it they will reveal their will.<sup>4</sup>

In the meantime there is an infinite amount of writing pro and con, but it seems that the majority inclines toward ratification, rather, in my opinion, because of the depleted state of their Treasury and the decayed condition of Commerce, than because of a knowledge of the sacrifices that the people are making for the Government.

They expect great benefits from it, but I confess that I do not find any reason why they should change their system of exclusion which has been established for them, so that I expect that even after this trial they will find that they have advanced little. . . .

In the general account that I remit with this correspondence, Your

Excellency will note that I charged an item of 5750 Pesos which I justify to you by the following account:

5000 Pesos which on two occasions I ventured by way of a loan to Mr. Henry Lee<sup>5</sup> as I advised Your Excellency at that time in my confidential communications.

300 Pesos which in like manner I risked to Mr. John Parker<sup>6</sup> because it is well to do so.

450 Pesos for several Entertainments for the person indicated in my last account.

This is the total of my expenditures, and I hope it meets Your Excellency's approval.

The State of Virginia continues to oppose our ideas tenaciously and has appointed a person from the Kentucky country as a Member of this Congress,<sup>7</sup> but this does not surprise me because there are certain powerful persons who have much influence and, according to reports, large debts from which they expect to escape by using those new territories which have cost them nothing.

These people are bitterly opposed to the new plan of Confederation because if it goes into effect they will lose their importance and will be in financial straits and they fear that we shall make the agreement we desire.

At one time I considered refuting anonymously the writings of which I send a translation, but on investigating them thoroughly I found that they were productions of the Members who were here, and that it would not be worth while to contradict them, and I have since had this confirmed, because I have seen that they are not worthy of much attention.<sup>8</sup>

I send this in duplicate to Philadelphia because I am informed that there are two vessels there that are about to sail, and I conclude with enclosing the adjoining paper concerning my entertainment on San Carlos' Day so that Your Excellency may see that I am continuing the work.

1. RC, printed in D.C. Corbitt and Roberta Corbitt, trans. and eds., "Papers from the Spanish Archives Relating to Tennessee and the Old Southwest, 1783-1800," *East Tennessee Historical Society Publications*, XVI (1944), 90-95. The manuscript is in Estado, Legajo 3893, Apartado 3, Reservado 18, pp. 433-44, Archivo Histórico Nacional, Madrid. Gardoqui (1735-1798), Spain's encargado de negocios, arrived in the United States in 1785 to negotiate a commercial treaty and remained until 1789. One aspect of the treaty negotiations was for the United States to give up the free navigation of the Mississippi River for a period of twenty-five to thirty years. John Jay, the Confederation's Secretary for Foreign Affairs, wanted America to forego the navigation in order to gain commercial concessions. Floridablanca (1728-1808) was Spain's Secretary of State.

2. On 19 May 1787 Gardoqui wrote Washington asking to meet him, and on the

31st Washington agreed (Washington Papers, DLC). When he heard that the Constitutional Convention was about to complete its work, Gardoqui left New York City and arrived in Philadelphia on 8 September. He met with Washington and, in his words, the two men became "good friends." On 30 September Gardoqui wrote Floridablanca that since his meeting with Washington, he sensed "some more" people were favorable to Spain's position on the Mississippi (Gardoqui to Floridablanca, 6, 13, and 30 September, Estado, Legajo 3893 bis, Letters 211 [two letters], 213, pp. 530-32, 533-36, 570-73, Archivo Histórico Nacional, Madrid).

Soon after he met Washington, Gardoqui learned that in December 1786 the Virginia legislature had instructed its delegates to Congress not to surrender the right of the United States to the free navigation of the Mississippi. These instructions were laid before Congress in April 1787. (For the text of these resolutions, see Rutland, *Madison*, IX, 181-84.) On 29 October Gardoqui wrote Washington expressing his anguish over the instructions and requesting that Washington do something about them (Washington Papers, DLC). On 1 November Gardoqui again informed Floridablanca that Washington was "a friend," although he believed "that it will be impossible to effect anything certain until far into the year 89," when Washington would be president (Estado, Legajo 3893 bis, Letter 217, pp. 600-4, Archivo Histórico Nacional, Madrid).

On 28 November Washington replied to Gardoqui's letter of 29 October stating that, since he had detached himself from public affairs, it would be improper for him to become involved on either the congressional or state level (Fitzpatrick, XXIX, 321-22).

3. Gardoqui had apparently not seen the amended resolutions of the Virginia legislature of 31 October which changed the date of the state Convention meeting from May to June.

4. Governor George Clinton and his supporters vigorously opposed the Constitution, although Clinton had not made his opposition public. The New York legislature convened in January and on 1 February called a state convention to meet in June to consider the Constitution.

5. Since he became a member of Congress in 1786, Henry Lee had supported the closing of the Mississippi River. On several occasions Gardoqui loaned Lee money, hoping that among other things, Lee might convince Washington to support the closing of the river.

6. Parker was a South Carolina delegate to Congress.

7. Gardoqui refers to John Brown, who favored free navigation of the Mississippi.

8. See CC:46 for examples of such writing.

### **James Monroe to James Madison Richmond, 6 December (excerpts)<sup>1</sup>**

I have had hopes of being able to give you something from the proceedings of the assembly of an interesting nature which might also be agreeable. but perhaps yr. wishes in this respect may not even yet be gratified. The resolutions respecting ye. Constitution you have long since receiv'd. In those you find no provision for the pay or priviledges of the members of the Convention—these especially the former were thought the subject matter for an act & were seperated from them. a few days since resolutions were brought in by Mr. Hopkins<sup>2</sup> & supported by Messrs. Henry & Mason for this purpose & providing funds for the defraying ye. expence of deputies to attend other convention or Conventions of the States, if this Convention shod. think ye. mea-

sure expedient, wh. were adopted by the house by a majority of abt. 15.<sup>3</sup> The bill is not yet brought in.<sup>4</sup> . . . It appears difficult to organize the affrs. of this & perhaps of any one State in a tolerable manner & it is doubtful, if it were done whether it wd. be executed or whether the people wod. not have it repeal'd the next assembly. The ct. of chy. [court of chancery] break up tomorrow. The Chancellor<sup>5</sup> is yet present but in a low state of health. I doubt whether I shall stay untill ye. end of the session, Mrs. M. & her sister are with me. What is new with you. I think the cloud wh. hath hung over us for sometime past is not yet dispell'd or likely soon to be. . . .

1. RC, Madison Papers, DLC. Printed: Rutland, *Madison*, X, 293–94. In the omitted portions of the letter, Monroe discussed other issues debated in the House of Delegates.

2. Samuel Hopkins, Jr., represented Mecklenburg in the House of Delegates and voted against ratification of the Constitution in the state Convention.

3. Archibald Stuart and Henry Lee wrote that the majority was sixteen (to James Madison, 2 December, above, and 7 December, below).

4. The bill was brought in on 4 December.

5. Edmund Pendleton.

### **Richard Terrill to Garret Minor Washington County, 6 December (excerpt)<sup>1</sup>**

. . . The people on this side of the ridge<sup>2</sup> are divi[d]ed upon the Constitution, but think a majority are inclined to adopt it, the Presbeterian Ministers are very active for & against it, insomuch that they harangue publickly upon it, in my opinion beyond the limits of their office—

We expect to get to Kentucky in 6 or 8 days & have nothing more at present but the request of your friendly correspondence

1. RC, Watson Family Papers, ViU. The letter was addressed to Colonel Garret Minor, Louisa County, and sent "To the care of Mr. D: Minor [of] Richmond." Richard Terrill (d. 1802) represented Jefferson County in the House of Delegates, 1786–87. His brother-in-law Garret Minor (c. 1744–1799) was a Louisa County planter and an officer in the state militia during the Revolution.

2. West of the Blue Ridge Mountains.

### **Petersburg Virginia Gazette, 6 December**

Richard Henry Lee's letter to Edmund Randolph, 16 October, was first printed at this time.

### **Philanthropos Virginia Journal, 6 December<sup>1</sup>**

The time in which the constitution or government of a nation undergoes any particular change, is always interesting and critical. Enemies are vigilant, allies are in suspense, friends hesitating between hope and

fear; and all men are in eager expectation to see what such a change may produce: But the state of our affairs at present, is of such moment, as even to rouse the dead.—Brutus, forsooth, has taken up the cudgels, and that too, against all objections, amendments and improvements, on our new federal form of government: Yet pretends, he has a mighty veneration for a candid investigation, by insinuating that Col. Mason has a design to effect *that* in a clandestine manner, which he cannot by sound reasoning and solid argument: And the ground for his hypothesis, is, Col. Mason's not prematurely publishing his objections to said constitution.—

Permit me to inform Mr. Brutus, that the public did not appoint that gentleman to a seat in the convention.—The Legislature, alone, appointed him. To the Legislature, alone, is he amenable for all parts of his conduct, while there; and order, as well as common politeness required, that the Legislature, previous to all others, should be informed of his behaviour, and discharge of that office, to which they had appointed him.—If Mr. Brutus has recovered from his lethean slumbers, he must remember to have seen Col. Mason's first speech, after taking his seat in the House of Delegates, inserted in the public papers, wherein he informs the house, that his reasons for not subscribing the new constitution, should, in due time, be made known to his countrymen.<sup>2</sup>—It is asserted also, that he handed forth his objections among those on whom he expected them to make the most favorable impressions, which is palpably a falsehood, for several of his most intimate friends requested them, and were refused for the above reasons.—He saw no occasion for hurry (and as ignorance is a misfortune, that humanity bids us pity rather than condemn) always did, and does wish, that the meanest capacities may have time to consider and comprehend that constitution, under which we are about to submit ourselves.—So far is he from seduction, from every thing that can be called clandestine, or a desire to bias people in his opinion, that he wishes every man to judge, and form an opinion for himself, which is another reason why he did not publish his objections earlier. And therefore the attempt Brutus has made to shew the badness of his heart, serves only to demonstrate the ignorance of his own head.—After inserting the objections, he winds up the whole, by saying, that they are more calculated to alarm the fears of the people, than to answer any valuable end—was that the case, as it is not, will any man in his sober senses, say, that the least infringement, or appearance of infringement on our liberty, that liberty, which has lately cost so much blood and treasure, together with anxious days and sleepless nights, ought not both to rouse our fears and awaken our jealousy. Truly the

gentleman's arguments and sentiments (if he has expressed them) are as futile as his name is fictitious.—The new constitution in its present form, is calculated to produce despotism, thralldom and confusion, and if the United States do swallow it, they will find it a bolus, that will create convulsions to their utmost extremities.—Were they mine enemies, the worst imprecation I could devise would be, may they adopt it: For tyranny, which has been chained (as for a few years past) is always more cursed, and sticks its teeth in deeper than [before?].—Were Col. Mason's objections obviated, the improvement would be very considerable, though even then, not so complete as might be.—The Congress's having power without controul, to borrow money on the credit of the United States: Their having power to appoint their own salaries, and their being paid out of the treasury of the United States, thereby, in some measure, rendering them independent of the individual States, also their being judges of the qualification and election of their own members, by which means they can get men to suit any purpose, together with Col. Mason's wise and judicious objections, are grievances, the very idea of which, is enough to make every honest citizen exclaim in the language of Cato, O liberty, O my country!<sup>3</sup>—Our present constitution, with a few additional powers to Congress, seems better calculated to preserve the rights, and defend the liberties of our citizens, than the one proposed, without proper amendments.—Let us therefore, for once, shew our judgment and solidity, by continuing it; and prove the opinion to be erroneous, that levity and fickleness, are not only the foibles of our tempers, but the reigning principles in these States.—There are men amongst us, of such dissatisfied tempers, that place them in Heaven, they would find something to blame; and so restless and self-sufficient, that they must be eternally reforming the state; but the misfortune is, they always leave affairs worse than they find them.—A change of government is at all times dangerous, but at present may be fatal, without the utmost caution, just after emerging out of a tedious and expensive war—Feeble in our nature, and complicated in our form, we are little able to bear the rough jostlings of civil dissensions, which are likely to ensue.—Even now, discontent and opposition distract our councils:—Division and despondency affect our people. Is it then a time, to alter our government, that government, which, even now totters on its foundation, and will, without tender care, produce ruin by its fall.—

Beware my countrymen! our enemies, uncontrolled as they are in their ambitious schemes: Fretted with losses, and perplexed with disappointments, will exert their whole power and policy to increase and

continue our confusion; and while we are destroying one another, they will be repairing their losses, and ruining our trade.—

Of all the plagues that infest a nation, a civil war is the worst. Famine is severe, pestilence is dreadful; but in these, though men die, they die in peace; the father expires without the guilt of the son; and the son, if he survives, enjoys the inheritance of his father: Cities may be thinned, but they are neither plundered nor burnt.—But when a civil war is kindled, there is thenceforth no security of property; nor protection from any law; life and fortune become precarious; and all that is dear to men is at the discretion of a profligate soldiery, doubly licentious on such an occasion. Cities are exhausted by heavy contributions, or sacked because they cannot answer the exorbitant demand. Countries are eaten up by the parties they favor, and ravaged by the one they oppose; fathers and sons, sheath their swords in one another's bowels in the field, and their wives and daughters, are exposed to the rudeness and lust of ruffians at home. And when the sword has decided the quarrel, the scene is closed with banishments, forfeitures, and barbarous executions, that entail distress on children then unborn. May Heaven avert the dreadful catastrophe! In the most limited governments, what wranglings, animosities, factions, partiality, and all other evils, that tend to embroil a nation and weaken a state, are constantly practiced by legislators. What then may we expect if the new constitution be adopted as it now stands? The great will struggle for power, honor and wealth, the poor become a prey to avarice, insolence and oppression, and while some are studying to supplant their neighbours, and others striving to keep their stations, one villain will wink at the oppression of another, the people be fleeced, and the public business neglected. From despotism and tyranny good Lord deliver us.

N.B. I am sorry I had not an opportunity of seeing Mr. Brutus's piece earlier, or should have answered it in course.

1. "Philanthropos" answers "Brutus" who had George Mason's objections to the Constitution printed in the *Virginia Journal* on 22 November so that the general public could submit them to examination. ("Brutus'" preface to the objections is printed above under 22 November. For Mason's objections, see "George Mason: Objections to the Constitution," 7 October, above.) Immediately following "Philanthropos" in the *Chronicle*, "Brutus" appeared with a point-by-point refutation of Mason's objections (immediately below).

2. For Mason's speech, delivered on 25 October, see "The General Assembly Calls a State Convention," 25–31 October (above).

3. The phrase, taken from Joseph Addison's play, *Cato. A Tragedy* (1713), actually reads: "O liberty! O virtue! O my country!" (act 4, scene 4). First performed in London, this play was about Marcus Porcius Cato Uticensis (Cato the Younger), a republican opponent of Julius Caesar, who committed suicide in 46 B.C. rather than accept the triumph of Caesar over Pompey and his followers, of whom he was one. (See "Cato Uticensis," *Virginia Independent Chronicle*, 17 October [above] which defended Mason.)



**Brutus****Virginia Journal, 6 December<sup>1</sup>**

When a man publishes the sentiments of another without his knowledge or approbation, and with a view of opposing them in a public manner, it may, at the first blush, appear inconsistent with candor, fairness, or generosity; but upon a second consideration, I think every unprejudiced mind must be convinced of the justice and propriety of the measure, at least in this instance, where the subject is wholly of a public nature, and the sentiments those of a man whose influence is great, and whose *DICTUM* upon political subjects would be implicitly received, by many as the oracle of truth: For, if I had endeavoured to point out to the public the groundlessness and fallacy of some of Col. Mason's objections to the proposed constitution before those objections had been fully communicated to the public, there would have been good reason to suppose that I made an ungenerous use of the advantage which I had of seeing them in manuscript; to suppress those (if any such there were) which could not be answered, or at least, that there might be a chain of connection between them which would be broken, and useless if a single link was missing. I therefore offered them for publication. Let them have what weight they will. I now feel myself fully at liberty to answer them in any manner I please consistent with decency and candor.

"There is no bill of rights." As the principles contained in a bill of rights have ever been considered as the foundation of civil liberty, this, at the head of a long string of objections to a government, certainly makes a very formidable appearance, and would of itself be sufficient to condemn the whole system, if it could not be clearly shewn that it was not only unnecessary, but would even have been absurd to have introduced it in the proposed constitution.

In the formation of a political constitution it is necessary that every right and privilege which the people reserve to themselves should be particularly and individually specified; or, that the portion of their natural liberty, which they give up for the enjoyment of civil government, should be expressly mentioned, in the constitution. In the former case, if in the enumeration of the rights and privileges of the people any should be omitted or forgotten, the people cannot assume them. They are lost.—In the latter, that part of natural liberty which is given up at the behest of society is fully and completely denied, and whatever is not there expressly granted remains to the people.—Upon this last mentioned principle the proposed constitution was formed; it would therefore have been not only absurd but even dangerous to have in-

served a bill of rights; because, if, in the enumeration of rights and privileges to be reserved, any had been omitted or forgotten, and the people, at a future period, should assume those so omitted, the rulers might with propriety dispute their right to exercise them, as they were not specified in the bill of rights;—and, on the other hand, the people would deny the authority of the rulers to deprive them of the exercise of those rights because they were not expressly given up by them. Thus a bill of rights, in the proposed constitution, instead of securing to the people those rights and privileges which God and nature has rendered unalienable, might have been productive of disputes, contentions, and, perhaps, ultimately of ruin to them. This is the light in which the matter was viewed in the convention, and it was there fully discussed. The powers which the people delegate to their rulers are completely defined, and if they should assume more than is there warranted, they would soon find that there is a power in the United States of America paramount to their own, which would bring upon them the just resentment of an injured people.

“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 constitution of the several States.”

There is something in this objection which I confess I do not understand, for it certainly cannot mean that the common-law is secured by the constitutions of the several States, as the constitution of Virginia (in forming of which Col. Mason bore a very considerable part) is wholly silent on the subject; and if it means that the common-law is adopted by the acts of the Legislature, it cannot be a part of the constitution, and may with equal propriety, be adopted by any other legislative body.<sup>2</sup>

“In the House of Representatives there is not the substance, but the shadow only of Representation,” &c. Why this should have been offered as an objection I cannot possibly conceive? For Col. Mason himself acknowledges that it is, in a measure, done away by inserting the word *thirty* instead of *forty*. I shall not therefore so far insult the understanding of any one as to make a single observation upon it.

“The Senate have the power of altering all money-bills,” &c. Before the merits of this article are discussed it may not be amiss to make some observations which will shew the necessity there was of moulding the Senate as it now stands. The safety and interest of these States rendering a strong confederation between them absolutely necessary, and the great disadvantages and inconveniencies which were every where felt from the want of an efficient general government, gave birth to

the convention.—It was known to every member of the convention.—It was known to every considerate man in the Union, that each State must sacrifice some part of its individual advantages before it could enjoy the benefits of a general government. But what privileges were to be given up, and where to draw the line of discrimination was the point to be determined. Under the present confederation the smaller States enjoy an equal voice, in the national council, with the larger. The impropriety of this cannot but strike every person in the most forcible manner, for it is a violation of the rights of the people to suffer a State, which, perhaps, contains but thirty thousand inhabitants, to have an equal weight in matters of general concern, with one which contains four hundred thousand. And, on the other hand, it could not be expected that the smaller States would willingly and wholly relinquish a privilege which was the basis of their national importance. This, I think, will readily account for the equal representation which is given in the Senate, and the proportionate representation which we find in the House of Representatives; and there is no doubt but that those powers given to the Senate, which are represented as dangerous and alarming, sprung from the same cause. But let us take them as they now stand, examine them candidly, and see whether they are big with the dreadful effects which Col. Mason predicts!

The 7th section of the first article in the proposed constitution says, “All bills for raising revenue shall originate in the House of Representatives; but the Senate may propose or concur with amendments as on other bills.” This is putting a power into the hands of the Senate with more safety than can generally be done—it is giving them the power of doing good, almost without the possibility of doing harm; for it would be folly to suppose that the House of Representatives, or any other body of men, could form a bill so completely perfect in all its parts as to admit of no amendment. A revenue bill will now have a double chance of attaining to perfection. The House of Representatives will discuss, form and send it up—the Senate will have it in their power to deliberate, debate upon it, and propose amendments, if necessary; but they can go no further, the House of Representatives must concur with their amendments or they have no effect; and this will for ever prevent any pernicious consequences which might result from this part of their power. Indeed I do not conceive that the rights or liberties of the people would have been injured, even if the Senate had been empowered to originate money-bills, for our abhorrence of that measure arises wholly, I imagine, from assimilating a Senate to the House of Lords in Great Britain, whereas they are essentially different, for the one is an hereditary branch of the Legislature which

has no dependence upon the people either mediately or immediately, and the other being chosen by the representation of the people in the several States are immediately dependent upon them, and through them upon the people, notwithstanding an assertion which is made to the contrary. But this is a doctrine which I am not anxious to establish, and would sincerely thank any person to point out to me the impropriety of it.

*"The Senate have the power of originating appropriations of money."* If to this had been added a power to draw money from the treasury, without the concurrence of the other house, there would have been validity in the objection; but as it now stands it is rendered nugatory by a clause in the ninth section of the first article in the proposed constitution, which says, "No money shall be drawn from the treasury, but in consequence of appropriations made by law:" As no law can have effect until it has passed both houses, the House of Representatives must concur in every appropriation of money before it can be drawn from the treasury, and they have an equal right with the Senate to originate appropriations of money; so that any evils which may arise from an improper application of the public money must either originate with, or have the assent of the immediate Representatives of the people; and as *"a regular statement and account of the receipts and expenditure of all public money shall be published from time to time,"* there will be a pretty effectual check to any misapplication or misappropriation of the public treasure.

"These with their other great powers, &c. 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 total separation and independence of the three branches in a government has been the favorite theme of most political writers; but (paying a due deference to the opinions of those great civilians who have insisted so strongly upon the necessity of the BALANCES) let us view the situation of our own country, and consider the proposed constitution as formed for the American States.—There is no country under Heavens where the principles of liberty and the rights of men have been more fully discussed and are better understood than in the United States. There is no nation where the body of the people are better informed in their political interests. There are but few citizens who do not know their rights as men, and their privileges as citizens. The spirit of liberty is deeply engraven in the hearts of the people. All governmental concerns have their foundation in popular elections; and so prevalent is the spirit of democracy that there is ten times more danger of a national

government degenerating into licentious anarchy than of its ending in an aristocracy or a monarchy. The connection therefore between the Senate and the Executive, instead of enabling the former "to accomplish what usurpations they please upon the rights and liberties of the people," will serve as a barrier to resist the torrent of popular Influence, which, when unrestrained, will always end in destroying the peace and happiness of society. The jealous eye with which the Senate will be viewed by the House of Representatives and by the people at large, in consequence of their power and connection, will prevent their making an improper use of them; and as by the constitution, one third of them must vacate their seats at the end of every two years, it will be impossible for them to form such a lasting and permanent connection among themselves as to enable them to steal upon the rights and liberties of the people, by gradual encroachments. So long as the national Legislature continues to be elective—so long as the members of it will, at the expiration of the time for which they were chosen, mix with, and become the people, where they must feel all the good or ill effects of their doings while legislators—and so long as titles of nobility and hereditary rank cannot be established, so long will it be impossible for the *one* or the *few* to destroy the liberties of American citizens.

1. On 22 November the *Virginia Journal*, at the request of "Brutus" (Tobias Lear), printed George Mason's objections to the Constitution. The italics within the quoted material are not in the copy of Mason's objections sent to Washington. Lear lived at Mount Vernon and served as Washington's private secretary.

2. See "Civis Rusticus," 30 January, note 7 (below).

## A True Friend

### Richmond, 6 December<sup>1</sup>

"A True Friend," a one-page broadside dated 5 December, was probably available for sale and/or distribution on the 6th. On the verso of the only known copy is a letter of 7 December from Jean Savary de Valcoulon of Richmond to Bertier and Co., a Philadelphia mercantile firm, in which Savary, writing in French, revealed that the broadside was printed by Augustine Davis who had not yet published it in his *Virginia Independent Chronicle*. Savary requested that Bertier and Co. have "A True Friend" reprinted if it met with its approval. At the bottom of the broadside an unidentified person wrote: "[Je?] trouve ce discours excellent" [I find this treatise excellent].

Davis reprinted "A True Friend" from the same forms, with three alterations (notes 2, 3, and 5, below), in his newspaper on 12 December. Ten days later this version appeared in the Philadelphia *Independent Gazetteer*. Lengthy excerpts, with minor changes, are in the *Salem Mercury* of 8 January and the Portland *Cumberland Gazette* of 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 progresion 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 without 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 understandings 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 forthwith 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; that<sup>2</sup> 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 singular<sup>3</sup> 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;*<sup>4</sup> 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 fœderal 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 fœderal 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.<sup>5</sup>

1. Broadside, Albert Gallatin Papers, NHi.
2. At this point the *Virginia Independent Chronicle* reprint added: "the power continuing the same."
3. The word "singular" was stricken out in ink and does not appear in the *Chronicle* reprint.
4. See James Wilson's speech of 6 October before a Philadelphia public meeting (CC:134).
5. The *Chronicle* and the Philadelphia *Independent Gazetteer* reprints added "Richmond" to the dateline.

**Harry Innes to John Brown**  
**Danville, Ky., 7 December (excerpts)<sup>1</sup>**

I have taken up the Penn to acknowledge the receipt of your favors of the 26th of October & 5th of November & cannot forbear expressing my satisfaction for the information contained therein & particularly at your appointment to go to Congress, an Event which I am confident will not only be productive of great good to our Country but of singular Service in the end to yourself, as you will thereby convince all your Countrymen that you have sacrificed your private Interests to the public Good, a circumstance that must meet the approbation of every liberal man in the District<sup>2</sup>—believe me when I assure you that I have not heard a person in the District who hath been informed of your Election, but have expressed their approbation & gratitude to the Assembly therefor. . . .

Should the Commercial Treaty with Spain come before Congress whilst you are there, I hope you will be able to refute the suggestion of Mr. Jay—"That the Western People had nothing yet to export, & therefore the Cession of the Mississippi would be no injury to them"<sup>3</sup>—My Ideas on that Subject are these, 1st. That the God of Nature having made that River the only outlet to this Western World, we are intitled to a free navigation thereof upon this principle that it was intended for a Common from the creation, & that no government ought to monopolize it solely. 2d. That Great Britain holding one bank of the River at the time of the signing the Preliminary Articles & ceding to the United States the right of Navigating the River, could never after be repealed by the Definitive Treaty with Spain being a subsequent act without the concurrence of the United States, and the Idea of Spain having conquered absolutely West Florida before the signing of the Preliminary Articles, & thereby acquiring an absolute right to the River is fallacious, upon the principle that if the right to West Florida was considered absolute by the reduction of two or three Forts, why was it necessary in the definitive Treaty between Great Britain & Spain for Britain to relinquish her Right of sovereignty. 3d. That as the Right

of Navigating the River was ceded to the U.S. by the Treaty with Britain, the Cession of it by Congress would be illegal & unjust, it would be giving away what is our right without any compensation. I say our Right, because the Eastern part of the States make no use of it; it would be Unjust, because it would be sacrificing one part of the Community to the mere Ideal Project of another & depriving of the Western Country of that inestimable Right equal Liberty which we hoped was secured to us by the Revolution, it would be depriving of us—nay Robing us—of one of the greatest blessings which the bountiful hand of Nature hath bestowed upon us. Congress hath as great a Right to shut up the Chesepeak. 4th. It will discourage Agriculture, because the consumption is not now  $\frac{1}{2}$  of the annual produce, & which would rapidly increase if there was a market. 5th. It will prevent our Inhabitants from improving in Arts & Sciences as it will deprive us of all foreign intercourse, & we shall become mere barbarians. 6th. It will prevent our Country from populating, for no man will come to a Country when he hath not the prospect of enjoying the benefits of his labour. The prevention of this effect I conceive to be one of the leading principles in Congress upon this Subject—Jealousy least the Eastern States should be depopulated by Emigration. 7th. It will deprive us of the power of Erecting any considerable manufactories, because we shall have no means of procuring the materials to Erect & carry on the different branches, which can only be procured from abroad. 8th. It will prevent us from being able to Erect comfortable Habitations because we shall not have the resources by which the European materials are to be procured. 9th. It will render us totally unable to pay either our public or private Debts, as we shall have no resources by which we can bring Money into our Country, nor can any Commutable be fixed on, which would give us a temporary respite. 10th. It is a doubt with me whether Congress hath the Right of Ceeding away the navigation of the River, I conceive that there is such an Interest vested in the Inhabitants of the Western Country in the River by the Treaty with Britain that no power on Earth can legally deprive them of it; if Congress takes upon herself this Power, she may with the same propriety deprive us of the navigation of the Ohio or any of its branches—She may stretch her arbitrary hand to Private Property, & upon the same principle of Reasoning from one Usurpation to another reduce us to a State of Vassalage—We have no Security to Barr her Tyrinnical hand, or prevent lawless thirst of Domination.

I have in this Letter thrown out a few desultory thoughts on the Separation & the Cession of the Mississippi, I have been much inter-

upted during the time of writing by people passing & repassing, therefore hope you will excuse any incorrectness you may discover herein. This Letter being sufficiently long I shall defer my sentiments on the Fœderal Constitution until the next opportunity, I have only yet given it a cursory reading, having been moving a good deal about for some weeks.

You informed me in your last that you would endeavour to send me a Copy of George Mason's objections to the Constitution<sup>4</sup>—they will be very acceptable together with your own observations thereon, & any other information which consistent with your delegation, you may be at Liberty to communicate. Do you think it material our sending a Delegation to the May Convention—I scarcely think it. . . .

1. RC, MSS Collection, Folder 473 (Harry Innes), Kentucky Historical Society. Printed: G. Glenn Clift, ed., "From the Archives: The District of Kentucky, 1783–1787, as Pictured by Harry Innes in a Letter to John Brown," *The Register of the Kentucky Historical Society*, LIV (1956), 368–72. The letter was addressed to John Brown in Richmond, where he had been sitting as a member of the Senate. On 23 October Brown was appointed a delegate to Congress, which he first attended on 20 November. In the omitted portions of this letter, Innes wrote about Indian depredations and statehood for Kentucky. Innes (1752–1816), a lawyer, was named attorney general of the District of Kentucky in October 1784. He moved to Kentucky in the spring of 1785 and became active in the movement for separate statehood. In 1789 he was appointed U.S. district judge for Kentucky, serving in that position until his death.

2. Kentucky.

3. On 3 August 1786 Secretary for Foreign Affairs John Jay, who had been involved in treaty negotiations with Spain's Don Diego de Gardoqui, advised Congress that "As that Navigation [of the Mississippi River] is not *at present* important, nor will probably become much so in less than twenty five or thirty years, a forbearance to use it while we do not *want it*, is no great sacrifice" (JCC, XXXI, 481).

4. Innes refers to the manuscript version of Mason's objections because they were not published in Virginia until 22 November. See "George Mason: Objections to the Constitution," 7 October (above).

### Henry Lee to James Madison Stratford, Westmoreland County, 7 December<sup>1</sup>

Dear Madison

Having a few moments only to devote, you must be satisfied with a very laconic lettr.—Such is my distance from the line of posts, that to use it, I must avail myself of accidental conveyances, which are often like the present, sudden—It is with real Grief I inform you that by a late vote of the assembly of Virga. on a collateral question, they have manifested hostility to the new constitution—Henry whose art is Equal to his talents for declamation, conducted this business & gained a majority on the vote of sixteen<sup>2</sup>—

We are told by Gentlemen from Richmond, that the whole district

south of James river are in the opposition.—In this corner the people are warmly attached to the new system, but we are small in size, being only four or five countys<sup>3</sup>—

I saw Genl. Washington on my Return,<sup>4</sup> he continues firm as a rock. The Pages<sup>5</sup> are all zealous abettors of the constitution so is R Wormely & F. Lightfoote Lee—Both of these Gentlemen are candidates for the convention.<sup>6</sup> The last is an important acquisition & breaks the influence of the Stratford Lees<sup>7</sup>—It becomes you to return in time to secure your election. If possible let me see you—I have offered myself in Westmoreland, but such is the number who contend for this distinction, it is not probable that I may succeed. God bless you—

1. RC, Madison Papers, DLC.

2. See "The General Assembly Adopts an Act for Paying the State Convention Delegates," 30 November–27 December (above).

3. Probably the counties on the peninsula between the Potomac and Rappahannock rivers, i.e., Northumberland, Lancaster, Richmond, Westmoreland, and King George.

4. Lee attended Congress until 29 October. On his way home, he visited Mount Vernon from 24 to 26 November.

5. Lee probably refers in particular to John Page of Gloucester County and his half-brother Mann Page, Jr., who was representing that county in the House of Delegates.

6. Ralph Wormeley, Jr., was a Middlesex County planter who voted to ratify the Constitution in the state Convention. Francis Lightfoot Lee, a Richmond County planter, served in Congress from 1775 to 1779, and signed the Declaration of Independence. Lee was not elected to the state Convention.

7. The Stratford Lees included Francis Lightfoot and his two brothers, Richard Henry and Arthur, both of whom were Antifederalists.

### **George Washington to James Madison Mount Vernon, 7 December (excerpts)<sup>1</sup>**

Since my last to you, I have been favored—with your letters of the 28th. of Octr: & 18th. of Novr.<sup>2</sup>—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.<sup>3</sup>—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 Conventions<sup>4</sup> 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. . . .

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.<sup>5</sup>—

“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 opponents.—At the time the Resolutions calling a Convention were entered into Colo. M——n<sup>6</sup> 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.—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.<sup>7</sup>—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"

"The Bill respecting British debts has passed our house, but with such a clause as I think makes it worse than a rejection"

The letter of which I enclose you a printed Copy—from Colo R H. Lee to the Govr.<sup>8</sup> has been circulated with great industry in manuscript, four weeks before it went to press, and is said to have had a bad influence.—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. Both letters are printed above.

3. Washington sent the first seven essays to David Stuart on 30 November. See "The Republication of The Federalist in Virginia," 28 November 1787–9 January 1788 (above).

4. At this point, Washington's letterbook copy reads: "to the Northward and Eastward of them" (Washington Papers, DLC).

5. 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.

6. George Mason.

7. See "The Union Society Considers the Constitution," 21 November 1787–5 January 1788 (above). See also Washington to Madison, 10 January (below).

8. See Richard Henry Lee to Edmund Randolph, 16 October (above).

### **James Madison to Thomas Jefferson New York, 9 December (excerpts)<sup>1</sup>**

... 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. . . . The body of the people in Virgina. 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 Governor 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, Doctr. Jones—&c &c.<sup>2</sup> At the head of the 2d. party which urges amendments are the Govr. & Mr. Mason. These do not object to the substance of the Governr. 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, &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. . . .

1. RC (unsigned), Madison Papers, DLC. Printed: Rutland, *Madison*, X, 310–15. In the portions of the letter deleted, Madison mentioned agricultural matters, the progress of ratification in several states, and Virginia commerce.

2. Gabriel Jones, a lawyer-planter, represented Rockingham in the House of Delegates, 1783–84. Walter Jones, a Northumberland County physician-planter, was a member of the Senate, 1785–87. Both men voted to ratify the Constitution in the state Convention.

**Matthew Maury to James Maury**  
**10 December (excerpts)<sup>1</sup>**

My Dear Brother

. . . The Face of things is greatly changed in this Country[,] changed for the Worse since you left it—The Distresses of the People in general, consequent on the heavy Taxes, & their private Debts are greater than you can well conceive. Many, or at least some, of the back Counties have refused to pay the Taxes last Year, & I am apprehensive, their Example will be followed by a great Number in the next. As to my own Part, from the Distresses & the general Discontent of the People I take it for granted we are on the Eve of a Revolution.—Many promise themselves great Things from the New Constitution, should it be adopted. But I doubt much whether it will do—It may suspend for a while, but I hardly think it will entirely avert our Fate: For I think I can see plainly from the Temper of the People, that Nothing short of an Abolition of all Debts will in the End satisfy them. Be cautious who you Trust on this Side the Water. . . .

The last has been the dryest Summer remembered by the oldest Men in this Country,—in many Parts, particularly in this Neighbourhood, there was not a Rain from early in March till late in October, sufficient to wett the Earth more than two Inches.—In consequence of which the Crops of Corn are shorter than ever known. The Crop of Tob[acco] is tolerable as to Quantity; as to quality, perhaps Superior to any ever made in the Country, as I hope you will find to yr Advantage. Oh; I was this Fall thro' Amherst, where many People talked of shipping to you—among others Col John Rose, who wishes you to inform him what are the Commissions & other Charges on Tob. from yr Port. . . .

1. RC, James Maury Papers, ViU. The Reverend Matthew Maury (1744–1808) was rector of Fredericksville Parish in Albemarle and Louisa counties. James Maury (1746–1840), a former Fredericksburg merchant, moved to Liverpool in 1786 and became an importer of tobacco. After several years of trying, he became the American consul at Liverpool in 1790 and served in that position until 1830.

**Gov. Edmund Randolph to Meriwether Smith, Charles M. Thruston, John H. Briggs, and Mann Page, Jr., Richmond, 10 December<sup>1</sup>**

Your favor of the second instant,<sup>2</sup> requesting permission to publish my letter on the new Constitution, gives me an opportunity of making known my sentiments, which, perhaps I ought not to decline. It has been written ever since its date, and was intended for the General Assembly. But I have hitherto been restrained from sending it to them, by motives of delicacy arising from two questions depending before that body, the one respecting the Constitution, the other myself. At this day too I feel an unwillingness to bring it before the Legislature, lest in the diversity of opinion, I should excite a contest unfavorable to that harmony with which I trust the great subject will be discussed. I therefore submit the publication of the letter to your pleasure.

I beg leave however, to remind you, that I have only mentioned my objections to the Constitution in general terms, thinking it improper, and too voluminous, to explain them at full length. But it is my purpose to go at large into the Constitution when a fit occasion shall present itself.

1. This letter was printed in the pamphlet edition of Randolph's 10 October letter to the Speaker of the Virginia House of Delegates. See "The Publication of Edmund Randolph's Reasons for Not Signing the Constitution," 27 December (below). Randolph's letter of 10 December was reprinted in the *Virginia Independent Chronicle*, 2 January, the *Richmond Virginia Gazette and Weekly Advertiser* and the *Petersburg Virginia Gazette*, 3 January, and in the January issue of the *Philadelphia American Museum*, as well as in five other newspapers: N.Y. (1), Pa. (3), Md. (1).

2. See above.

**Landholder VI**

**Connecticut Courant, 10 December (excerpts)<sup>1</sup>**

*To the Landholders and Farmers.*

*He that is first in his own cause seemeth just; but his neighbour cometh and searcheth him.<sup>2</sup>*

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.<sup>3</sup> He is supposed to be the author of most of the scurrility poured out in the New-York papers against the new constitution.

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;<sup>4</sup> 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.<sup>5</sup> 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.)<sup>6</sup> and I am persuaded there is a majority of liberal, just and foederal 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. . . .

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,<sup>7</sup> 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."<sup>8</sup> . . .

1. Printed: CC:335. "Landholder" VI (Oliver Ellsworth of Conn.), a response to George Mason's objections to the Constitution, was also printed in the Hartford *American Mercury* on 10 December, with minor variations. It was reprinted in the *Virginia Independent Chronicle* on 9 January and in twenty other newspapers, in whole or in part, by 11 February: N.H. (2), Mass. (5), R.I. (2), Conn. (3), N.Y. (4), Pa. (2), Md. (1), S.C. (1). For the authorship and impact of the "Landholder," see CC:230.

2. Proverbs 18:17.

3. There is no evidence that Richard Henry Lee had been involved in any plot to replace George Washington as commander in chief with Major General Charles Lee, an Englishman and a former lieutenant colonel in the British Army. At the outbreak of the Revolution, General Lee owned land in England and Virginia. On 24 December "Landholder" continued his assault in his eighth number: "In Virginia the opposition [to the Constitution] wholly originated in two principles; the madness of Mason, and the enmity of the Lee faction to General Washington. Had the General not attended the convention nor given his sentiments respecting the constitution, the Lee party would undoubtedly have supported it, and Col. Mason would have vented his rage to his own negroes and to the wind" (CC:371). "Landholder's" charge concerning General Lee was repeated by "New England" in the *Connecticut Courant* on 24 December (CC:372). (Neither "Landholder" VIII nor "New England" was reprinted in Virginia.)

4. On 29 August Mason and Charles Pinckney of South Carolina spoke in support of a two-thirds majority of Congress to pass commercial regulations. 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 Philada 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 (Farrand, II, 449–53, 631).

5. Mason's opposition to allowing a simple majority of Congress to pass commercial regulations was omitted from the Northern printing of his objections, but was included in the Southern version. (See "George Mason: Objections to the Constitution," 7 October, above.)

6. Probably Henry Lee of Westmoreland County who was a delegate to Congress.

7. In the Convention, Mason had raised almost all of his objections that were later published.

8. For Mason's speech in the House of Delegates, see Newspaper Reports of House Proceedings and Debates, 25 October, in "The General Assembly Calls a State Convention," 25–31 October (above).

### **George Lee Turberville to James Madison Richmond, 11 December<sup>1</sup>**

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)<sup>2</sup> 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 privileged which we retained—wou'd have left floating in uncertainty a number of non enumerated contingent powers and privileges—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<sup>3</sup>—

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. Masons We have heard from *private persons* that a system of government was engrossed—which had an Executive council—and that the privilege 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 Privilege—and the present plan thus defective—owes it origin to this Junction<sup>4</sup>—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 truely 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 Veiw 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 opportunity 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 explod'd by them—the Assembly I fear agt. it—Mr. Henry—Mr. Harrison—Mr. smith—All the Cabells & Colo. Mason—agt. or at least favorers of the Amendatory system—& notwithstanding our Resolutions of the 25th. of October<sup>5</sup>—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 arrived<sup>6</sup>—

1. RC, Madison Collection, NN. Madison answered Turberville's questions on 1 March, but the letter has not been located. Turberville acknowledged the response in his letter to Madison of 16 April (III below).

2. Turberville was not elected to represent Richmond County in the state Convention (Turberville to Madison, 16 April, III below).

3. According to Turberville, Madison's letter of 1 March contained "powerfull reasons

that may be urged agt. the Adoption of a Bill of Rights—the favorite Topic of the ablest Antifederal declamers” (to Madison, 16 April, III below).

4. The creation of a Council of State was never part of any draft of the Constitution. A detailed proposal for one was made on 20 August by Gouverneur Morris and Charles Pinckney and was referred to the Committee of Detail. On 7 September George Mason’s motion to create such a council was rejected by a vote of 8 states to 3 (Farrand, II, 342–44, 537–38, 541–42, 543). The issue was not discussed in conjunction with the slave-trade clause. Turberville perhaps meant a compromise that took place between the Northern and Southern interests—the former getting a provision requiring only a simple majority of Congress to pass navigation acts and the latter getting a prohibition of a federal ban of the slave trade until 1808.

5. A reference to the legislative resolutions of 25–31 October calling the state Convention. See “The General Assembly Calls a State Convention,” 25–31 October (above).

6. Like Madison, Edward Carrington, Cyrus Griffin, and John Brown were delegates to Congress.

### **James Mercer to John Francis Mercer Richmond, 12 December**

For this letter, see Fairfax County Election (II below).

### **Nov. Anglus**

#### **Norfolk and Portsmouth Journal, 12 December<sup>1</sup>**

##### *To the VIRGINIANS.*

It is easy to perceive, that a number of Writers in the different newspapers on this continent (with whatever caution their first performances have been brought forward), aim at nothing less in reality, than a dismemberment of the American Union. Jealousy is a political virtue—and though I would not hence accuse any class of people of treachery, however prone to it; or of meanness, however consistent with their character; yet I can readily believe them capable of both, when experience has demonstrated their inclination, and indisputable circumstances prove it to be their interest.

That there are a set of men now resident in this country, who are enemies to its political happiness, and who anticipate with horror a permanent national government, is a fact known to every man of observation. A want of energy in the laws of some States, and a want of their execution in others, has unfortunately cultivated this evil, until its reformation has become a business of both difficulty and danger; and it may now perhaps be questioned whether, the liberal spirit of Americans since the conclusion of the late war, has not proved *unfortunately* superior to a suspicion of characters.

If men will not leave their national prejudices behind them, it is better for them to continue in a country where they can exercise them with impunity.—The Spy, whose danger is the condition of his subsis-



tence, deserves pity; but there is no apology for the man who betrays the country to which he professes allegiance, and in which he obtains his bread.—The want, and necessity, of an immediate and efficient National Government, is known, or felt, by every inhabitant of this country. The flowing sophistry of the designing Attorney sinks under the feeling oratory of the private Herdsman—The language of distress is unequivocal.—A man's reason may be diverted or deceived, but there is no deceit in misery. The solemn fact is—THIS IS THE DAY OF PROBATION WITH AMERICA; and our salvation depends, not only on the measures to be adopted, but on those we adopt soon.—Our political night, is perhaps at hand, in which no man can work. I have ever observed, that Divine Providence justifies its ways with men as well in their collective, as in their individual capacities, and leaves them this humble retrospective lesson—*I might have this day been happy, but it is my own fault.*

These, my Countrymen, are serious reflections, and ought to put you on your guard against every insinuation tending to obstruct your national happiness. The enemies to the proposed constitution, advance no system in its room; and it should not be forgotten, that it is easier to censure than amend, much less originate a form of government suited to the exigencies, and habits, of a Great Country. Perfection is the peculiar province of the Supreme Being; the institutions of men are only excellent in proportion as they resemble the wisdom, and justness, of the Divine government. Whoever is capable of taking an unprejudiced, comparative view, of the proposed constitution, and of the different governments that have existed, as well as those now existing in the world, must derive the clearest conviction of its being by far the best plan ever yet offered to humble society: It is the result of a spirit of reciprocal good will among men; and which is worth remarking, is founded on the very principles with Christianity itself. But, notwithstanding the purity of its principles, the opposition it has met with was not unexpected; the interests of many individuals will be affected, and the ambition of many disappointed. That men, in pain for their prospects, or their interests, will complain, is neither surprising or unnatural; yet the former will [l]ose what they only enjoyed as a favour, and the latter be disappointed only in what they had no right to expect. These, however, are but an underclap of enemies to the Fœderal Government; men, whose principles may become corrected, when time shall have effaced the immediate impressions of self-interest.—The most dangerous enemies to this government, are those, who consider it in the effects it must inevitably have on the political situation of Great-Britain. The most hardened writer has not pre-

tended, that if established (with all its faults) it would not give immediate respectability to the United States as a nation; and, consequently, obtain weight in the political scale of the commercial Powers of Europe.

For what reason this event is dreaded by men who are rather friends to Great-Britain than America; and in what important points the Fœderal Constitution will affect the interests, and power, of that country, shall be the subject of my next letter, in which some light will be thrown on the probable springs that animate the labours of the Anti-Fœderalists; and some account given why those papers, in general, are divested of candour, and so strongly marked, rather with the effusions of passion, than the dictates of reason.

*Hampton, December 5, 1787.*

1. Another essay by "Nov. Anglus" is known to have appeared in the *Journal* on 23 and 30 January. The issue of the 23rd is not extant, but the continuation of the essay on the 30th is printed below. Since the *Journal's* issues of 19 and 26 December and 2 and 16 January are not extant, it is possible that "Nov. Anglus" also may have appeared in one or more of those issues.

#### Editors' Note

**George Washington to Charles Carter  
Mount Vernon, 14 December**

On 14 December George Washington wrote Charles Carter a letter which contained his opinion on the Constitution. On 27 December the *Virginia Herald* printed the excerpt on the Constitution. For the excerpt and Washington's displeasure over its publication, see "George Washington on the Constitution," 27 December 1787–20 February 1788 (below).

**James Madison to Archibald Stuart  
New York, 14 December (excerpts)<sup>1</sup>**

I was yesterday favored with yours of the 2d. inst:<sup>2</sup> 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,<sup>3</sup> 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 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.<sup>4</sup>

. . . 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 Governor<sup>5</sup> & the late Govr.<sup>6</sup> 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. . . .

1. RC, Misc. Coll., Henry E. Huntington Library, San Marino, California. Printed: CC:346. In the omitted portions of the letter, Madison commented on European affairs and the progress and prospects of ratification in several states.

2. See above.

3. See "The General Assembly Adopts an Act for Paying the State Convention Delegates," 30 November–27 December (above).

4. On 19 November the Massachusetts General Court resolved to pay much of the state's civil list from part of the revenue earmarked for the state's quota of the continental requisition of 1786 (*Resolves of the General Court* . . . [17 Oct.–23 Nov. 1787] [Boston, 1787], 77).

5. John Hancock.

6. James Bowdoin.

**James Madison to George Washington**  
**New York, 14 December<sup>1</sup>**

Along with this are inclosed a few of the latest gazettes containing the additional papers in favor of the federal Constitution.<sup>2</sup>

I find by letters from Richmond that the proceedings of the Assembly, are as usually, rapidly degenerating with the progress of the Session: and particularly that the force opposed to the Act of the Convention has gained the ascendance. There is still nevertheless a hope left that different characters and a different spirit may prevail in their successors who are to make the final decision. In one point of view the present Assembly may perhaps be regarded as pleading most powerfully the cause of the new Government, for it is impossible for stronger proofs to be found than in their conduct, of the necessity of some such anchor against the fluctuations which threaten shipwreck to our liberty.

1. RC, Gratz Collection, PHi.

2. Among other things, "the latest gazettes" probably contained several numbers of *The Federalist* which Madison had begun to send to Washington on 18 November (above). (See also "The Republication of *The Federalist* in Virginia," 28 November 1787-9 January 1788.)

**Antoine de la Forest to Comte de Montmorin**  
**New York, 15 December (excerpts)<sup>1</sup>**

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,<sup>2</sup> 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.*<sup>3</sup>

... 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 Mississippi 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. . . .

1. RC (Tr), Affaires Étrangères, Correspondance Consulaires, BI 909, New York, ff. 294–97, Archives Nationales, Paris. Printed: CC:349. Antoine René Charles Mathurin de la Forest (b. 1756) was French vice consul for the United States stationed in New York City. In portions of the letter not printed here, Forest discusses the prospects and progress of ratification throughout the United States.

2. On 28 September Forest had written to the Minister of Marine, unaware that the Maréchal de Castries had been succeeded by the Comte de Montmorin on 25 August (CC:105).

3. See "The General Assembly Adopts an Act for Paying the State Convention Delegates," 30 November–27 December (above).

**Thomas Jefferson to William Carmichael**  
**Paris, 15 December (excerpt)<sup>1</sup>**

... 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. . . .

1. FC, Jefferson Papers, DLC. Printed: Boyd, XII, 423–27; and CC:Vol. 2, pp. 480–81 (a longer excerpt). Carmichael (c. 1738–1795), a Maryland lawyer, was a delegate to Congress, 1778–79. He was John Jay's secretary in Madrid and served as chargé des affaires in Madrid from 1782 until his death.

**Editors' Note**

**Richmond Pamphlet Anthologies, c. 15 December**

In November and December three pamphlet anthologies were printed in Richmond. One, and probably another, was published by Augustine Davis of the *Virginia Independent Chronicle*, while a third was printed by John Dixon of the *Virginia Gazette and Independent Chronicle*.

The first pamphlet—no longer extant but probably printed by Davis—appeared in early November. On 9 November Archibald Stuart wrote 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" (above). Davis also reprinted "An American Citizen" I–III in his *Virginia Independent Chronicle* on 7 November. (See "The Republication of An American Citizen I–IV in Virginia," 11 October–c. 15 December, above.) On 3 January Madison told Tench Coxe, the author of the essays, that their publication "had a very valuable effect" (CC:392–C).

The second pamphlet was published by 15 December. On that day Hardin Burnley of Orange County, a member of the House of Delegates, informed Madison that "A Collection of pieces on the federal Constitution is just published by Davis one of which I should have inclosed you but am informed that Colo. [Thomas] Barbour has already done it" (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 in this order: "An

American Citizen" I–III (Tench Coxe of Philadelphia, CC:100–A, 109, 112); "Centinel" I (Samuel Bryan of Philadelphia, CC:133); "An American Citizen" IV (CC:183–A); "Centinel" II (CC:190); James Wilson's 6 October speech before a Philadelphia public meeting, "upon the principles of the Fœderal Constitution" (CC:134); Richard Henry Lee's letter to Edmund Randolph, 16 October (including Lee's amendments to the Constitution, both above); Elbridge Gerry's letter to the Massachusetts legislature, 18 October, under the heading "Hon. Mr. GERRY's objections to signing the National Constitution" (CC:227–A); George Mason's objections to the Constitution, under the heading "*The following are the Honorable GEORGE MASON's objections to signing the National Government formed by the Convention*" ("George Mason: Objections to the Constitution," 7 October, above); and Benjamin Franklin's 17 September speech to the Constitutional Convention (CC:77–A and "Editors' Note," 5–15 December, above). Except for Lee's letter, all of these items had been reprinted in Davis' *Virginia Independent Chronicle* between 24 October and 5 December: "An American Citizen" I–IV (7, 21, 28 November); "Centinel" I–II (7, 14, 21, 28 November); Wilson's speech (24 October); and Gerry's letter, Mason's objections, and Franklin's speech (all on 5 December).

Apparently, this second pamphlet was an expansion of the "small pamphlet" that Archibald Stuart had described in his 9 November letter to James Madison. The placement in the latter pamphlet of "Centinel" I after "An American Citizen" I–III and before "An American Citizen" IV would seem to imply that Davis used the plates from his earlier pamphlet. Davis could not have included "An American Citizen" IV in the earlier pamphlet because he did not get the essay until after 9 November. (See "The Republication of An American Citizen I–IV in Virginia," 11 October–c. 15 December, above.) "Centinel" I was probably one of the other pieces alluded to by Stuart. If this was the case, the earlier pamphlet was at least nineteen pages long because "Centinel" I ends on that page.

The third pamphlet was printed after 15 December. Following his mention of Davis' pamphlet, Burnley told Madison 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 St. George Tucker Pamphlets at the Virginia Historical Society, contain Mason's objections, Gerry's letter, and the first part of *The Federalist* 1. Pages 11–18, consisting of the remainder of *The Federalist* 1, *The Federalist* 2, and the first seven paragraphs of *The Federalist* 3, are located in the Ford Collection in the Rare Book

Room at the New York Public Library. Bibliographer and editor Paul Leicester Ford noted that this last fragment "was taken from a bound collection of Va. pamphlets." John Dixon had possibly reprinted, at the request of Archibald Stuart, *The Federalist* 1–3 in the no longer extant issues of his *Virginia Gazette and Independent Chronicle* on 1, 8, and 15 December. Numbers 4 and 5 were reprinted in the extant issues of 22 and 29 December.

**John Brown to Archibald Stuart**  
**New York, 16 December (excerpts)<sup>1</sup>**

I recd. your favor of the 2d. Instant<sup>2</sup> & am sorry that it is not in my power to furnish you with all the Information you require, or with any part of it in so satisfactory a manner as I could wish Not having as yet formed a Congress (only four States being represented) I cannot pretend to say what will be the fate of the Kentuckey address; from present appearances I rather fear that it will meet with some opposition, at least that an attempt will be made to postpone the determination upon that Subject untill the fate of the proposed plan of Fœderal Govt. is known. My Anxiety relative to the event of this Business increases greatly when I reflect upon the present alarming & increasing confusion which prevails throughout the whole Political System of the Continent. Some important Change in the United States must necessarily ere long take place;<sup>3</sup> in which case Kentucky in her present dependant connected State would have much more to fear than to hope from the event. Were she independant & had a well advised efficient internal Govt. established, in my opinion her local Situation & internal resourses would Secure her from many of those calamities to which the Atlantic States might be subjected. . . .

I am very comfortably fixed in this place & enjoy all the Happiness which Good Health good Company & good Chear can afford—have no foreign news to communicate—nor Domestic except that Delaware & Pensalvania<sup>4</sup> have adopted the New fœderal Constitution without Amendment—

1. RC, Stuart Papers, ViHi. The letter was addressed to Stuart in Richmond, where he was representing Augusta in the House of Delegates.

2. Not located.

3. In a letter that he wrote to James Breckinridge on the same day, Brown said that he was "inclined to think a Majority of the States will adopt it [the Constitution] through choice & that the Minority will be reduced to accede by Necessity. Our present political System is in utter Confusion. A change must & will soon take place. God grant it may be for the better" (Breckinridge Family Papers, ViU).

4. In his letter to Breckinridge (note 3, above), Brown said that, while en route to



New York, he spent two weeks in Philadelphia during which he attended the debates of the Pennsylvania Convention.

**Lawrence Taliaferro to James Madison**  
**Rose Hill, 16 December**

For this letter, see Orange County Election (II below).

**Joseph Jones to James Madison**  
**Richmond, 18 December**

For this letter, see Orange County Election (II below).

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

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

Send me two of the latest papers—I have seen the 7th from Baltimore<sup>2</sup>—I have heard from Alexandria that the Demagogues agt the Federal Governmt at Richmond Gain Ground—We have very imperfect Accts, our Assembly has been now sitting above two months at about 100 pistoles a day

There is not so much money in County as will pay the taxes next year—Without the Fedral Governmt is adopted we are undone . . .

N B The Convention of Delaware assented to the proposed Governmt Unanimously—That of Pennsylvia upwards of Two to One

1. RC, Gates MSS, NN. The place of writing is not given, but Stephen was a resident of Martinsburg, Berkeley County. Stephen (c. 1718–1791), a land speculator, planter, and founder of Martinsburg, served with the Virginia militia during French and Indian War and was a major general in the Continental Army during the Revolution. In 1777 he was dismissed from the army for drunkenness on the retreat from the Battle of Germantown. Stephen represented Berkeley in the House of Delegates, 1780–85, and voted to ratify the Constitution in the state Convention.

2. Both the *Maryland Gazette* and the *Maryland Journal* were printed on 7 December.

**Americanus II**

**Virginia Independent Chronicle, 19 December**

Mr. Davis. Sir, The Fœderal Constitution is, in one respect, like the *Christian religion*, the more minutely it is discussed, the more perfect it will appear. Without being guilty of any extravagance of expression or pretending to the gift of divination, I may venture to foretell, that the *Bible* and the *Fœderal Government* will be read and revered, when the arguments, insiduously employed against both, are forgotten. I believe, Sir, there is no one, however insensible he may be to the feelings of his country, who will not readily confess, that the situation,

to which we are reduced, justifies the most melancholy reflections, and calls for the combined wisdom and vigor of the states. The *enlightened* apprehend the most ruinous consequences,—the *patriot* laments the deplorable situation of his country, and *apathy itself* feels interested in the event. At this important period, *indifference* would be dangerous, *inaction* criminal.

In a preceding number, I have endeavored to designate the powers of the *president*, and to remove, from the minds of my *fellow-citizens*, the apprehensions, which they might by the insidious misrepresentations of some designing persons, entertain of their supposed dangerous tendency. From an impartial consideration of this point, it must appear evident to every unbiassed mind, that the authority of the *president* is, in many instances, restrained by the *co-operation* of the *senate*, and that the cases, in which he can exercise an *exclusive power*, are too *insignificant* to be productive of *dangerous* consequences. The *president* stands alone. The *United States* are the *scrutinising spectators* of his conduct, and he will, always, be the distinguished object of *political jealousy*. Destitute of a *council* and of the *means*, by which he might extend his influence and secure his safety, *he* and *he alone* is responsible for any perversion of power. This *unity* of the executive authority constitutes, in my humble opinion, our greatest safety, and affords the most effectual means of restraining it within proper bounds. Was the *president* surrounded with *counsellors*, or was the *executive power* lodged in the hands of *many persons*, it would be difficult to discover the *one*, who might recommend an obnoxious measure. *Secrecy* and *dispatch* could not be expected. The *unavoidable imbecility* of measures would be retarded by the difficulty of procuring an unanimous consent, and the most *important proceedings* would be liable to interruption by a contrariety of opinions. No sooner was an *abuse of power* suppressed in one place, than it would appear in another. *Tyranny* might assume a variety of forms. It would elude all the *vigilance* of the most watchful jealousy. *It would mock the efforts of the people, not because it is invincible, but because it is unknown;*—seized by the strong arm of a *Hercules*, it would escape with the various transformations of a *Proteus*.

To alarm the people and prejudice them against a government, which, I cannot forbear thinking, has certainly received the *solemn sanction of Heaven*, some persons have presumed to predict the establishment of an *odious aristocracy* in the *senate*. To detect the futility of this prediction, let us enquire into the manner, in which this body is elected, and examine the powers, with which it is entrusted.

The *senate* is composed of two members from each state chosen by *the respective legislatures*; when assembled, they are to be divided, as

equally as possible, into *three classes*. The seats of the *first class* are to be *vacated* at the expiration of the *second year*, of the *second class* at the expiration of the *fourth year*,—and of the *third class* at the expiration of the *sixth year*;—so that *one third* may be chosen *every second year*. The wisdom and prudence, which dictated this *rotation of members*, must, at first sight, forcibly strike every unprejudiced mind. The *fluctuation* of members, the *temporary duration* of their power, and the *variety of interests*, which will, invariably, *occur* in the *senate*, are so many *securities* to the public for the *faithful administration* of affairs. Is it possible, that a body, subject to the changes which every new election will produce, can form a *junto* sufficiently powerful to govern its decisions? Let us however suppose, that many members of the *senate* should be profligate enough to employ, in the prosecution of *aristocratical designs*, the sacred authority with which they are entrusted—Could they accomplish their purpose? Is it possible, that they could obtain two-thirds to consent to so dangerous a measure? Is it probable, that even one-third would be under a temptation to the same injustice, and have the same object in view? But admit, Sir, that all were actuated by the same ambitious motives—would not the power to execute be remote and circumscribed? Could a *senate*, consisting of few members and modified like ours, erect itself into a perpetual body on the *ruins* of *thirteen independent states*, to whom it owes its *political existence*? Could it corrupt or annihilate the *federal house of representatives*, a more numerous body than itself, chosen by the *unbought, unbiassed voices* of an enlightened people, and without whose concurrence it could effect no design? Could they exercise an *aristocratical power* over the different states, so distant from each other, with the same impunity, that a *numerous nobility* might do over their *respective vassals and dependents*? To admit suppositions of this kind is to insult the *sacred majesty* of the people, *sport* with their undertakings, and by attempting to *scare* them with *visionary dangers* to *treat them like children*.

In the organization of the senate, we may observe three *distinctions of characters*, into which it is divided, the one *legislative*, the other *executive*, the third *judicial*. Each is rendered independent of the other, and so excellently modified, that the privileges, annexed to each character, cannot be exercised without the intervention of another power. Permit me, Sir, to illustrate my meaning. In its *legislative capacity*, it can enact no law, succeed in no measure, and accomplish no purpose, without the *concurrence of the house of representatives*. In its *executive capacity*, it can effect no design, without the *co-operation of the president*; and in its *judicial capacity*, it can exercise no power, without an *impeachment* is previously presented by the *house of representatives*. Thus

*fettered*, and *guarded* by *opposing checks*, I can see no act, which the *senate* can of itself perform, that might lead to the *establishment* of a dreaded *aristocracy*. Should it, however, attempt to overleap the limits prescribed to its power, and dare to invade the rights of one part of the legislature, it would meet an antagonist power, residing in another part capable of restraining it within its original bounds. For instance—Should the *senate* endeavor to extend its authority by contracting the rights and privileges of the *house of representatives*, the *president*, foreseeing his own dignity endangered by every new accession of power, which the senate might acquire, would interpose his *controlling authority* and counteract its *ambitious designs*. On the other hand, if the *senate*—*this fancied object of fear*—should encroach upon the province of the *president*, and assume the exercise of *his prerogatives*, the *house of representatives* would receive an instant alarm and immediately extend “*its strong arm*” to restrain it. But, independent of *these checks*, which absolutely *reside* in the constitution itself, there are *thirteen collateral checks*, whose united powers, *like an overbearing torrent*, could not be resisted—I mean the *legislatures of the thirteen states*. For, *as the senate is elected by the legislature of each state, it must be confessed, that each member is responsible to that body, which respectively elect him*. Now, Sir, was authority of the *senate* more extensive and less *constitutionally* controuled, still *these checks* would be *sufficient*, and will constitute *unsurmountable barriers* to its ambition, which it can never destroy. I shall, Sir, mention but one more *check*, which the senate has to encounter. Perhaps it may be considered as trifling, but, in my humble opinion it is as strong, as it is extensive. Should an aristocracy be established in this body, it must be confined to particular families. As we have no nobility, and as no one family can claim a superiority over another, it is natural to suppose, that each would operate as a check to the other, and from a principle of *jealousy*, if not of *patriotism*, endeavor to counteract the ambitious hopes of all. If power thus restrained is not safe, I ask, by what human means can it be rendered more so? If the country is not secure in such hands, in whose hands may it be confided? If a number of such men, as we may suppose the senate will be composed, be liable to the influence of corrupt motives, what assembly of men will be secure from the same danger?

No description of people are excluded from a seat in Congress. The Federal Constitution, like our holy religion, knows no invidious distinctions. It embraces, without discrimination, every individual citizen of the states, and considers every man as entitled to an equal share in the government. The doors of the *senate* are open for the admission of every one, who is actuated with the *laudable ambition*, of serving his

country, and who possesses *that knowledge and those faculties*, which qualify men for deliberation and debate. The splendid rewards of *political dignity and importance*, which, of all others, *rouse and animate* the human mind, are *held out* to all, who have the qualifications necessary to obtain them, and the virtues calculated to gain the confidence of the people.

It is alledged, Sir, "that the right of taxation, with which Congress is invested, is too great a surrender of the properties of the people." This objection, like many others, appears to me to originate in ignorance, or is maliciously intended to delude the people. That *taxation and representation are inseparable, and that each should bear an exact ratio to the other, are self evident truths. America first asserted the novel doctrines, and fame has proclaimed it, with her victories, to the remotest regions of the earth.* Had the antient republics of *Greece and Rome* rigidly observed this *grand political position*, they might, perhaps, have *still* continued in existence and transmitted their liberties undiminished to the latest ages. It is the *grand palladium* of freedom. It is the *only pedestal* on which a *temple to liberty* can be *securely* erected. In all the *American governments* this *native truth* "that taxation and representation are inseparable"—has been *religiously* observed, and perhaps in *no one* is it more exactly ascertained, than in the *Fœderal Constitution*. The *house of representatives*, which has the exclusive right of *originating* bills of taxation, is composed of members elected *directly* by the people in the most *exact proportion*. The object of this representation is *the common defence and general welfare of the United States*. The concomitant *right of taxation* extends *no farther*. It is the express language of the constitution, that all *monies*, arising from the *taxes* imposed by Congress *shall be* appropriated to the *support* of the *fœderal government*, the *common defence* of the *United States*, and the *regular discharge* of the *national debts*. *The interests of the representatives are so intermixed with that of the people, that they cannot, without a partiality too flagrant to be endured, impose a tax in which they will not take a share themselves: nor can they scarcely adopt an advantageous regulation, in which their own interests will not participate of the advantage.*

#### Henry Lee to James Madison, c. 20 December<sup>1</sup>

I am so far on my return from a visit to Richmond—on my route I spent a day with Judge Pendleton—He continues amidst the strange change of opinion on the worth of the fœderal government, unalterable—This firmness does not belong to all the bench, for it was declared as indubitable, that the Cheif Justice had abandoned his first sentiments

on this subject—I wished to have given you a particular explanation of the politics in this country—but my absence from home has been longer than I intended & the approach of a snow storm renders it prudent to delay as little as possible—Three sets of men are to be found on the question of government. one opposed to any system, was it even sent from heaven which tends to confirm the union of the states—Henry is leader of this band—another who would accept the new constitution from conviction of its own excellence, or any fœderal system, sooner than risk the dissolution of the confederacy, & a third who dislike the proposed government, wish it amended, but if this is not practicable, would adopt it sooner than jeopardize the union—

Mason may be considered as the head of this set—

From such a discordance in opinion, I beleive if the friends to the govt, in the state convention should manage wisely, & if nine states should have ratified it before Virga. assembles that we may count on the dominion as an accepting state. Your county is divided like many others in their sentiments—Barber & Burnley<sup>2</sup> are warmly opposed & may perhaps consider it their duty to prevent your election—This you ought to apprehend & ought without respect to delicacy or any other motive stop in its progress—

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

Deliver my enclosed letr if you please—Adieu

1. RC, Madison Papers, DLC. Printed: Rutland, *Madison*, X, 339–40. Neither the place nor date of writing is included. Lee wrote this letter while en route from Richmond to his home in Westmoreland County. Madison endorsed the letter “Lee H. Decr. 1787.” The editors of the *Madison Papers* have placed it under 20 December.

2. Thomas Barbour was a justice of the peace of Orange County. Barbour’s and Madison’s plantations were adjoining. Hardin Burnley, a lawyer-planter, represented Orange in the House of Delegates, 1787–91.

### **Thomas Jefferson to James Madison** **Paris, 20 December (excerpts)<sup>1</sup>**

My last to you was of Oct. 8. by the Count de Moustier. Yours of July 18. Sep. 6. & Oct. 24.<sup>2</sup> have been successively received, yesterday, the day before & three or four days before that. 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,<sup>3</sup> 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.<sup>4</sup> 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 Massachusets<sup>5</sup> 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 chearfully, 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 security 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: Rutland, *Madison*, X, 335–39. For a long extract from this letter, with significant alterations, see Jefferson to Uriah Forrest, 31 December (CC:Vol. 2, pp. 488–92).

Jefferson's letter of 20 December to Madison was not his first commentary on the Constitution, but it was his most comprehensive one to date. On 21 December Jefferson wrote Edward Carrington: "as to the new Constitution I find myself nearly a Neutral. there is a great mass of good in it, in a very desirable form: but there is also to me a bitter pill, or two. I have written somewhat lengthily to Mr. Madison on this subject and will take the liberty to refer you to that part of my letter to him. I will add one question to what I have said there. Would it not have been better to assign to Congress exclusively the article of imposts for federal purposes, & to have left direct taxation exclusively to the states? I should suppose the former fund sufficient for all probable events, aided by the land office" (Boyd, XII, 446).

2. In his 18 July letter, Madison indicated that the debates of the Constitutional Convention were secret and that he was keeping notes on them. His 6 September letter outlined the form of government being considered by the Convention which Madison believed would adjourn in a week or two (Rutland, *Madison*, X, 105–6, 163–65). For Madison's 24 October letter, see above.

3. See James Wilson's speech before 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.

### **James Madison to George Washington New York, 20 December (excerpt)<sup>1</sup>**

I was favoured on Saturday with your letter of the 7th. instant,<sup>2</sup> along with which was covered the printed letter of Col. R. H. Lee to the Governour.<sup>3</sup> 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. He is certainly not perfectly accurate in the statement of all his facts; and I should infer from the tenor of the objections in Virginia that his plan of an Executive would hardly be viewed as an amendment of that of the Convention. It is a little singular that three of the most distinguished Advocates for amendments; and who expect to unite the thirteen States in their project, appear to be pointedly at variance with each other on one of the capital articles of the System. Col. Lee proposes that the President should chuse a Council of Eleven and with their advice have the absolute appointment of all officers Col: Mason's proposition is that a Council of six should be appointed by the Congress. What degree of power he would confide to it I do not know.<sup>4</sup> The idea of the Governour is that there should be a plurality of co-equal heads, distinguished probably by other peculiarities in the organization.<sup>5</sup> It is pretty certain that some others who make a common cause with them in the general attempt to bring about alterations differ still more from them, than they do from each other; and that they

themselves differ as much on some other great points as on the Constitution of the Executive.

You did not judge amiss of Mr Jay. The paragraph affirming a change in His opinion of the plan of the Convention, was an arrant forgery. He has contradicted it in a letter to Mr. J. Vaughan which has been printed in the Philadelphia Gazettes.<sup>6</sup> Tricks of this sort are not uncommon with the Enemies of the New Constitution. Col. Mason's objections were as I am told published in Boston mutilated of that which pointed at the regulation of Commerce.<sup>7</sup> Doctr. Franklin's concluding speech which you will meet with in one of the papers herewith inclosed, is both mutilated & adulterated so as to change both the form & the spirit of it.<sup>8</sup> . . .

1. RC, Washington Papers, DLC. Printed: CC:359. In the omitted portion of the letter, Madison discusses the progress and prospects of ratification in several states. Washington answered Madison on 10 January (below).

2. See above.

3. See Lee's letter of 16 October to Governor Randolph (above).

4. See "George Mason: Objections to the Constitution," 7 October (above).

5. On 24 October Madison wrote Thomas Jefferson that Governor Randolph had been a leader of the group in the Constitutional Convention that wanted a plural executive (above). Randolph believed that a single executive resembled a monarchy, that one man could not obtain the confidence of everyone, and that a plural executive would have the advantage of representing various parts of the United States (Farrand, I, 66, 71, 72, 74, 88, 90, 92, 97).

6. See William Shippen, Jr., to Thomas Lee Shippen, 29 November, note 4 (above).

7. On 21 November the *Massachusetts Centinel* published Mason's objections, but omitted the paragraph that criticized the power of Congress to adopt commercial laws by a simple majority instead of a two-thirds majority. (For this paragraph, see "George Mason: Objections to the Constitution," 7 October, above.) Madison probably saw the *Centinel* version of the objections in either the New York *Daily Advertiser* or the New York *Packet* of 30 November. The *Centinel* version was not reprinted in Virginia.

8. Madison refers to an article published in the Boston *Independent Chronicle* on 6 December by "Z" (CC:323), who quoted only those parts of Benjamin Franklin's Constitutional Convention speech of 17 September that expressed reservations about the Constitution. "Z" made Franklin appear to be a lukewarm supporter of the Constitution. Madison probably sent Washington either the *New York Morning Post* of 14 December or the *New York Journal* of 17 December, both of which reprinted "Z." For Franklin's speech, see CC:77, and "The Virginia Reprinting of Benjamin Franklin's Last Speech in the Constitutional Convention," 5-15 December (above).

**Samuel McDowell to William Fleming  
Mercer County, Ky., 20 December (excerpt)<sup>1</sup>**

I received Your favour Inclosing the Federal Constitution, framed by the Grand Convention at Phila. Septr Last. And as far as I can Judge of it, And Considering the whole States Colectively, I am of Opinion It ought to be Agreed to Just as it Stands. Suppose there may be Some Clause or Clauses of it that may Seeme to bear hard on

Individual States, Yet it is my Opinion that if the Several States go to Pointing out Amendments, and not Acceade to the Constitution, till their Amendments are agreed to; we Shall be in a Wretched Situation. And I am Sure you See, and deplore, the Imbecility of Congress: under the Present Constitution or Confederation. The Present Situation of America is: Our Credit Sunk with foreign nation, No Power in Congress to comply with their Contracts, The States Refusing or neglecting to comply with the Requisitions of that Body. And a thousand other Inconveniencies. It may be, and Perhaps is certain that the New Constitution is not Perfect, But I observe there is a doore left for Amendments. If I recolect, it is not in the Power of any State to lay a Duty or Impost on goods &c brought into it from any other of these States. that may be hard on this District in a future day, for if this country becomes a Sperate State we ought to Prevent almost any goods being brought here from any Part of the World, As this Ought to be a manufacturing Country. And we are So Distant from the Sea, we may make most of our Necessarys cheaper than they can be brought to us And I most Ardently wish to See the People of this Country Cloathed in home Spun. I have nothing worth Communicating of the news kind Only the Indians are now and then killing Some of our People, About ten or twelve day Since, they killed a man on Baregrass near Colo Bullets, and abot five days ago the[y] killed a Son of Ingleshes above the Crab Orchard. . . .

1. RC, Draper Manuscripts, Frontier Wars, State Historical Society of Wisconsin. McDowell (1735–1817), a judge of the Kentucky district court, represented Augusta in the House of Burgesses, 1772–76, in the revolutionary conventions, 1774–76, and in the House of Delegates, 1776–78. He also represented Rockbridge in the House of Delegates in 1778–79 and sat in the Council of State in 1781. McDowell was president of seven of the nine statehood conventions that were held in Kentucky from 1784 to 1792. Fleming (1729–1795), a Botetourt County planter, was a member of the Senate, 1777–79, and the Council of State, 1779–81. He voted to ratify the Constitution in the state Convention, although he supported amendments.

**William Short to James Madison**  
**Paris, 21 December (excerpt)<sup>1</sup>**

I am at present to acknowledge the receipt of your favor dated Oct. 24.<sup>2</sup> If you consider yourself obliged to thank me for having procured you the acquaintance of M. de Crevecoeur,<sup>3</sup> 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.<sup>4</sup> 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 [*sic*] 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 inconceivably 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 above.

3. St. Jean de Crevecoeur was French consul for New York, New Jersey, and Connecticut.

4. John Paul Jones carried Madison's 24 October letter to Thomas Jefferson in Paris. (For the letter, see above.)

**Warner Lewis to Alexander Donald  
Warner Hall, 22 December**

For this letter, see Gloucester County Election (II below).

**Andrew Shepherd to James Madison  
Orange, 22 December**

For this letter, see Orange County Election (II below).

**George Gilmer to Thomas Jefferson  
Pen Park, 23 December (excerpt)<sup>1</sup>**

. . . The Politics vibrating at present you'll hear from such able hands that I may as well be silent, though never an enthusiast in religion, Politics some times animate me, the new constitution is maltreated by its adversaries, & though perhaps as perfect as to be expected, when erected by thirteen people, & condensed into one aggregate form. It is shaken to the foundation by Henry, who appears to wish more federal plans than one, my political optics discover by such a plan there will be formed a pabulum for eternal contention. . . .

1. RC, MHi. Printed: Boyd, XII, 452–54. Gilmer (1743–1795), a physician and a good friend of Jefferson, was a graduate of the University of Edinburgh. He represented Albemarle in the last revolutionary convention in 1776 and in the House of Delegates,

1778–80, serving with Jefferson on one occasion and replacing him on another. “Pen Park” was his estate near Charlottesville.

**Rufus King to Jeremiah Wadsworth**  
**New York, 23 December (excerpt)<sup>1</sup>**

... The Nabobs of Virginia begin to be alarmed; although Colo. Mason declared at the first Meeting of their Assembly, which is still in Session, that he was in favor of a reference of the Constitution to a Convention, and against any Act of the Legislature, which would in any manner indicate the Opinion of the Members on the Constitution, yet he is now united with Patrick Henry in an attempt to prejudice the system, by suggesting to the proposed Convention a mode of Effecting Amendments<sup>2</sup>—I understand that the Speaker of their Senate & the Speaker of the Representatives are to be authorised to open a Correspondence with the several *States* on the Subject of the Constitution;<sup>3</sup> to propose to *them* that their Conventions shd. Suggest amendments, and that a second Convention shd. be assembled at Philadelphia for the purpose of reconsidering the System[,] examining the proposed amendments, and reporting a revised Plan to be submitted for ratification to State Conventions—This was the Plan of Governor Randolph in the federal Convention, but the idea met with an almost unanimous Disapp[r]obation in that Assembly; and to me I confess it appears to proceed in the present Instance from no good motive—Henry is decidedly against a confederacy between the *thirteen* States; he fears the accomplishment of that measure, and will make great Exertions to prevent it—I hope in vain. . . .

1. RC, Wadsworth Papers, Wadsworth Atheneum, Hartford, Conn. Printed: CC:368. King (1755–1827), a Newburyport lawyer, represented Massachusetts in the Constitutional Convention and signed the Constitution on 17 September. He served in Congress from 20 September to 16 October. He left New York City shortly after the birth of his son in early January to attend the Massachusetts Convention, where he was one of the Federalist leaders. Wadsworth (1743–1804), a merchant, represented Hartford in the Connecticut House of Representatives in 1787 and was a delegate to Congress in 1788. He voted to ratify the Constitution in the Connecticut Convention in January.

King probably obtained much of the information in this letter from James Madison, who was in New York City as a delegate to Congress. See notes 2 and 3 (below).

2. See George Washington to Madison, 7 December (above).

3. See George Lee Turberville to Madison, 11 December (above).

**Pennsylvania Packet, 25 December<sup>1</sup>**

A correspondent informs us, that a gentleman who has just returned from a tour through the states of Maryland and Virginia says, that he was repeatedly assured, that there would not be a dissenting voice in

the convention of Maryland against the new constitution; and that at least *nineteen-twentieths* of the yeomanry of Virginia are on the side of General Washington, the *Man of the People*, in favour of the new government. He adds further, that the Nabobs, or great men (falsely so called) of Virginia are its only enemies.

1. This item was reprinted in the *Richmond Virginia Gazette and Weekly Advertiser* on 3 January and in twenty other newspapers by 11 February: Vt. (1), N.H. (1), Mass. (5), Conn. (3), N.Y. (4), N.J. (1), Pa. (5). The *Portland Cumberland Gazette*, 17 January, omitted the last sentence. The phrase respecting the yeomanry of Virginia was reprinted in the *Salem Mercury*, 15 January, and *New Hampshire Spy*, 18 January.

“C.D.”

**Virginia Independent Chronicle, 26 December**

MR. PRINTER, *By inserting the following, you will oblige one of your Readers.* C.D.

The articles of confederation shall be inviolably observed by every state, and the union shall be perpetual; nor shall any alteration at any time hereafter be made in any of them, unless such alteration be agreed to in a Congress of the United States, and be afterwards confirmed by the Legislatures of every State.<sup>1</sup>

The Act of Assembly authorising the meeting in Philadelphia, authorises them to propose alterations, which, if agreed to by a Congress of the United States, and duly ratified by the several States in the union, shall be adopted.<sup>2</sup>

The new Constitution proposes a Government not ratified by the Legislature, but only to be ratified by nine States. This new Government must therefore be established contrary to the present laws of the union.

If it shall be adopted, what security can we have for amending it at any future day? for the clause therein proposing a method of altering the new system, may also be set aside and some other method proposed.

The conclusion I draw then is, that although the people be called to ratify the new plan, the present laws of the union forbid any alteration, without consent of the Legislatures. And the law under which the Philadelphia Deputies were appointed, requires a ratification by all the States; therefore under that law no act of nine States can dissolve the union.

Richmond, Dec. 19, 1787.

1. Quoted from Article XIII of the Articles of Confederation (CDR, 93).

2. For the act passed by the Virginia legislature on 23 November 1786, see Appendix III (below).



### The Publication of Edmund Randolph's Reasons for Not Signing the Constitution, Richmond, 27 December

On 29 May 1787 Edmund Randolph presented the Virginia Resolutions calling for a strong central government to the Constitutional Convention. Although Randolph supported such a government throughout the Convention, he became concerned when the draft Constitution of the Committee of Detail (6 August) did not adequately protect the interests of Virginia or provide sufficient safeguards for the rights and liberties of the people. On 31 August Randolph suggested that the state ratifying conventions be allowed to recommend amendments to a second constitutional convention. On 10 September he presented detailed objections, and he moved for amendments and a second convention. His motion was postponed. On 15 September—three days after the Committee of Style reported the final draft Constitution—Randolph reintroduced his motion and said that, if it was not adopted, he would not sign the Constitution. The motion was defeated unanimously, and on the 17th he refused to sign. His refusal, however, did not mean that he would oppose the Constitution outside the Convention. Randolph wanted “to keep himself free to be governed by his duty as it should be prescribed by his future judgment.” On the same day he wrote Richard Henry Lee that if the Constitution were not amended, it would end in a monarchy or an aristocracy (CDR, 243–45; Farrand, II, 479, 560–61, 563–64, 564, 631–33, 634, 644–45; CC:75; and Lee to Randolph, 16 October, above).

Randolph sent a copy of the Constitution to Lieutenant Governor Beverley Randolph on 18 September, stating that the failure of George Mason and himself to sign the Constitution would “be better explained at large, and on a personal interview, than by letter” (above). In letters to Mason and James Madison, Randolph recommended the steps that Virginia should take concerning the ratification of the Constitution. The question of amendments was at the center of his plan (to Madison, 30 September, above).

When the legislature convened on 15 October, Governor Randolph sent it a copy of the Constitution without comment. Randolph was re-elected governor on 23 October. Two days later the House adopted resolutions calling a state convention and on the 31st the Senate concurred. Randolph wrote Madison that he had not explained his failure to sign the Constitution to the legislature because he wanted to wait “until Every thing is determined, which may relate to the Constitution. I have prepared a letter, and shall send you a copy in a few days” (c. 29 October, above).

Randolph's silence prompted much speculation. Some observers heard that Randolph wished he had signed the Constitution, while others were convinced that he still opposed it. Most thought that, if he was indeed opposed, ratification would be more difficult. By early December Randolph had apparently become less critical of the Constitution because on 2 December four House delegates—Meriwether Smith, Charles M. Thruston, John H. Briggs, and Mann Page, Jr.—wrote him that they had heard his reasons for opposing the Constitution no longer existed. They asked him for permission to publish his objections (above). On 10 December Randolph granted them such permission (above). Seventeen days later Randolph sent Madison and Washington (below) each a sixteen-page pam-

phlet consisting of (1) an undated, prefatory statement by the four House delegates who had requested his permission to publish his objections; (2) their request of 2 December; (3) Randolph's reply of 10 December; and (4) Randolph's objections contained in a letter dated 10 October addressed to the Speaker of the House of Delegates (Evans 20669).

No copy of the title page of the pamphlet has been found and the identity of the printer is unknown. John Dixon of the Richmond *Virginia Gazette and Independent Chronicle* and Augustine Davis of the *Virginia Independent Chronicle* are good candidates. Dixon is the more likely choice because the formatting of Randolph's pamphlet bears some resemblance to a pamphlet that Dixon had recently published. (See "Richmond Pamphlet Anthologies," c. 15 December, above.) Davis reprinted most of Randolph's pamphlet in his newspaper on 2 January. The lines of the newspaper text are set differently from those of the pamphlet and the prefatory statement by the four House delegates is not included. Had he printed the pamphlet, Davis, like most printers, would probably have used the same plates to save time and expense. The pamphlet was reprinted in two other Virginia newspapers—the Richmond *Virginia Gazette and Weekly Advertiser* and the Petersburg *Virginia Gazette*, appearing in both in two installments on 3 and 10 January. These newspapers are the only ones known to have reprinted the entire pamphlet. The Petersburg newspaper reprinted it under the heading "National Government."

Both the pamphlet and newspaper versions of Randolph's letter to the Speaker circulated throughout Virginia. Outside Virginia, Randolph's letter was reprinted in the January issue of the Philadelphia *American Museum* and in sixteen newspapers by 31 March: Mass. (3), R.I. (2), Conn. (2), N.Y. (5), Pa. (3), Md. (1). The *Museum* and five of these newspapers also republished the 2 and 10 December letters. On 10 January the *Pennsylvania Mercury* printed a summary of Randolph's letter to the Speaker, and on the 12th this summary appeared in *Pennsylvania Journal*. Lastly, Randolph's letter was reprinted in a New York Antifederalist pamphlet anthology that was published in April (Evans 21344. See also note 12, below.).

Virginia Federalists praised Randolph's letter to the Speaker primarily because they believed it would promote the ratification of the Constitution. Some were especially pleased that Randolph had emphasized the necessity of Union and a strong central government. On the other hand, Antifederalists accused Randolph of trying to be all things to all men. Moreover, he had not made his objections to the legislature back in October because of a fear that he might not be reelected governor. (For Randolph's reaction to this swirl of public opinion, see his letter of 29 February to James Madison, below, and for the impact of Randolph's letter to the Speaker outside of Virginia, see CC:385.)

#### TO THE PRINTER.

*SIR, The inclosed letter contains the reasons of his Excellency Governor Randolph for refusing his signature to the proposed Fæderal Constitution of Government submitted to the several states by the late Convention at Philadelphia. The manner in which we have obtained it, and the authority by which we convey it to the Public, through the channel of your Press, will be*

*explained by the letter herewith sent to you, which, we request may precede his Excellency's letter to the Speaker of the House of Delegates in your publication of them.*

M. SMITH,

JOHN H. BRIGGS.

CHARLES M. THRUSTON.

MANN PAGE, jun.

[At this point, the printer included the letter of M. Smith et al. to Governor Edmund Randolph, dated 2 December, and Randolph's reply, dated 10 December. Both letters are printed above.]

A LETTER OF HIS EXCELLENCY EDMUND RANDOLPH, ESQUIRE,  
ON THE FEDERAL CONSTITUTION.

SIR,

RICHMOND, OCTOBER 10, 1787

The Constitution, which I inclosed to the General Assembly in a late official letter, appears without my signature. This circumstance, although trivial in its own nature, has been rendered rather important to myself at least, by being misunderstood by some, and misrepresented by others—As I disdain to conceal the reasons for with-holding my subscription, I have always been, still am, and ever shall be, ready to proclaim them to the world. To the legislature therefore, by whom I was deputed to the Fœderal Convention, I beg leave now to address them; affecting no indifference to public opinion, but resolved not to court it by an unmanly sacrifice of my own judgment.

As this explanation will involve a summary, but general review of our fœderal situation, you will pardon me, I trust, although I should transgress the usual bounds of a letter.

Before my departure for the Convention, I believed, that the confederation was not so eminently defective, as it had been supposed.<sup>1</sup> But after I had entered into a free communication with those, who were best informed of the condition and interest of each state; after I had compared the intelligence derived from them, with the properties which ought to characterize the government of our union, I became persuaded, that the confederation was destitute of every energy, which a constitution of the United States ought to possess.

For the objects proposed by its institution were, that it should be a shield against foreign hostility, and a firm resort against domestic commotion: that it should cherish trade, and promote the prosperity of the states under its care.

But these are not among the attributes of our present union. Severe experience under the pressure of war—a ruinous weakness, manifested since the return of peace—and the contemplation of those dangers, which darken the future prospect, have condemned the hope of grandeur and of safety under the auspices of the confederation.

In the exigencies of war indeed the history of its effects is short;

the final ratification having been delayed until the beginning of the year 1781. But howsoever short, this period is distinguished by melancholy testimonies, of its inability to maintain in harmony the social intercourse of the states, to defend Congress against incroachments on their rights, and to obtain by requisitions supplies to the foederal treasury or recruits to the foederal armies. I shall not attempt an enumeration of the particular instances; but leave to your own remembrance and the records of Congress, the support of these assertions.

In the season of peace too not many years have elapsed; and yet each of them has produced fatal examples of delinquency, and sometimes of pointed opposition to foederal duties. To the various remonstrances of Congress I appeal for a gloomy, but unexaggerated narrative of the injuries, which our faith, honor and happiness have sustained by the failures of the states.

But these evils are past; and some may be lead by an honest zeal to conclude, that they cannot be repeated. Yes, sir; they will be repeated as long as the confederation exists, and will bring with them other mischiefs, springing from the same source, which cannot be yet foreseen in their full array of terror.

If we examine the constitutions, and laws of the several states, it is immediately discovered, that the law of nations is unprovided with sanctions in many cases, which deeply affect public dignity and public justice. The letter, however of the confederation does not permit Congress to remedy these defects, and such an authority, although evidently deducible from its spirit, cannot, without a violation of the second article,<sup>2</sup> be assumed. Is it not a political phaenomenon, that the head of the confederacy should be doomed to be plunged into war, from its wretched impotency to check offences against this law? And sentenced to witness in unavailing anguish the infraction of their engagements to foreign sovereigns?

And yet this is not the only grievous point of weakness. After a war shall be inevitable, the requisitions of Congress for quotas of men or money, will again prove unproductive and fallacious. Two causes will always conspire to this baneful consequence.

1. No government can be stable, which hangs on human inclination alone, unbiassed by the fear of coercion; and 2. from the very connection between states bound to proportionate contributions,—jealousies and suspicions naturally arise, which at least chill the ardor, if they do not excite the murmurs of the whole. I do not forget indeed, that by one sudden impulse our part of the American continent has been thrown into a military posture, and that in the earlier annals of the war, our armies marched to the field on the mere recommendations

of Congress. But ought we to argue from a contest, thus signaled by the magnitude of its stake, that as often as a flame shall be hereafter kindled, the same enthusiasm will fill our legions? or renew them, as they may be thinned by losses?

If not, where shall we find protection? Impressions, like those, which prevent a compliance with requisitions of regular forces, will deprive the American republic of the services of militia. But let us suppose, that they are attainable, and acknowledge, as I always shall, that they are the natural support of a free government. When it is remembered, that in their absence agriculture must languish; that they are not habituated to military exposures and the rigor of military discipline, and that the necessity of holding in readiness successive detachments, carries the expence far beyond that of inlistments—this resource ought to be adopted with caution.

As strongly too am I persuaded, that requisitions for money will not be more cordially received. For besides the distrust, which would prevail with respect to them also; besides the opinion, entertained by each state of its own liberality and unsatisfied demands against the United States, there is another consideration, not less worthy of attention. The first rule for determining each quota was the value of all land granted or surveyed, and of the buildings and improvements thereon.<sup>3</sup> It is no longer doubted, that an equitable, uniform mode of estimating that value, is impracticable; and therefore twelve states have substituted the number of inhabitants under certain limitations, as the standard according to which money is to be furnished.<sup>4</sup> But under the subsisting articles of the union, the assent of the thirteenth state is necessary, and has not yet been given. This does of itself lessen the hope of procuring a revenue for foederal uses; and the miscarriage of the impost almost rivets our despondency.<sup>5</sup>

Amidst these disappointments, it would afford some consolation, if when rebellion shall threaten any state, an ultimate asylum could be found under the wing of Congress. But it is at least equivocal, whether they can intrude forces into a state, rent asunder by civil discord, even with the purest solicitude for our foederal welfare, and on the most urgent intreaties of the state itself. Nay the very allowance of this power would be pageantry alone, from the want of money and of men.

To these defects of Congressional power, the history of man has subjoined others, not less alarming. I earnestly pray, that the recollection of common sufferings, which terminated in common glory, may check the sallies of violence, and perpetuate mutual friendship between the states. But I cannot presume, that we are superior to those unsocial passions, which under like circumstances have infested more ancient

nations. I cannot presume, that through all time, in the daily mixture of American citizens with each other, in the conflicts for commercial advantages, in the discontents, which the neighborhood of territory has been seen to engender in other quarters of the globe, and in the efforts of faction and intrigue—thirteen distinct communities under no effective superintending controul (as the United States confessedly now are notwithstanding the bold terms of the confederation) will avoid a hatred to each other deep and deadly.

In the prosecution of this inquiry we shall find the general prosperity to decline under a system thus unnerved. No sooner is the merchant prepared for foreign ports with the treasures, which this new world kindly offers to his acceptance, than it is announced to him, that they are shut against American shipping, or opened under oppressive regulations. He urges Congress to a counter-policy, and is answered only by a condolence on the general misfortune. He is immediately struck with the conviction, that until exclusion shall be opposed to exclusion and restriction to restriction, the American flag will be disgraced. For who can conceive, that thirteen legislatures, viewing commerce under different relations, and fancying themselves, discharged from every obligation to concede the smallest of their commercial advantages for the benefit of the whole, will be wrought into a concert of action in defiance of every prejudice? Nor is this all:—Let the great improvements be recounted, which have enriched and illustrated Europe: Let it be noted, how few those are, which will be absolutely denied to the United States, comprehending within their boundaries the choicest blessings of climate, soil and navigable waters; then let the most sanguine patriot banish, if he can, the mortifying belief, that all these must sleep, until they shall be roused by the vigour of a national government.

I have not exemplified the preceding remarks by minute details; because they are evidently fortified by truth, and the consciousness of United America. I shall therefore no longer deplore the unfitness of the confederation to secure our peace; but proceed, with a truly unaffected distrust of my own opinions, to examine what order of powers the government of the United States ought to enjoy? how they ought to be defended against incroachment? whether they can be interwoven in the confederation without an alteration of its very essence? or must be lodged in new hands? shewing at the same time the convulsions, which seem to await us from a dissolution of the union or partial confederacies.

To mark the kind and degree of authority, which ought to be confided to the government of the United States is no more than to reverse

the description, which I have already given, of the defects of the confederation.

From thence it will follow, that the operations of peace and war will be clogged without regular advances of money, and that these will be slow indeed, if dependent on supplication alone. For what better name do requisitions deserve, which may be evaded or opposed, without the fear of coercion? But although coercion is an indispensable ingredient, it ought not to be directed against a state, as a state; it being impossible to attempt it except by blockading the trade of the delinquent, or carrying war into its bowels. Even if these violent schemes were eligible, in other respects both of them might perhaps be defeated by the scantiness of the public chest; would be tardy in their complete effect, as the expence of the land and naval equipments must be first reimbursed; and might drive the proscribed state into the desperate resolve of inviting foreign alliances. Against each of them lie separate unconquerable objections. A blockade is not equally applicable to all the states, they being differently circumstanced in commerce and in ports; nay an excommunication from the privileges of the union would be vain, because every regulation or prohibition may be easily eluded under the rights of American citizenship, or of foreign nations. But how shall we speak of the intrusion of troops? shall we arm citizens against citizens, and habituate them to shed kindred blood? shall we risque the inflicting of wounds, which will generate a rancour never to be subdued? would there be no room to fear, that an army accustomed to fight, for the establishment of authority, would salute an emperor of their own? Let us not bring these things into jeopardy. Let us rather substitute the same process, by which individuals are compelled to contribute to the government of their own states. Instead of making requisitions to the legislatures, it would appear more proper, that taxes should be imposed by the fœderal head, under due modifications and guards: that the collectors should demand from the citizens their respective quotas, and be supported as in the collection of ordinary taxes.

It follows too, that, as the general government will be responsible to foreign nations, it ought to be able to annul any offensive measure, or inforce any public right. Perhaps among the topics on which they may be aggrieved or complain, the commercial intercourse, and the manner, in which contracts are discharged, may constitute the principal articles of clamour.

It follows too, that the general government ought to be the supreme arbiter for adjusting every contention among the states. In all their connections therefore with each other, and particularly in commerce,

which will probably create the greatest discord, it ought to hold the reins.

It follows too, that the general government ought to protect each state against domestic as well as external violence.

And lastly it follows, that through the general government alone can we ever assume the rank, to which we are entitled by our resources and situation.

Should the people of America surrender these powers, they can be paramount to the constitutions, and ordinary acts of legislation, only by being delegated by them. I do not pretend to affirm, but I venture to believe, that if the confederation had been solemnly questioned in opposition to our constitution or even to one of our laws, posterior to it, it must have given way. For never did it obtain with us a higher ratification, than a resolution of Assembly in the daily form.<sup>6</sup>

This will be one security against incroachment. But another not less effectual is, to exclude the individual states from any agency in the national government, as far as it may be safe, and their interposition may not be absolutely necessary.

But now, sir, permit me to declare, that in my humble judgment the powers by which alone the blessings of a general government can be accomplished, cannot be interwoven in the confederation without a change of its very essence; or in other words, that the confederation must be thrown aside. This is almost demonstrable from the inefficacy of requisitions and from the necessity of converting them into acts of authority. My suffrage, as a citizen, is also for additional powers. But to whom shall we commit these acts of authority, these additional powers? To Congress?—When I formerly lamented the defects in the jurisdiction of Congress, I had no view to indicate any other opinion, than that the fœderal head ought not to be so circumscribed. For free as I am at all times to profess my reverence for that body, and the individuals, who compose it, I am yet equally free to make known my aversion to repose such a trust in a tribunal so constituted. My objections are not the visions of theory, but the result of my own observation in America, and of the experience of others abroad. 1. The legislative and executive are concentrated in the same persons. This, where real power exists, must eventuate in tyranny. 2. The representation of the states bears no proportion to their importance. This is an unreasonable subjection of the will of the majority to that of the minority. 3. The mode of election and the liability to be recalled may too often render the delegates rather partizans of their own states, than representatives of the union. 4. Cabal and intrigue must consequently gain an ascendancy in a course of years. 5. A single house of



legislation will some times be precipitate, perhaps passionate. 6. As long as seven states are required for the smallest, and nine for the greatest votes, may not foreign influence at some future day insinuate itself, so as to interrupt every active exertion? 7. To crown the whole, it is scarcely within the verge of possibility, that so numerous an assembly should acquire that secrecy, dispatch, and vigour, which are the test of excellence in the executive department.

My inference from these facts and principles is, that the new powers must be deposited in a new body, growing out of a consolidation of the union, as far as the circumstances of the states will allow. Perhaps, however, some may meditate its dissolution, and others partial confederacies.

The first is an idea awful indeed and irreconcilable with a very early, and hitherto uniform conviction, that without union we must be undone. For before the voice of war was heard, the pulse of the then colonies was tried and found to beat in unison. The unremitted labour of our enemies was to divide, and the policy of every Congress to bind us together. But in no example was this truth more clearly displayed, than in the prudence, with which independence was unfolded to the sight, and in the forbearance to declare it, until America almost unanimously called for it. After we had thus launched into troubles, never before explored, and in the hour of heavy distress, the remembrance of our social strength not only forbade despair, but drew from Congress the most illustrious repetition of their settled purpose to despise all terms, short of independence.

Behold then, how successful and glorious we have been, while we acted in fraternal concord. But let us discard the illusion, that by this success and this glory the crest of danger has irrecoverably fallen. Our governments are yet too youthful to have acquired stability from habit. Our very quiet depends upon the duration of the union. Among the upright and intelligent, few can read without emotion the future fate of the states, if severed from each other. Then shall we learn the full weight of foreign intrigue—Then shall we hear of partitions of our country. If a prince, inflamed by the lust of conquest, should use one state, as the instrument of enslaving others—if every state is to be wearied by perpetual alarms, and compelled to maintain large military establishments—if all questions are to be decided by an appeal to arms, where a difference of opinion cannot be removed by negotiation—in a word, if all the direful misfortunes, which haunt the peace of rival nations, are to triumph over the land—for what have we contended? Why have we exhausted our wealth? Why have we basely betrayed the heroic martyrs of the federal cause?

But dreadful as the total dissolution of the union is to my mind, I entertain no less horror at the thought of partial confederacies. I have not the least ground for supposing, that an overture of this kind would be listened to by a single state; and the presumption is, that the politics of the greater part of the states flow from the warmest attachment to an union of the whole. If however a lesser confederacy could be obtained, by Virginia, let me conjure my countrymen well to weigh the probable consequences, before they attempt to form it.

On such an event, the strength of the union would be divided into two or perhaps three parts. Has it so increased since the war as to be divisible?—and yet remain sufficient for our happiness?

The utmost limit of any partial confederacy, which Virginia could expect to form, would comprehend only the three southern states, and her nearest northern neighbour. But they, like ourselves, are diminished in their real force, by the mixture of an unhappy species of population.

Again may I ask, whether the opulence of the United States has been augmented since the war? This is answered in the negative by a load of debt, and the declension of trade.

At all times must a southern confederacy support ships of war, and soldiery. As soon would a navy move from the forest, and an army spring from the earth, as such a confederacy, indebted, impoverished in its commerce, and destitute of men, could, for some years at least provide an ample defence for itself.

Let it not be forgotten, that nations, which can enforce their rights, have large claims against the United States, and that the creditor may insist on payment from any one of them. Which of them would probably be the victim? The most productive and the most exposed. When vexed by reprisals or war, the southern states will sue for alliances on this continent or beyond sea. If for the former, the necessity of an union of the whole is decided. If for the latter, America will, I fear, re-act the scenes of confusion and bloodshed, exhibited among most of those nations, which have, too late, repented the folly of relying on auxiliaries.

Two or more confederacies cannot but be competitors for power. The ancient friendship between the citizens of America, being thus cut off, bitterness and hostility will succeed in its place. In order to prepare against surrounding danger, we shall be compelled to vest somewhere or other power approaching near to a military government.

The annals of the world have abounded so much with instances of a divided people, being a prey to foreign influence, that I shall not restrain my apprehensions of it, should our union be torn asunder.

The opportunity of insinuating it will be multiplied in proportion to the parts, into which we may be broken.

In short, sir, I am fatigued with summoning up to my imagination the miseries, which will harrass the United States, if torn from each other, and which will not end, until they are superseded by fresh mischiefs under the yoke of a tyrant.

I come therefore to the last and perhaps only refuge in our difficulties, a consolidation of the union, as far as circumstances will permit. To fulfil this desirable object, the constitution was framed by the Fœderal Convention. A quorum of eleven states, and the only member from a twelfth have subscribed it;<sup>7</sup> Mr. MASON of Virginia, Mr. GERRY of Massachusetts and myself having refused to subscribe.

Why I refused, would, I hope, be solved to the satisfaction of those, who know me, by saying that a sense of duty commanded me thus to act. It commanded me, sir, For believe me, that no event of my life ever occupied more of my reflection. To subscribe seemed to offer no inconsiderable gratification; since it would have presented me to the world, as a fellow-labourer with the learned and zealous statesmen of America. But it was far more interesting to my feelings, that I was about to differ from three of my colleagues; one of whom is, to the honor of the country, which he has saved, imbosomed in their affections, and can receive no praise from the highest lustre of language; the other two of whom have been long inrolled among the wisest and best lovers of the commonwealth; and the unshaken and intimate friendship of all of whom I have ever prized, and still do prize, as among the happiest of all my acquisitions. I was no stranger to the reigning partiality for the members, who composed the convention; and had not the smallest doubt, that from this cause, and from the ardor for a reform of government, the first applauses at least would be loud, and profuse. I suspected too, that there was something in the human breast, which for a time would be apt to construe a temperateness in politicks into an enmity to the union. Nay I plainly fore-saw, that in the dissensions of parties, a middle line would probably be interpreted into a want of enterprize and decision. But these considerations, how seducing soever, were feeble opponents to the suggestions of my conscience. I was sent to exercise my judgment, and to exercise it was my fixed determination; being instructed by even an imperfect acquaintance with mankind, that self approbation is the only true reward, which a political career can bestow, and that popularity would have been but another name for perfidy, if to secure it, I had given up the freedom of thinking for myself.

It would have been a peculiar pleasure to me, to have ascertained,

before I left Virginia, the temper and genius of my fellow-citizens, considered relatively to a government, so substantially differing from the confederation, as that, which is now submitted. But this was for many obvious reasons impossible: and I was thereby deprived of what I thought the necessary guides.

I saw however that the confederation was tottering from its own weakness, and that the sitting of the convention was a signal of its total insufficiency. I was therefore ready to assent to a scheme of government, which was proposed, and which went beyond the limits of the confederation, believing, that without being too extensive it would have preserved our tranquility, until that temper and that genius should be collected.

But when the plan which is now before the General Assembly, was on its passage through the convention, I moved, that the state-conventions should be at liberty to amend, and that a second general Convention should be holden to discuss the amendments, which should be suggested by them. This motion was in some measure justified by the manner, in which the confederation was forwarded originally, by Congress to the state-legislatures, in many of which amendments were proposed, and those amendments were afterwards examined in Congress.<sup>8</sup> Such a motion was doubly expedient here, as the delegation of so much more power was sought for. But it was negatived. I then expressed my unwillingness to sign. My reasons<sup>9</sup> were the following.

1. It is said in the resolutions, which accompany the constitution,<sup>10</sup> that it is to be submitted to a convention of Delegates, chosen in each state by the people thereof, for their assent and ratification. The meaning of these terms is allowed universally to be, that the Convention must either adopt the constitution in the whole, or reject it in the whole, and is positively forbidden to amend. If therefore I had signed, I should have felt myself bound to be silent as to amendments, and to endeavor to support the constitution without the correction of a letter. With this consequence before my eyes and with a determination to attempt an amendment, I was taught by a regard for consistency not to sign.

2. My opinion always was, and still is, that every citizen of America, let the crisis be what it may, ought to have a full opportunity to propose through his representatives any amendment, which in his apprehension tends to the public welfare—By signing I should have contradicted this sentiment.

3. A constitution ought to have the hearts of the people on its side. But if at a future day it should be burthensome, after having been adopted in the whole, and they should insinuate, that it was in some

measure forced upon them, by being confined to the single alternative of taking or rejecting it altogether, under my impressions and with my opinions I should not be able to justify myself had I signed.

4. I was always satisfied, as I have now experienced, that this great subject, would be placed in new lights and attitudes by the criticism of the world, and that no man can assure himself, how a constitution will work for a course of years, until at least he shall have heard the observations of the people at large. I also fear more from inaccuracies in a constitution, than from gross errors in any other composition; because our dearest interests are to be regulated by it, and power, if loosely given, especially where it will be interpreted with great latitude, may bring sorrow in its execution. Had I signed with these ideas, I should have virtually shut my ears against the information, which I ardently desired.

5. I was afraid, that if the Constitution was to be submitted to the people, to be wholly adopted or wholly rejected by them, they would not only reject it, but bid a lasting farewell to the union. This formidable event I wished to avert, by keeping myself free to propose amendments, and thus, if possible, to remove the obstacles to an effectual government. But it will be asked, whether all these arguments were not well weighed in Convention. They were, sir, and with great candor. Nay, when I called to mind the respectability of those, with whom I was associated, I almost lost confidence in these principles. On other occasions I should cheerfully have yielded to a majority; on this the fate of thousands, yet unborn, enjoined me not to yield, until I was convinced—

Again may I be asked, why the mode pointed out in the Constitution for its amendment, may not be a sufficient security against its imperfections, without now arresting it in its progress?—My answers are, 1. that it is better to amend, while we have the Constitution in our power, while the passions of designing men are not yet enlisted and while a bare majority of the states may amend, than to wait for the uncertain assent of three fourths of the states. 2. That a bad feature in government becomes more and more fixed every day. 3. That frequent changes of a Constitution even if practicable ought not to be wished, but avoided as much as possible: and 4. That in the present case it may be questionable, whether, after the particular advantages of its operation shall be discerned, three fourths of the states can be induced to amend.

I confess, that it is no easy task, to devise a scheme which shall be suitable to the views of all. Many expedients have occurred to me, but none of them appear less exceptionable than this: that if our Convention should choose to amend, another federal Convention be rec-

ommended: that in that federal Convention the amendments proposed by this or any other state, be discussed; and if incorporated in the constitution or rejected, or if a proper number of the other states should be unwilling to accede to a second Convention, the constitution be again laid before the same state-conventions, which shall again assemble on the summons of the Executives, and it shall be either wholly adopted, or wholly rejected, without a further power of amendment. I count such a delay, as nothing in comparison with so grand an object; especially too as the privilege of amending must terminate after the use of it once.

I should now conclude this letter, which is already too long, were it not incumbent on me from having contended for amendments, to set forth the particulars, which I conceive to require correction. I undertake this with reluctance; because it is remote from my intentions to catch the prejudices or prepossessions of any man. But as I mean only to manifest, that I have not been actuated by caprice, and now to explain every objection at full length would be an immense labour, I shall content myself with enumerating certain heads, in which the constitution is most repugnant to my wishes.

The two first points are the equality of suffrage in the Senate, and the submission of commerce to a mere majority in the legislature,<sup>11</sup> with no other check than the revision of the President. I conjecture that neither of these things can be corrected; and particularly the former; without which we must have risen perhaps in disorder.

But I am sanguine in hoping, that in every other, justly obnoxious clause, Virginia, will be seconded by a majority of the states. I hope, that she will be seconded 1. in causing all ambiguities of expression to be precisely explained: 2. in rendering the President ineligible after a given number of years: 3. in taking from him either the power of nominating to the judiciary offices, or of filling up vacancies which therein may happen during the recess of the senate, by granting commissions which shall expire at the end of their next session: 4. in taking from him the power of pardoning for treason, at least before conviction: 5. in drawing a line between the powers of Congress and individual states; and in defining the former; so as to leave no clashing of jurisdictions nor dangerous disputes: and to prevent the one from being swallowed up by the other, under the cover of general words, and implication: 6. in abridging the power of the Senate to make treaties the supreme laws of the land: 7. in providing a tribunal instead of the Senate for the impeachment of Senators: 8. in incapacitating the Congress to determine their own salaries: and 9. in limiting and defining the judicial power.

The proper remedy must be consigned to the wisdom of the convention: and the final step, which Virginia shall pursue, if her overtures shall be discarded, must also rest with them.

But as I affect neither mystery nor subtilty, in politics, I hesitate not to say, that the most fervent prayer of my soul is the establishment of a firm, energetic government; that the most inveterate curse, which can befall us, is a dissolution of the union; and that the present moment, if suffered to pass away unemployed, can never be recalled. These were my opinions, while I acted as a Delegate; they sway me, while I speak as a private citizen. I shall therefore cling to the union, as the rock of our salvation, and urge Virginia to finish the salutary work, which she has begun. And if after our best efforts for amendments they cannot be obtained, I scruple not to declare, (notwithstanding the advantage, which such a declaration may give to the enemies of my proposal,) that I will, as an individual citizen, accept the constitution; because I would regulate myself by the spirit of America.<sup>12</sup>

You will excuse me, sir, for having been thus tedious. My feelings and duty demanded this exposition: for through no other channel could I rescue my omission to sign from misrepresentation, and in no more effectual way could I exhibit to the General Assembly an unreserved history of my conduct.

I have the honor, Sir, to be, with great respect, your most obedient servant,

EDMUND RANDOLPH.

*The Honorable the Speaker  
of the House of Delegates.*

1. In March and April 1787 Randolph, intent on convincing George Washington to attend the Constitutional Convention, asserted that "every day brings forth some new crisis" and that the Convention is "the last anchor of our hope" (11 March and 2 April, Washington Papers, DLC). When he presented the Virginia Resolutions to the Convention on 29 May, Randolph charged that the defects of the Articles of Confederation made them "totally inadequate to the peace, safety and security of the confederation. . . ." "A more energetic government" was an "absolute necessity." The Articles of Confederation had "fulfilled *none* of the objects for which it was framed." The aim of the Virginia Resolutions, he argued, was to create "a strong *consolidated* union, in which the idea of states should be nearly annihilated" (Farrand, I, 23-24).

2. For Article II of the Articles of Confederation, see Thomas Jefferson to James Madison, 20 December, note 4 (above).

3. See Article VIII of the Articles of Confederation (CDR, 89).

4. In April 1783 Congress proposed this amendment to the Articles of Confederation (CDR, 148-50), and by 1787 eleven (not twelve) states had ratified it. New Hampshire and Rhode Island failed to ratify.

5. For the Impost of 1783, see CDR, 146-48.

6. For the 15-16 December 1777 resolutions of the Virginia legislature ratifying the Articles of Confederation, see CDR, 120. Both resolutions were adopted without opposition.

7. Rhode Island was not represented in the Convention and only Alexander Hamilton signed for New York.

8. For the amendments proposed to the Articles of Confederation, see CDR, 96–135.

9. For Randolph's reasons for refusing to sign the Constitution, see "George Mason and Edmund Randolph in the Constitutional Convention," 12–15 September (above).

10. For the two resolutions, see CDR, 317–18.

11. On 29 August, during the debate over the regulation of commerce, Randolph had "said that there were features so odious in the Constitution as it now stands, that he doubted whether he should be able to agree to it." One of the "odious" features was Congress' ability to enact commercial regulations by a simple majority (Farrand, II, 452–53).

12. This paragraph was omitted in a New York Antifederalist pamphlet anthology in April 1788 (CC:666; and Evans 21344). "A Federalist" noted that the omission of "the most interesting paragraph in the whole letter" was a "great injustice" to a "liberal patriot" and a "most daring" affront to the public (Poughkeepsie *Country Journal*, 22 April).

### Edmund Randolph to James Madison

Richmond, 27 December (excerpt)<sup>1</sup>

My dear friend

Altho' many mails have passed since I wrote to you last, I am not without excuses of a satisfactory nature which are too long and unimportant to you to hear in detail. Having shaken off the impediments to writing, I shall be hereafter punctual.

My letter is now inclosed to you. What the general opinion is, I would not undertake to vouch because I stay much at home, and I find daily reason to distrust reports, which always receive a tincture from the wishes of the narrator. But I rather suspect, that the current sets violently against the new constitution. Nay I must be permitted to express a fear, lest true fœderalism should be pressed hard in the convention—General Wilkinson<sup>2</sup> from Kentucke, who is now here, is not to be appeased in his violence against the constitution; and it is presumed that thro his means the vote of Kentucky will have the same direction. He is rivatted by Colo. Harry Lee,<sup>3</sup> declaring to him, that the surrender of the Mississippi would probably be among the early acts of the new congress.—Mr. Meriwether Smith moved yesterday for a circular letter from our to the other legislatures, intimating the likelihood of amendment here. But his motion was changed into an instruction to the executive to forward the late act.<sup>4</sup> Mr Henry is implacable. Colo Mason seems to rise beyond his first ground. He will be elected, it is said, for Stafford, and Colo. Mercer, it is also said, will be sent for by the people of that county for a similar purpose.<sup>5</sup> I need not assure you, that it would give me no pleasure to see my conduct in refusing to sign, sanctified, if it was to produce a hazard



to the union; and if I know myself, I have no extreme ardor to acquire converts to my opinions. But I verily believe, that the only expedient which can save the fœderal government in any shape in Virginia, will be the adoption of some such plan, as mine. However the high-toned friends to the constitution are still very sanguine, that the whole will run thro with ease. . . .

1. RC, Madison Papers, DLC. Printed: Rutland, *Madison*, X, 346–47. Enclosed with his letter, Randolph sent Madison the pamphlet edition of his 10 October letter to the Speaker of the House of Delegates (immediately above). Madison replied to Randolph on 10 January (below). Randolph also sent the pamphlet to George Washington on 27 December.

2. James Wilkinson, a former brevet brigadier general in the Continental Army, moved permanently to Kentucky in 1784, and publicly supported Kentucky independence and the free navigation of the Mississippi River. In the summer of 1787 Wilkinson obtained, from the Spanish at New Orleans, the privilege of trading down the Mississippi River to that port. In turn, he took an oath of allegiance to the King of Spain and agreed to act as Spain's agent in joining Kentucky to Spain's other American colonies.

3. For Henry Lee's opposition to the free navigation of the Mississippi River, see Gardoqui to Conde de Floridablanca, 6 December, note 5 (above).

4. See House Proceedings, 26 December, in "The General Assembly Adopts an Act to Pay the State Convention Delegates," 30 November–27 December (above).

5. Mason, a resident of Fairfax County, was elected to the state Convention from Stafford County. Randolph refers to Colonel John Francis Mercer who had represented Stafford in the House of Delegates in 1782–83 and 1785–86, before he moved to Maryland in 1785, and represented that state in the Constitutional Convention. He also represented Anne Arundel County in the Maryland Convention, where he voted against ratification of the Constitution in April 1788. His half-brother James of Spotsylvania County was an opponent of the Constitution.

## George Washington on the Constitution

27 December 1787–20 February 1788

During the debate over the ratification of the Constitution, George Washington did not make a public statement about the Constitution, but his many private letters clearly demonstrate that he supported it. One such letter was written on 14 December to Charles Carter (1733–1796) of Ludlow, Stafford County, a planter who also owned a home in Fredericksburg, in neighboring Spotsylvania County. After discussing farming matters at considerable length, Washington concluded by briefly giving his opinion on the Constitution. (For the complete text of the letter, see Fitzpatrick, XXIX, 336–40.)

On 27 December the *Virginia Herald* printed Washington's opinion on the Constitution apparently under the heading of an "Extract of a letter of a late date from a member of the late Fœderal Convention, to his friend in this town." This issue of the *Herald*, the only Virginia newspaper that is known to have printed the extract, has not been located, but on 3 January the *Pennsylvania Mercury* published this heading and the extract under the dateline, "FREDERICKSBURG, December 27." Two days earlier, on 1 January, the *Maryland Journal* had reprinted the *Herald's* extract as a letter "from the illustrious President of the late Federal Convention."

On 12 January Washington wrote Carter that “I find that an extract of my letter to you, is running through all the news papers; and published in that of Baltimore with the addition of my name” (below). Washington did not object to having his “Sentiments” published, but had he known that they would be, he would have used “less exceptionable language.” On the 17th (letter not found) Carter told Washington that he had distributed copies of the letter, but had requested “that they should not go to the press” (Washington to James Madison, 5 February, below). Five days later, Washington replied that he was “satisfied” that Carter “had no agency in publishing the extract of my letter” (below). Although both Washington and Carter were upset by the publication, James Madison, who had tried earlier to get Washington to disseminate his opinion on the Constitution (see note 13 below), told Washington that, “on the whole,” the publication of the letter “may have been of service” (20 February, below).

By 27 March Washington’s letter was reprinted in the January issue of the Philadelphia *American Museum* and in forty-nine newspapers: Vt. (1), N.H. (3), Mass. (9), R.I (4), Conn. (7), N.Y. (8), N.J. (3), Pa. (10), Md. (1), S.C. (1), Ga. (2). All but two of these newspapers—the *Pennsylvania Mercury*, 3 January, and the Philadelphia *Independent Gazetteer*, 4 January—identified Washington as the letter writer. Like the *Mercury*, the *Gazetteer* had reprinted the letter from the *Virginia Herald* which had not identified Washington.

For an exchange that the letter precipitated, especially in Massachusetts, over the letter’s authenticity and the validity of its opinions, see CC:386 C–H.

*Maryland Journal, 1 January*<sup>1</sup>

*Extract of a Letter, of a late Date, from the illustrious President of the late Federal Convention, to his Friend in Fredericksburg, Virginia—extracted from Mr. Green’s Virginia Herald.*

“I thank you for your kind Congratulation on my safe Return from the Convention, and am pleased that the Proceedings of it have met your Approbation.<sup>2</sup>—My *decided* Opinion of the Matter is, that there is *no Alternative* between the *Adoption* of it and *Anarchy*. If one State (however important it may conceive itself to be) or a Minority of them, should suppose that they can dictate a Constitution to the Union<sup>3</sup> (unless they have the Power of applying the *ultima Ratio* to good Effect) they will find themselves deceived. All the Opposition to it that I have yet seen, is, I must confess, addressed more to the Passions than to the Reason; and *clear I am*, if another Federal Convention is attempted, that the Sentiments of the Members will be *more discordant* or *less accommodating*<sup>4</sup> than the last. In fine, that they will agree upon no general Plan. General Government is now *suspended by a Thread*, I might go further, and say it is *really at an End*, and what will be the Consequence of a fruitless Attempt to amend the one which is offered,

before it is tried, or of the Delay from the Attempt, does not in my Judgment need the *Gift of Prophecy to predict*.

"I am not a blind Admirer (for I saw the Imperfections) of the Constitution I aided in the Birth of, before it was handed to the Public; but I am fully persuaded it is the *best that can be obtained at this Time*, that it is free from many of the Imperfections with which it is charged,<sup>5</sup> and that *it or Disunion* is before us to choose from. If the first is our Election, when the Defects of it are experienced, a constitutional Door is opened for Amendments, and may be adopted in a peaceable Manner, without Tumult or Disorder."

*George Washington to Charles Carter*  
*Mount Vernon, 12 January*<sup>6</sup>

I find that an extract of my letter to you, is running through all the news papers; and published in that of Baltimore with the addition of my name.—

Altho' I have no dis-inclination to the promulgation of my Sentiments on the proposed Constitution (not having concealed them on any occasion) yet I must nevertheless confess, that it gives me pain to see the hasty, and indigested production of a private letter, handed to the public, to be animadverted upon by the adversaries of the new Government.—Could I have supposed that the contents of a private letter (marked with evident haste) would have composed a news paper paragraph, I certainly should have taken some pains to dress the Sentiments (to whom know[n] is indifferent to me) in less exceptionable language, and would have assigned some reasons in support of my opinion, and the charges against others.

I am persuaded your intentions were good, but I am not less persuaded, that you have provided food for strictures and criticisms.—be this however as it may, it shall pass of[f] unnoticed by me, as I have no inclination, and still less abilities for scribbling.—

*George Washington to Charles Carter*  
*Mount Vernon, 20 January (excerpt)*<sup>7</sup>

Your favor of the 21st. of last month, came to my hands last night *only*.—where it has been resting, or through whose hands it has passed, I know not.—I wish it had reached me in time for the prevention of the hasty and indigested sentiments of my former letter, going to the press.—not, as I observed in my last, because I had the least repugnance to the communication of them in a proper dress accompanied

with reasons for there support if any person whatever was desirous of knowing them. . . .

*George Washington to Charles Carter*  
*Mount Vernon, 22 January*<sup>8</sup>

I return the letters which you were so obliging as to forward to me under cover of the 17th.—I am satisfied you had no agency in publishing the extract of my letter to you which is now to be traced through all the news Papers, and am sorry that I signified any concern on this occasion, as it has given you so much trouble.—

*George Washington to Benjamin Lincoln*  
*Mount Vernon, 31 January (excerpt)*<sup>9</sup>

. . . What will be the fate of the Constitution in this State is impossible to tell at a period so far distant from the meeting of the Convention; my private opinion of the matter however is, that it will certainly be adopted; There is no question however but the decision of other States will have great influence here; particularly of one so respectable as Massachusetts.—

You have undoubtedly seen my sentiments upon the Constitution in an extract of a letter written by me to a Gentleman in Fredericksburgh, which I find has circulated pretty generally through the Papers.<sup>10</sup>—I had not the most distant idea of its ever appearing before the public, for altho' I have not the least wish or desire to conceal my sentiments upon the subject from any person living, yet, as the letter containing the paragraph alluded to was written upon several other matters quite foreign to this, & intended only for that Gentleman's own inspection, I did not attend to the manner of expressing my ideas, or dress them in the language I should have done, if I had had the smallest suspicion of their ever coming to the public eye—through that Channel.—

I feel myself much obliged by your promise to inform me of whatever transpires in your Convention worthy of attention, and assure you that it will be gratefully received. . . .

*George Washington to James Madison*  
*Mount Vernon, 5 February (excerpt)*<sup>11</sup>

. . . It is scarcely possible to form any decided opinion of the *general* sentiment of the people of this State, on this important subject.—Many have asked me with anxious sollicitude, if you did not mean to get

into the Convention; conceiving it of indispensable necessity.—Colo. Mason, who returned home only yesterday, has offered himself, I am told, for the County of Stafford; and his friends add, he can be elected not only there, but for Prince William & Fauquier also.<sup>12</sup>—The truth of this I know not.—I rarely go from home—and my visitors who for the most part are travellers and strangers, have not the best information.

At the time you suggested for my consideration, the expediency of a communication of my sentiments on the proposed Constitution, to any correspondent I might have in Massachusetts, it did not occur to me that Genl Lincoln & myself frequently interchanged letters<sup>13</sup>—much less did I expect that a hasty, and indigested extract of one which I had written—intermixed with a variety of other matter to Colo. Chas. Carter, in answer to a letter I had received from him respecting Wolf dogs—Wolves—Sheep—experiments in Farming &ca &ca. &ca.<sup>14</sup>—was then in the press, and would bring these sentiments to public view by means of the extensive circulation I find that extract has had.—Altho' I never have concealed, and am perfectly regardless who becomes acquainted with my sentiments on the proposed Constitution, yet nevertheless, as no care had been taken to dress the ideas, nor any reasons assigned in support of my opinion, I felt myself hurt by the publication; and informed my friend the Colonel of it.—In answer, he has fully exculpated himself from the *intention*, but his zeal in the cause prompted him to distributt copies, under a prohibition (which was disregarded) that they should not go to the press.—As you have seen the rude, or crude extract (as you may please to term it), I will add no more on the Subject

Perceiving that the *Fœderalist*, under the signature of Publius, is about to be re-published, I would thank you for forwarding to me three or four Copies; one of which to be neatly bound, and inform me of the cost.—

Altho' we have not had many, or deep Snows since the commencement of them, yet we have had a very severe Winter; and if the cold of this day is proportionably keen with you, a warm room, & a good fire will be found no bad, or uncomfortable antidote to it.<sup>15</sup>—

*James Madison to George Washington*  
New York, 20 February (excerpt)<sup>16</sup>

... I had seen the extract of your letter to Col. Carter, and had supposed from the place where it first made its appearance that its publication was the effect of the zeal of a correspondent. I cannot but think on the whole that it may have been of service, notwithstanding

the scandalous misinterpretations of it which have been attempted. As it has evidently the air of a paragraph to a familiar friend, the omission of an argumentative support of the opinion given will appear to no candid reader unnatural or improper. . . .

1. Because the *Virginia Herald*, 27 December, has not been located, the text of the extract has been transcribed from the *Maryland Journal* of 1 January—the earliest known reprint. For significant differences between the newspaper version and Washington's letterbook copy (Washington Papers, DLC), see notes 2 to 5 (below). (The recipient's copy of the letter has not been found.)

2. In the letterbook copy the clause reads "and with what you add respecting the Constitution."

3. The letterbook copy reads "to the Majority."

4. The letterbook copy reads "Conciliator[y]."

5. This clause does not appear in the letterbook copy.

6. FC, Washington Papers, DLC.

7. FC, Washington Papers, DLC. Printed: Fitzpatrick, XXIX, 387–89.

8. FC, Washington Papers, DLC.

9. RC, The Original Letters of George Washington to Benjamin Lincoln, Harvard University. Printed: Fitzpatrick, XXIX, 395–97. General Lincoln (1733–1810), who had served under Washington during the Revolution, represented the town of Hingham in the Massachusetts Convention which was meeting in Boston. He voted to ratify the Constitution on 6 February.

10. The extract of Washington's letter was reprinted in four Boston newspapers from 23 to 28 January.

11. RC, Special Collections, Signers of the Declaration of Independence, Amherst College. Printed: CC:499. For significant differences between this version of the letter and Washington's letterbook copy (Washington Papers, DLC), see notes 14 and 15 (below).

12. On 10 March George Mason was elected to represent Stafford County.

13. On 20 December Madison wrote Washington that "I have good reason to believe that if you are in correspondence with any gentleman in that quarter [Massachusetts], and a proper occasion offered for an explicit communication of your good wishes for the plan, so as barely to warrant an explicit assertion of the fact, that it would be attended with valuable effects. I barely drop the idea. The circumstances on which the propriety of it depends, are best known to, as they will be best judged of, by yourself" (CC:359). On 10 January Washington replied that he had no regular correspondent in Massachusetts (below). An excerpt from Washington's letter of 28 February to Caleb Gibbs of Boston, similar to one written to Benjamin Lincoln on the same day, was printed in the *Massachusetts Centinel* on 22 March (CC:638). For the letter, see below under 28 February.

14. In the letterbook copy, "&ca &ca. &ca." reads: "and the lord knows what else."

15. In the letterbook copy, this paragraph reads: "Altho' we have not had many, or deep snows yet we have since the commencement of it, had a very severe, winter; and if this day, with you, is as much keener than we now feel it, as the difference of latitude ought to make it you will feel a comfortable fire no bad antidote against cold fingers and Toes."

16. RC, Washington Papers, DLC.

### **George Washington to Thomas Jefferson Mount Vernon, 1 January 1788 (excerpts)<sup>1</sup>**

. . . I did myself the honor to forward to you the plan of Government formed by the Convention, the day after that body rose; but was not a little disappointed, and mortified indeed (as I wished to make the

first offering of it to you) to find by a letter from Commode. Jones, dated in New York the 9th. of Novr. that it was, at that time, in his possession.<sup>2</sup>—You have, undoubtedly recd it, or some other 'ere now, and formed an opinion upon it.—The public attention is, at present, wholly engrossed by this important subject. . . . There will, undoubtedly, be more or less opposition to its adoption in most of the States; and in none a more formidable one than in this; as many influential characters here have taken a decided part against it, among whom are Mr. Henry, Colo Mason, Govr. Randolph and Colo R. H. Lee; but from every information which I have been able to obtain, I think there will be a majority in its favor notwithstanding their dissention.—In New York a considerable opposition will also be given.<sup>3</sup> . . .

Altho' the finances of France and England were such as led you to suppose, at the time you wrote to me, would prevent a rupture between those two powers, yet, if we credit the concurrent acct's. from every quarter, there is little doubt but that they have commenced hostilities before this.—Russia & the Porte have formally began the contest, and from appearances (as given to us) it is not improbable but that a pretty general war will be kindled in Europe. should this be the case, we shall feel more than ever the want of an efficient general Government to regulate our Commercial concerns, to give us a national respectability,<sup>4</sup> and to connect the political views and interests of the several States under one head in such a manner as will effectually prevent them from forming seperate, improper, or indeed any connection, with the European powers which can involve them in their political disputes.—For our situation is such as makes it not only unnecessary, but extremely imprudent for us to take a part in their quarrels; and whenever a contest happens among them, if we wisely & properly improve the advantages which nature has given us, we may be benefitted by their folly—provided we conduct ourselves with circumspection, & under proper restrictions; for I perfectly agree with you, that an extensive Speculation,—a spirit of gambling,—or the introduction of any thing which will divert our attention from Agriculture, must be extremely prejudicial, if not ruinous to us. but I conceive under an energetic general Government such regulations might be made, and such measures taken, as would render this Country the asylum of pacific and industrious characters from all parts of Europe—would encourage the cultivation of the Earth by the high price which its products would command—and would draw the wealth, and wealthy men of other Nations, into our own bosom, by giving security to property, and liberty to its holders.

1. RC, Jefferson Papers, DLC. Printed: Boyd, XII, 488–91. For a different excerpt,

see CC:400. The recipient's copy is undated, but the date appears in the letterbook copy (Washington Papers, DLC). Jefferson incorrectly docketed the letter "May 30. 87"—the date of an earlier Washington letter.

2. Washington wrote Jefferson on 18 September, enclosing a copy of the Constitution (Fitzpatrick, XXIX, 276). He sent the letter and its enclosure to John Paul Jones who was in New York City waiting to embark for Europe. Jones did not leave the city until 11 November. He arrived in Paris by 19 December and turned over to Jefferson the letters of several individuals, among them Washington, James Madison, and Edward Carrington.

3. In his letter of the same day to the Reverend William Gordon of London, Washington stated that "New York, and possibly this State may prove exceptions" (Fitzpatrick, XXIX, 352).

4. For similar statements that the Constitution would improve American relations with European countries and elevate the opinion that Europeans had of Americans, see Washington's letters of 8 and 10 January to the Comte de Rochambeau, William McIntosh, and the Marquis de Lafayette (*ibid.*, 359–60, 364–65, 373–77).

### Samuel A. Otis to Elbridge Gerry New York, 2 January (excerpts)<sup>1</sup>

. . . Mr A Lee is gone down to Verginia<sup>2</sup> (where tis said the *opposition* gains ground) full of zeal, a Candidate for Convention. . . .

I understand all the States South of *this*, Virginia excepted, either have, or will accede. . . .

1. RC, Lilly Library, Indiana University. Printed: CC:404. The letter was docketed: "2d Jany ansd/27 1788." Otis (1740–1814) was a Massachusetts delegate to Congress. Gerry (1744–1814), a Marblehead, Mass., merchant who moved to Cambridge in 1786, was a delegate to Congress, 1776–80, 1783–85, where he signed the Declaration of Independence and the Articles of Confederation. He was appointed to the Annapolis Convention, but did not attend. He, along with Mason and Randolph, refused to sign the Constitution in the Constitutional Convention on 17 September.

2. According to his two colleagues on the Confederation Board of Treasury, the "principal Object" of Arthur Lee's journey to Virginia was to appeal to the state legislature to provide for payment of the state's share of the congressional requisitions (Samuel Osgood and Walter Livingston to Edmund Randolph, 26 December, Continental Congress Papers, Vi. See also Lee to Randolph, 29 January, *ibid.*). For the legislature's actions concerning the payment of congressional requisitions, see Archibald Stuart to John Breckinridge, 21 October, note 4 (above).

### Philadelphia Freeman's Journal, 2 January<sup>1</sup>

Extract of a letter from a gentleman at Washington Court-House, near Holstein,<sup>2</sup> Virginia, to his friend in this city.

"Here I expected to be happily removed from the din of politics, but even in these remote wilds the people are deeply engaged in that science. The new Constitution is the subject of universal discussion. A general dissatisfaction with the proceedings of the late Convention prevail here. So much disappointed in their expectations are the peo-



ple, that they think it more eligible to revert to the tyranny of Britain than bow the neck to domestic tyrants.”

1. Reprinted eight times by 31 January: Mass. (2), R.I. (2), Conn. (1), N.Y. (3). The reprint in the Newburyport *Essex Journal*, 16 January, omitted the first sentence. This letter was possibly written by Antifederalist Arthur Campbell of Washington County to Francis Bailey, the printer of the *Freeman's Journal*. For Campbell's efforts to get material published in the *Journal*, see his letters of 8 and 9 March to Bailey and Adam Orth, respectively (below).

2. Holston.

### **Pennsylvania Gazette, 2 January<sup>1</sup>**

We hear that the eldest son of R. H. L—, Esq; is one of the most zealous and active friends of the fœderal government in Virginia. In a letter to his father, while in New-York, before he knew his sentiments, he unfortunately told him, that the constitution had no enemies in Virginia, but “fools and knaves.”

1. Reprinted: *Virginia Independent Chronicle*, 16 January. Richard Henry Lee's eldest son, Thomas, was a Stafford County planter-lawyer and a member of the state Senate, 1785–89. The letter mentioned in this item has not been located.

### **Edmund Randolph to James Madison Richmond, 3 January (excerpt)<sup>1</sup>**

My dear friend

... The constitution is not even spoken of; not from a want of zeal in either party, but from downright weariness. No new conjectures have arisen. Mr. G. Morris is confident that the plan will run thro' safely. I question it, unless nine states should adopt it before June.

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

A terrible fire began here yesterday in the same quarter of the town, which fell a victim to the flames last year. But it was stopped with difficulty after the loss of four houses.<sup>2</sup> . . .

1. RC, Emmet Collection, NN. Printed: Rutland, *Madison*, X, 350–51.

2. On 3 January the Richmond *Virginia Gazette and Weekly Advertiser* reported: “Yesterday afternoon about 4 o'clock, a fire broke out in the house occupied by Mrs. Gilbert (about 80 yards distant from the Assembly house, and 100 from Shockoe warehouses) which was burnt to the ground; from the activity of some carpenters and others (who deserve great praise) in cutting down the adjacent buildings, to which the fire had, and was like to communicate; the flames were happily extinguished, although in the midst of a number of wooden buildings; there was but little loss sustained, excepting the house, and a few beds and furniture which were in a room where the fire broke out.”

**George Lee Turberville to James Madison**  
**Richmond, 8 January (excerpt)<sup>1</sup>**

... Upon the subject of the proposed plan (some communications touching which I have a great desire to receive from yr. hands) I can only say that it appears to be gaining ground—the Letter of the Governor<sup>2</sup> has been of great service in promoting the adoption of it—he convinced its Enemies of the necessity of a change & has pointed out not a single objection to the new plan in which they will coincide with him—

Our house will rise to day. so that shou'd you find it convenient to favor me with a Letter—you will be pleased to direct it to Richmond County Via Hobbs Hole—I will promise you to be [a] punctual correspondent—altho it will not be in my power to render my Letters either as usefull—as agreeable or as instructive as yours will be. . . .

1. RC, Madison Papers, NN. Printed: Rutland, *Madison*, X, 352–54.

2. See “The Publication of Edmund Randolph’s Reasons for Not Signing the Constitution,” 27 December (above).

**George Washington to Edmund Randolph**  
**Mount Vernon, 8 January<sup>1</sup>**

The letter which you did me the honor of writing to me on the 27th. Ulto., with the enclosure, came duly to hand.—I receive them as a fresh instance of your friendship and attention.—For both I thank you.—

The diversity of Sentiments upon the important matter which has been submitted to the People, was as much expected as it is regretted, by me.—The various passions and medium by which men are influenced are concomitants of falibility—engrafted into our nature for the purposes of unerring wisdom; but had I entertained a latent hope (at the time you moved to have the Constitution submitted to a second Convention) that a more perfect form would be agreed to—in a word that any Constitution would be adopted under the impressions and Instructions of the members, the publications which have taken place since would have eradicated every form of it—How do the sentiments of the influential characters in *this* State who are opposed to the Constitution, and have favoured the public with their opinions, quadrate with each other?—Are they not at variance on some of the most important points?—If the opponants in the *same* State cannot agree in *their* principles what prospect is there of a coalescence with the advocates of the measure when the different views, and jarring interests of so wide and extended an Empire are to be brought forward and combated.—

To my judgement, it is more clear than ever, that an attempt to amend the Constitution which is submitted, would be productive of more heat, & greater confusion than can well be conceived.—There are some things in the new form, I will readily acknowledge wch. never did, and I am persuaded never will, obtain my *cordial* approbation; but I then did conceive, and now do most firmly believe, that, in the aggregate, it is the best Constitution that can be obtained at this Epocha; and that this, or a dissolution of the Union awaits our choice, & are the only alternatives before us—Thus beli[e]ving, I had not, nor have I now any hesitation in deciding on which to lean.—

I pray your forgiveness for the expression of these sentiments.—In acknowledging the receipt of your Letter on this subject, it was hardly to be avoided, although I am well disposed to let the matter rest entirely on its own merits—and mens minds to their own workings.—

1. FC, Washington Papers, DLC. With this letter, Washington responded to Randolph's letter of 27 December in which Randolph had enclosed the pamphlet edition of his letter to the Speaker of the Virginia House of Delegates. See "The Publication of Edmund Randolph's Reasons for Not Signing the Constitution," 27 December (above).

### Tamony

#### Virginia Independent Chronicle, 9 January<sup>1</sup>

*To the FREEHOLDERS of AMERICA.*

When important subjects demand discussion, they ought to be treated with coolness and moderation, reason should be alone appealed to, and meet no interruption from passion or prejudice.

Those who contend for the new Constitution without amendment think differently, or must condemn their own assertions, for in place of ascertaining how natural rights are secured, or government prudently restrained, they continually exclaim in a tone that assumes authority, "rejection must precipitate into the gulphs of destruction,—adoption leads to national happiness and dignity—men whose fortunes are involved may dread an effective administration and join those who under a foederal system, would lose an importance dearer to them, than the welfare of their country."

Listen Americans, with caution to declamatory invective, patriotism scorns such language, and recoils from the idea of inflaming prejudice to reduce reflection, the interest of your country requires mental exertion, joined to a manly firmness, that may be compared to the steadiness of time, rises superior to the keenness of death.

Such sentiments exalt human nature, they have acquired one glorious revolution, and must be banished from your breasts, before you can embrace a Constitution, which does not secure a minority of the

states, from local oppression, is open to the encroachments of aristocracy, the ambition of an individual.

Happily for America the enlightened wisdom of a Virginia Assembly, has empowered their constituents, to investigate the truth or falsehood of the above assertions, by enacting that their Convention should proceed to a full discussion, and be freed from those fetters artifice wished to impose, under the specious pretence, of confining debate within the compass of absolute rejection or adoption.<sup>2</sup>

The extent thus opened for speculative enquiry, joined to real magnitude in the object, may be styled by enthusiasm or horizon, the eyes of few mens understanding can steadily behold the expression, though poetically just, reduced to common sense, means importance, and instead of superseding the duty incumbent on freeholders to judge for themselves, renders the neglect of doing so, *treason against their country*. What man capable of enjoying that liberty Divine Providence gives a common inheritance to mankind, will at such a crisis restrain his mental faculties from examining a temple built by men equally mortal with himself, for the residence of constitutional freedom, despotism may enjoin a silent reverence, free governments command enquiry, and owe existence to that animation enquiry creates. That citizen who feels and avows such a maxim, need not apologize for collecting the following observations on the fœderal fabric.

Force seems its ruling principle—Forts and garrisons are provided for, a standing army must follow, the celebrated Doctor Price thus addresses Americans, “God forbid that standing armies should ever find an establishment in America, they are every where the grand support of arbitrary power and the chief source of the depression of mankind, no wise people will trust their defence out of their own hands, or consent to hold their rights at the mercy of armed slaves.”<sup>3</sup>

The office of president is treated with levity and intimated to be a machine calculated for state pageantry—Suffer me to view the commander of the fleets and armies of America, with a reverential awe, inspired by the contemplation of his great prerogatives, though not dignified with the magic name of King, he will possess more supreme power, than Great Britain allows her hereditary monarchs, who derive ability to support an army from annual supplies, and owe the command of one to an annual mutiny law.<sup>4</sup> The American President may be granted supplies for two years, and his command of a standing army is unrestrained by law or limitation.

As to supplies, the term may be shortened; but such a measure implying want of confidence in the first magistrate, will probably be postponed till the hour of danger arrives, and commonwealths be ex-

posed to that hazardous situation, emphatically called death bed repentance. Expectation from such a source may be deemed visionary, and reflection must compel even hope to confess, a mutiny law must owe existence to a general Convention, as the mode prescribed by article the 5th—for the president being by the people made commander of an army, is not subject in that command to a legislative body. Pause America—suspend a final affirmation, till you contemplate what may ensue—Do not contemn the declarations of Locke, Sydney, Montesquieu, Raynal, whose writings are legacies to the present and future ages, they unite in asserting that annual supplies and an annual mutiny law, are the chief dykes man's sagacity can raise against that torrent of despotism, which continually attempts to deluge the rights of individuals. You are told impeachment will stem the flood, a legislative body, sixty five in number, are to march in formidable array, to a tribunal of twenty-six, and summons the commander of an army sworn to obey him—the event can be foreseen without suspicion of second sight, for anticipation may with confidence announce, that the bauble of a mace, hazarded in the mouth of a mortar, would be speedily conveyed, to that “bourn from whence no traveller returns.”<sup>5</sup>

Had the Constitution said, the president can do no wrong, nor shall he be re-elected—corruption in the man, might be guarded against by that rotation, which inculcates the idea of certain dissolution, and a council answerable to the people for consenting to, or advising measures, would cautiously give their sanction to a ruler whose official shield, must inevitably revert to dust.

Virginia, Dec. 20, 1787.

1. The printer of the *Chronicle* announced on 2 January that “Tamony” was “unavoidably postponed until our next.” The essay was reprinted in the *Philadelphia Independent Gazetteer*, 1 February; *New York Journal*, 8 February; and *Newport Mercury*, 18 February.

2. See Newspaper Reports of House Proceedings and Debates, 25 October, in “The General Assembly Calls a State Convention,” 25–31 October (above).

3. Richard Price, *Observations on the Importance of the American Revolution, and the Means of Making It a Benefit to the World* (Boston, 1784), 15–16 (Evans 18739). *Observations* was first printed in England in 1784.

4. This statement was refuted by *The Federalist* 69, *New York Packet*, 14 March (CC:617).

5. *Hamlet*, act 3, scene 1.

### James Madison to Edmund Randolph New York, 10 January<sup>1</sup>

My dear friend

I have put off writing from day to day for some time past, in expectation of being able to give you the news from the packet, which

has been looked for every hour. Both the French & English have overstaid their usual time ten or 15 days, and are neither of them yet arrived. We remain wholly in the dark with regard to the posture of things in Europe.

I received two days ago your favor of Decr. 27. inclosing a copy of your letter to the Assembly.<sup>2</sup> I have read it with attention, and I can add with pleasure, because the spirit of it does as much honor to your candour, as the general reasoning does to your abilities. Nor can I believe that in this quarter the opponents to the Constitution will find encouragement in it. You are already aware that your objections are not viewed in the same decisive light by me as they are by you. I must own that I differ still more from your opinion that a prosecution of the experiment of a second Convention will be favorable even in Virginia to the object which I am sure you have at heart. It is to me apparent that had your duty led you to throw your influence into the opposite scale, that it would have given it a decided and unalterable preponderancy; and that Mr. Henry would either have suppressed his enmity, or been baffled in the policy which it has dictated. It appears also that the ground taken by the opponents in different quarters, forbids any hope of concord among them. Nothing can be farther from your views than the principles of different sets of men, who have carried on their opposition under the respectability of your name. In this State the party adverse to the Constitution, notoriously meditate either a dissolution of the Union, or protracting it by patching up the Articles of Confederation. In Connecticut & Massachussets, the opposition proceeds from that part of the State people who have a repugnancy in general to good government, to any substantial abridgment of State powers, and a part of whom in Massts. are known to aim at confusion, and are suspected of wishing a reversal of the Revolution. The Minority in Pennsylv. as far as they are governed by any other views than an habitual & factious opposition, to their rivals, are manifestly averse to some essential ingredients in a national Government. You are better acquainted with Mr. Henry's politics than I can be, but I have for some time considered him as driving at a Southern Confederacy and as not farther concurring [in?] the plan of amendments than as he hopes to render it subservient to his real designs. Viewing the matter in this light, the inference with me is unavoidable that were a second trial to be made, the friends of a good constitution for the Union would not only find themselves not a little differing from each other as to the proper amendments; but perplexed & frustrated by men who had objects totally different. A second Convention would of course be formed under the influence, and composed in

great measure of the members of opposition in the several States. But were the first difficulties overcome, and the Constitution re-edited with amendments, the event would still be infinitely precarious. Whatever respect may be due to the rights of private judgment, and no man feels more of it than I do, there can be no doubt that there are subjects to which the capacities of the bulk of mankind are unequal and on which they must and will be governed by those with whom they happen to have acquaintance and confidence. The proposed Constitution is of this description. The great body of those who are both for & against it, must follow the judgment of others not their own. Had the Constitution been framed & recommended by an obscure individual, instead of the body possessing public respect & confidence, there can not be a doubt, that altho' it would have stood in the identical words, it would have commanded little attention from most of those who now admire its wisdom. Had yourself, Col. Mason, Col. R. H. L. Mr. Henry & a few others, seen the Constitution in the same light with those who subscribed it, I have no doubt that Virginia would have been as zealous & unanimous as she is now divided on the subject. I infer from these considerations that if a Government be ever adopted in America, it must result from a fortunate coincidence of leading opinions, and a general confidence of the people in those who may recommend it. The very attempt at a second Convention strikes at the confidence in the first; and the existence of a second by opposing influence to influence, would in a manner destroy an effectual confidence in either, and give a loose [rein] to human opinions; which must be as various and irreconcilable concerning theories of Government, as doctrines of Religion; and give opportunities to designing men which it might be impossible to counteract.

The Connecticut Convention has probably come to a decision before this; but the event is not known here. It is understood that a great majority will adopt the Constitution. The accounts from Massts. vary extremely according to the channels through which they come. It is said that S. Adams who has hitherto been reserved, begins to make open declaration of his hostile views.<sup>3</sup> His influence is not great, but this step argues an opinion that he can calculate on a considerable party. It is said here, and I believe on good ground that N. Carolina has postponed her Convention till July, in order to have the previous example of Virga. Should N. Carolina fall into Mr. H—y's politics which does not appear to me improbable, it will endanger the Union more than any other circumstance that could happen. My apprehensions of this danger increase every day. The multiplied inducements at this moment to the local sacrifices necessary to keep the States

together, can never be expected to co-incide again, and they are counteracted by so many unpropitious circumstances, that their efficacy can with difficulty be confided in. I have no information from S. Carolina or Georgia, on which any certain opinion can be formed of the temper of those states. The prevailing idea has been that both of them would speedily & generally embrace the Constitution. It is impossible however that the example of Virga. & N. Carolina should not have an influence on their politics. I consider every thing therefore as problematical from Maryland Southward.

I am surprised that Col. H. Lee who is a well-wisher to the Constitution should have furnished Wilkinson with the alarm concerning the Mississippi, but the political connections of the latter in Pena. would account for his bias on the subject.<sup>4</sup>

We have no Congress yet. The number of Sts on the Spot does not exceed five. It is probable that a quorum will now be soon made. A Delegate from N. Hampshire is expected which will make up a representation from that State. The termination of the Connecticut Convention will set her delegates at liberty. And the Meeting of the Assembly of this State, will fill the vacancy which has some time existed in her Delegation.

1. RC, Madison Papers, DLC.

2. See "The Publication of Edmund Randolph's Reasons for Not Signing the Constitution," 27 December, and his covering letter (both above).

3. Samuel Adams, president of the Massachusetts Senate, had privately expressed his opposition to the Constitution but remained silent publicly. On 3 January, however, at a dinner-caucus of Boston's delegates to the Massachusetts Convention, Adams "opened fully & positively in oppositon—& declared that he would continue so to do in Convention" (CC:424-B). Adams later voted to ratify the Constitution with recommendatory amendments.

4. James Wilkinson served in the Pennsylvania Assembly from 1781 to 1783. In 1782, he was appointed a brigadier general in the Pennsylvania militia. For his views on the Mississippi River, see Randolph to Madison, 27 December, note 2 (above).

### **George Washington to James Madison Mount Vernon, 10 January<sup>1</sup>**

I stand indebted to you for your favors of the 20th. & 26th. Ult; and I believe for that of the 14th. also, & their enclosures.<sup>2</sup>—

It does not appear to me that there is any *certain*<sup>3</sup> criterion in this State, by which a decided judgment can be formed of the opinion which is entertained by the mass of its Citizens with respect to the New Constitution.—My belief on this occasion is, that whenever the matter is brought to a final decision, that not only a majority, but a large one, will be found in its favor.<sup>4</sup>—



That the opposition should have gained strength, among the members of the Assembly in Richmond, admitting the fact, is not to be wondered at when it is considered that the powerful adversaries to the Constitution are all assembled at that place, acting conjunctly; with the promulgated sentiments of Col. R.H.L as auxiliary.—It is said however, and I believe it may be depended upon, that the latter (tho' he may retain his sentiments) has with-drawn, or means to withdraw his opposition; because as he has expressed himself, or as others have done it for him, he finds himself in bad Company; such as with M—r. Sm—th's &ca &ca.—His brother, Francis L. Lee on whose Judgment the family place much reliance, is decidedly in favor of the new form, under a conviction that it is the best that can be obtained, and because it promises energy—stability—and that security which is, or ought to be, the wish of every good Citizen of the Union.—

How far the determination of the question before the debating club (of which I made mention in a former letter) may be considered as auspicious of the final decision in Convention, I shall not prognosticate; but in this Club, this question it seems, was determined by a very large majority in favor of the Constitution;<sup>5</sup> but of all the arguments which may be used at this time, none will be so forcible, I expect, as that nine States have acceded to it.<sup>6</sup>—and if the unanimity, or majorities in those which are to follow, are as great as in those which have acted, the power of these arguments will be irrisistable.<sup>7</sup>—

The Governor has given his reasons to the Publick for withholding his signature to the Constitution.—A copy of them I send you<sup>8</sup>

Our Assembly has been long in Session—employed chiefly (according to my information) in rectifying the mistakes of the last, and committing others for emendations at the next.—Yet, “who so wise as we are”—We are held in painful suspence with respect to European Intelligence—Peace or War, by the last accts. are equally balanced a grain added to either scale will give it the preponderancy.<sup>9</sup>—

I have no regular corrispondt. in Massachusetts; otherwise, as the occasional subject of a letter I should have had no objection to the communication of my sentiments on the proposed Government as they are unequivocal & decided<sup>10</sup>

PS. I have this momt. been informed, that the Assembly of No Carolina have postponed the meeting of the Convention of that State until July—This seems evidently calculated to take the Tone from Virginia

1. RC, Special Collections, Signers of the Declaration of Independence, Amherst College. For significant differences between this copy and the letterbook copy (Washington Papers, DLC), see notes 3, 6, and 9 (below).

2. For Madison's letters of 14 and 20 December, see above; and for that of the 26th, see CC:380.

3. Not italicized in the letterbook copy.

4. On this day Washington made similar comments in letters to the Marquis de Lafayette and Henry Knox (Fitzpatrick, XXIX, 376, 377). See also Washington to Samuel Powel, 18 January (CC:456).

5. See "The Union Society Considers the Constitution," 21 November 1787–5 January 1788 (above).

6. In the letterbook copy, the end of the sentence reads: "but of all arguments which may be used at the Convention which is to be held for it the most preva[i]ling one I expect will be, that nine states at *least* will have acceded to it."

7. Commenting on Washington's letter, Madison wrote Rufus King on 23 January that "The Genl. thinks that although there is an uncertainty in the case, the final decision will prove that a large majority in Virga. are in favor of the Constitution. If nine States should precede it seems now to be admitted on all hands that Virga. will accede" (Rutland, *Madison*, X, 409).

8. See "The Publication of Edmund Randolph's Reasons for Not Signing the Constitution," 27 December (above). For Madison's comment on the pamphlet, see his reply of 25 January to Washington (below).

9. In the letterbook copy, this sentence reads: "War, or Peace, seems yet undecided altho' the first is loudly talked of."

10. On 5 February Washington wrote Madison again and corrected himself by stating that Benjamin Lincoln was a correspondent in Massachusetts. For this letter and for the publication of some of Washington's letters, see "George Washington on the Constitution," 27 December 1787–20 February 1788 (above).

### **An Impartial Citizen**

#### **Petersburg Virginia Gazette, 10 January<sup>1</sup>**

At so important a period as this, when the United States have experimentally found, that the Federal Government which they hastily formed, when pressed by imminent danger, is defective and inadequate to the purpose of permanently securing to themselves and posterity, the inestimable blessings of happiness and safety; and, when to form such a system as could answer this end, a Convention of Deputies from the respective States, has devised a Constitution, which those Deputies have declared to be that which appeared to them the most adviseable, and which it was their opinion should be submitted to a Convention of Delegates chosen in each state, by the people thereof, under the recommendation of its Legislature, for their assent and ratification; and, when in conformity thereto, the Legislature of this State has recommended a Convention to be chosen next March, for the sole purpose of investigating this Constitution—I say, that at a time so deeply interesting as this, it behoves every citizen and well wisher to this State, to promote an enquiry into the nature of the Constitution thus devised and submitted, and to fathom its principles and objects; that if we find it to be just, rational, and politic, we may elect for the Convention those only, whose principles we may know to be such as will lead them to advance it; and if we find it to be the reverse, we

may choose those only, who, from their sentiments, will reject it. I have uniformly observed, that the friends of this Constitution extolled it with uncommon enthusiasm, and that those who were averse to it, reprobated it with unusual asperity. This led me to consider it attentively, as well as the arguments urged by both parties:—After a thorough investigation of this system; after comparing it with the best governments ancient and modern; after examining its aptitude for the peculiar situation of the United States, and after minutely considering the objections urged against it,—I am clearly of opinion, that it is an excellent system of confederate government, which, considering the United States in an aggregate collective view, is most wisely and judiciously devised; and that every friend to this country ought, by every reasonable means, to promote its adoption, on which depend perhaps our happiness and national existence. Animated by the most sincere attachment to the welfare of the United States, and this State particularly, I thought it my duty as a citizen, to lay my sentiments before the public, with a view of promoting an examination of this Constitution; to remove prejudices that may have been inconsiderately imbibed against it; to inspire the people with respect and zeal for what I conceive to be their highest interest; to animate its friends and those of their country, to promote and defend it; and to answer the objections against it, which (notwithstanding the mediocrity of my ability, and the distinguished celebrity of *some* characters that are said to support them) I trust I will be able to confute. If in the pursuit of this view, I shall have been misled by a mistaken zeal, or a misconception of the principles of this Constitution, or of the true interest of this State, I will candidly acknowledge, and heartily recede from, any errors, which shall be clearly pointed out, and indisputably proved. Almost every incident which the great Montesquieu and other most celebrated writers on government, have laid down as requisite for the formation of a good Constitution, is to be found in this alone.—The Legislative consists of two bodies, each of which is a check on the other: The Legislative, Executive, and Judiciary, are *separate* and *distinct*.<sup>2</sup> The representation in the House of Representatives, is in proportion to the number of inhabitants in the respective constituent States: An advantage over the Federal Government of Holland, where each Province has an equal voice, although the Provinces are all different in extent, population, &c. Each state has an equal suffrage in the Senate, which precludes the possibility of a successful combination against the smaller by the greater States, which might otherwise be easily effected. Great offenders are impeachable by the House of Representatives before the Senate: The prosecution of whom in the ordinary Courts, by such

powerful and weighty accusers, would be obviously unjust and impolitic. The Senate is composed of men, who are in a secondary degree chosen by the people, and who are, at fixed periods, reducible to the station from whence they were taken, where they will feel and participate [in] the burdens of the people, whose interest they cannot forget, without forgetting their own: An advantage over the government of Britain, whose Senate consists of hereditary nobles, who thinking themselves superior to, may totally forget the interests of, the people. The Executive has not any real share in the Legislation; no absolute negative on the laws, but a power of preventing the passing a law by a bare majority; of pointing out to both Houses the impolicy of their decision, and forcing them to review their bills, which cannot after such reconsideration pass, but by the concurrence of two thirds of both Houses; in which case the names of the persons voting for and against are to be entered at large on the journals: A measure highly judicious and politic, tending powerfully to aid the imbecillity of human sagacity, and to exclude entirely the very shadow of corruption: A measure which I may safely venture to affirm, to be the best incident that any government can possibly have, in regulating the connexion that the Executive power ought to have with the Legislature: An infinite advantage over the so much extolled constitution of England, where the Executive can put an absolute negative on the best law, and prevent the Legislative from proceeding on the most necessary and urgent occasion. The President in many important cases, must have the concurrence of the Senate, wherein his sole decision might be dangerous. The compensation for his services cannot be augmented, nor can he receive any other emolument from the United States, or any of them, during the period for which he shall have been elected: Nor can he appropriate the public money to any use, but what is expressly provided by law; which, together with the minutely complex mode of election (from which arises the strong improbability of his being re-elected) so cautiously guards and limits his quadrennial power, as to leave him dignity enough for the execution of his office, without the possibility of making a bad use of it,—and this security is still heightened by his responsibility to impeachment. No money is to be drawn from the Treasury but in consequence of appropriations made by law; and regular accounts of the public receipts and expenditures of money, are to be published: A provision highly wise, and productive of moderation in the government, and confidence therein by the people; an advantage this system has over all the governments of antiquity, and over most, if not over all, the governments at present in Europe. No appropriation of money for raising troops can be made, even in

the most imminent danger, for more than two years; which is evidently politic. The Congress is to have exclusive legislation where the general interest of all the United States is concerned. Where the interposition of Congress would be unjust or impolitic, it cannot intermeddle. The Judiciary of the United States is to determine where it would be unjust that the State Judiciaries should ultimately decide. The Supreme Court cannot be recurred to, where injustice or impolicy might result. To add to this convenience, the Congress may erect Federal Tribunals in the separate States. This Constitution excells all the governments of antiquity: Even the government of Lycia, which Montesquieu recommends as an excellent model of confederate government, is not equal to it<sup>3</sup>—Nor can any federal government at present in the world be seriously compared with it. It has been framed under singular advantages. After the most cool and deliberate reflection, it was formed by men of uncommon integrity and vast intellectual powers: Whose zeal for the public weal has been eminently distinguished; who had all the governments of antiquity and modern times before their eyes, and who had the accumulated wisdom and experience of ages to proceed upon. These brilliant characters have devised this constitution. They assert it is the most adviseable they could form. Congress has approved of it. It is to become the government of any nine States that will assent to, and ratify it. In this situation it is submitted to our consideration. Our Convention is to embrace or reject it. In choosing the alternative the question must be, whether the advantages to be relinquished by this State be too great a sacrifice for the object to be acquired by the adoption of this system? I contend they are not. As to amendments, which are so strenuously insisted on by some, the Constitution itself has pointed out a most judicious and most unexceptionable mode of amending, to wit,—that when two-thirds of both Houses think proper, amendments shall be proposed; or, on the application of two thirds of the State Legislatures, a Convention shall be called for that purpose, and the amendments so proposed to become a part of this Constitution, when afterwards ratified by three-fourths of the State Legislatures, or Conventions from three-fourths of the States, as the one or the other mode of ratification shall be proposed by Congress. Now as this mode is so obviously rational and undeniably judicious, to adopt another mode of amending, besides its seeming impracticability, is unnecessary and inexpedient. It is unnecessary, because every inconvenience or possible defect in this system may and can be radically and entirely removed by the amendatory mode included in itself. It is seemingly impracticable to adopt another mode of amending, as the very circumstance of this frame of government's being objected to, strongly

proves the difficulty of a general concurrence by all the States, with any proposition. A certain Honorable Gentleman in a letter to the Executive, and which has been published, has insisted on the facility and expediency of deputing another Convention to amend the Constitution devised by the last.<sup>4</sup> With deference to so eminent a character, I humbly conceive, that the plan he proposes is by no means so eligible as that pointed out by the Constitution itself, which extends its remedy to every possible defect that experience may prove real; whereas his plan excludes every amendment which the Convention he proposes may not recollect or point out; or then, the omissions will be the ground of another Convention, and so on as often as experience will prove an actual omission or omissions. Moreover, if, as he proposes, another Convention should be deputed to amend, it is very probable, if not certain, that any amendments they may recommend, will be equally as exceptionable and as much objected to, as the Constitution devised by the last Convention: They could not possibly think of amendments that would meet with general approbation, nay, perhaps they might be considered as no melioration of the present system, and then, by this gentleman's way of reasoning, another Convention should be delegated to amend the amendments, &c. which would be endless. Some other eminent persons have asserted that it was impolitic to adopt a form of government which included amendatory provisions; that the idea of entering into a government confessedly defective, and in need of amendments, was enough to disgust any people, and a sufficient reason for its rejection. To which I answer, that all the world has allowed, that it was a good government which had in itself a capacity of amending; that a government which undeniably possesses many excellent regulations, and still provides for such amendments, and secures such remedies, as experience will evince to be necessary, is one of the best systems that human sagacity and ingenuity can devise, must be respected by all the sensible part of mankind, and be the idol, admiration, and envy, of all nations. I add, that as human nature is frail, and no people ever did, or ever can suppose, that the plan of government they first adopt, can at once be perfect, that the bare idea of entering into a form of government confessedly admirable, which provides for the fallibility of human nature, and secures a constitutional mode of amending every possible defect, is sufficient to inspire the good people of this country with respect, confidence, admiration and zeal, for this constitution. I therefore contend that though we have indisputably a right to propose amendments, yet it is unnecessary and inexpedient to exercise that right on the present occasion, and that rejection or adoption of this Constitution is the alternative.

From what I have premised, it must appear clearly the duty of all those who after examination have thought this system to be just an[d] rational, to forward its adoption by every possible reasonable means they can; and it is indisputably incumbent on its enemies, to point out clearly by irresistible arguments deduced from plain facts, the danger that is to result, the mischiefs that are to arise from it. Or shall we suffer ourselves to be amused with ideal and imaginary contingencies, by vague assertions and general surmises? This present period is perhaps no less important than that when we struggled for freedom. We have overcome oppression, but we have not established our rights and liberties on a permanent basis, which every friend to America must confess depends primarily on the consolidation of the Union, and on the establishment of a general government, the very end whereof ought to be political freedom. At such a time as this then, every friend to his country ought to be roused, animated, and inspired. At such an awful period, heedless indifference and indolent supineness, must be criminal. Let every true American, therefore, examine this Constitution, and if it be found rational, support it by all possible means; and not reject it, till they be thoroughly convinced that it is impolitic. What will be the consequence of our rejection, should it be adopted by nine other States? Will any sensible man, or friend to Virginia say, that we shall be excluded, and that it will be a happy event for us to stand by ourselves? Will any nine States that may accede to this system, recede from its adoption out of deference and complaisance to our caprice, and concur with our amendatory propositions? If all the States should totally reject it, will any future Convention be more enlightened than the last? Or will the States be more ready to embrace any future proposed Constitution, or less apt to form objections? I fear I am warranted from the frivolous and groundless objections raised against this Constitution, to believe, that the situation of *some people* is such as anarchy would accommodate better than the best government; who would be happy were the distinctions of *meum* and *tuum* done away. I hope, however, that there are no such persons, or if there be, that they are but few—but if there be any such, they cannot be real friends of America. The Honorable Gentleman before alluded to, in his letter to the Executive, says, that to say we must embrace a bad government for fear of anarchy, is really saying, we must kill ourselves for fear of dying. Not to make any remarks on his metaphor, (which, however is unworthy of so great a man) I will only here assert, that this is not a bad government, but a most excellent one; and that therefore his metaphor is by no means applicable to the present purpose. By a thorough and minute examination of every part of this Constitution,

I propose in some future numbers to prove every general assertion I have advanced in its favor in this number; and in my first succeeding numbers, I intend fully to answer all the objections that I have heard, or seen written against it, including those published in the letter from the honorable gentleman before mentioned—as well as any other objections which I shall hear against it privately, or which shall publicly appear, and which I will consider worthy of notice. I must, however, add in this place, that I am not a blind and prejudiced admirer of this System—that I do not deny its having some faults; but that these faults are minute and could not easily have been avoided consistently with the jarring and discordant complication of interest necessary to have been consulted: but that these minute defects will and must be amended by the provisions and arrangements contained in the Constitution itself.

1. This unnumbered essay was reprinted in the *Pennsylvania Mercury* on 31 January, and, in part, in the *Massachusetts Gazette* on 12 and 15 February. Numbers V and VI of "An Impartial Citizen" appeared in the Petersburg *Virginia Gazette* on 28 February and 13 March, respectively, under the heading "On the Federal Constitution." (Both are printed below.) The other numbers have not been located because some issues of the *Gazette* are not extant.

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

3. *Ibid.*, Book IX, chapter III, pp. 188–89.

4. See Richard Henry Lee to Governor Edmund Randolph, 16 October (above).

### Virginia Herald, 10 January<sup>1</sup>

#### *The New Constitution.*

##### A SONG.

##### I.

The kingdom of Hell,  
 As historians tell,  
 Being once in great tribulation,  
 From the south to the north,  
 All its subjects call'd forth,  
 To consult for the good of the nation:  
 Satan high on his throne,  
 Appear'd seated alone,  
 While his minions all stood in confusion;  
 Each attended with fear,  
 His dread orders to hear,  
 And expected some grand revolution.

##### II.

Thrice he nodded around,  
 Thrice their voices resound,  
 Hell re-echoes their loud acclamation:



As he rose from his chair,  
 To his throne they repair,  
 To attend to his dread proclamation.  
 "Friends and subjects (says he)  
 I much danger foresee;  
 Fate seems pregnant with some revolution,  
 For on earth I have heard,  
 There has lately appear'd  
 A wonder, a good constitution.

## III.

The American states,  
 After many debates,  
 Seeing plainly their weak situation;  
 Were resolv'd to repair  
 Such defects as there were  
 In the old plan of confederation.  
 From the south to the north,  
 So their statesmen pour forth,  
 To establish some good institution;  
 After many hard strains,  
 The result of their pains  
 Was a well form'd and choice constitution.

## IV.

All the angels above,  
 With omnipotent Jove,  
 Have beheld the production with joy, sirs,  
 And Discord dismay'd  
 Has requested our aid,  
 This sad foe of its peace to destroy, sirs.  
 Civil war, cloath'd in blood,  
 At my footstool hath stood,  
 With the friends of domestic confusion,  
 And have begg'd me with tears  
 To dispel all their fears,  
 By destroying the new constitution.

## V.

Then attend, ev'ry fiend,  
 To my sov'reign command,  
 Ev'ry friend of distrust and dissention,  
 Wing away to the earth,  
 And destroy in their birth,  
 The effects of the federal convention.

Cast a mist o'er the eyes  
 Of the virtuous and wise,  
 And depend on a sure retribution;  
 For all hell will exert  
 Its whole force to subvert  
 This grand fabric, the new constitution.

## VI.

To Virginia first wing,  
 Ere the season of spring,  
 When the people will meet in convention;  
 But be sure when you're there,  
 You take heed to declare  
 Unto none but our friends our intention.  
 We send letters herewith,  
 To friends — and —,  
 To —, still fond of sedition,  
 Who their force will combine,  
 As relations of mine,  
 To subvert ev'ry good constitution.

## VII.

Fell Ambition, green eyed,  
 You will have by your side,  
 The promotress of strife and contention;  
 And Impolicy drest  
 In sound Policy's best,  
 Will promote our noble intention:  
 Fill the head of the great  
 R——ph, chief of the state,  
 With a fear of his own diminution,  
 Then assur'd you may be,  
 That you quickly will see  
 An o'erthrow of the new constitution.

## VIII.

Public virtue—a gown,  
 Ev'ry fiend must put on,  
 To conceal his unlawful intention;  
 And his horns tho' so big,  
 He may hide with a wig,  
 And array'd thus appear in convention:  
 There as soon as you come,  
 Fill the whole of the room  
 With the mists of deceit and delusion,

Give new force to the tongues,  
 And strengthen the lungs,  
 Of the foes of the new constitution."

## IX.

Acclamations now ring,  
 Each infernal takes wing,  
 Fully charg'd with this wholesome direction;  
 To the friends of their king  
 Their dispatches they bring  
 And receive a most hearty reception.  
 Then let each honest man  
 Do the best that he can,  
 And establish a firm resolution,  
 All their schemes to oppose,  
 And to harrass the foes,  
 Of this happy and good constitution:

1. This poem was probably printed in the *Virginia Herald* on 3, 10, or 17 January. None of these issues is extant. The text of the poem is taken from the *Pennsylvania Packet*, 22 January, which reprinted it "From the *Virginia Herald*." It generally took Philadelphia newspapers one to two weeks to reprint newspaper items from Virginia. The poem was also reprinted in the *Winchester Virginia Gazette*, 14 March, and in the *Kentucky Gazette*, 4 October.

**Edward Carrington to Henry Knox**  
**Fredericksburg, 12 January**

For this letter, see Fairfax County Election (II below).

**Archibald Stuart to James Madison**  
**Richmond, 14 January (excerpt)<sup>1</sup>**

... The anti constitutional Fever which raged here some time ago begins to abate & I am not without hopes that many patients will be restored to their senses Mr. Page of Rosewell has become a Convert Genl. Nelson begins to view the Govt with a more favorable eye & I am told St. G: Tucker has confessed his sins—

Publius is in general estimation, his greatness is acknowledged universally—Colo. Carrington has sent me his numbers as low down as ye 24th inclusive which Dixon<sup>2</sup> has been printing for some time past should he leave New York I must rely upon Yourself & Mr. Brown to transmit the remainder of them as they shall appear—They may be Directed to Me or in my Absence to Mr. John Dixon—as I leave this place to morrow not to return before the first of April—

Pray let nothing Divert you from Comeing to ye Convention. . . .

1. RC, Madison Papers, DLC. Printed: Rutland, *Madison*, X, 373–75.
2. John Dixon of the *Virginia Gazette and Independent Chronicle* reprinted several numbers of *The Federalist*. (See “The Republication of The Federalist in Virginia,” 28 November 1787–9 January 1788, above.)

## The State Soldier I

### Virginia Independent Chronicle, 16 January

This series of five essays was printed in the *Virginia Independent Chronicle* between 16 January and 2 April. The first article was a reply to “An Officer of the Late Continental Army,” an Antifederalist piece that first appeared in the Philadelphia *Independent Gazetteer* on 6 November. “An Officer” listed twenty-three objections to the Constitution (RCS:Pa., 210–16; and CC:231). A search of the Virginia newspapers has not turned up a single reprint of “An Officer.” The essay was printed as a pamphlet and broadside in Pennsylvania and these may have circulated in Virginia. “An Officer” was also printed in the Philadelphia *American Museum* to which many Virginians subscribed. The second number of “A State Soldier” replied “to the proposition for amendments,” the third concerned “the influence of great names,” and the fourth and fifth answered “the objections” to the Constitution.

The author of the “State Soldier” essays was possibly Charlottesville lawyer George Nicholas. Parts of the fourth number, printed on 19 March, are similar to sections of a draft of a letter that Nicholas wrote on 16 February (both below).

At the end of the second number, published on 6 February, the *Virginia Independent Chronicle* printed a list of errata for the first essay. (See notes 1, and 3–9, below.)

*An ADDRESS to the GOOD PEOPLE of VIRGINIA, on the NEW FEDERAL CONSTITUTION, by an old State Soldier, in answer to an Officer in the late American army.*

A fellow-citizen whose life has once been devoted to your service, and knows no other interest now than what is common to you all, solicits your attention for a new few moments on the new plan of government submitted to your consideration.

Well aware of the feebleness of a Soldier’s voice after his service shall be no longer requisite, and sensible of the superiority of those who have already appeared on this subject, he does not flatter himself that what he has now to say will have much weight—Yet it may serve to contradict some general opinions which may have grown out of circumstances too dangerous to our reputations, to remain unanswered.

Conscious of the rectitude of his own intentions however, and trusting that “in searching after error truth will appear,” he flatters himself he should be excused, were he to leave the merits of this cause to that more able ADVOCATE, the CONSTITUTION itself, and confine him-

self wholly to those general, plain, and honest truths which flow from the feelings of the warmest heart.

FREEDOM has its charms, and authority its use—but there are certain points beyond which neither can be stretched without falling into licentiousness, or sinking under oppression.

Here then let us pause!—and before we approach these dreadful extremes, view well the ground on which we now stand, as well as that to which we are<sup>1</sup> about to step. Let it be remembered that after a long and bloody conflict, we have been left in possession of that great blessing for which we so long contended—and which was only obtained, and could not be perfectly founded at a time when there was only a chance for succeeding in the claim. The one being separate and distinct from the other at all times, a happy REVOLUTION therefore, has necessarily left incomplete the labors of the war for the more judicious and permanent establishment of the calms of peace. It was not expected, or even wished, that a SYSTEM, which was the mere OFFSPRING of NECESSITY, should govern and controul us when our object was changed, and another time than confusion should offer itself to our service for making choice of a better. But on the contrary the same mutual agreement which promised us success in our undertaking during the war, led us to hope for a happy settlement of those rights at the approach of peace—which alone can be done now by that policy which holds out at equal balance, strength and energy in the one hand, and justice, peace, and lenity in the other. Too much 'tis true may be surrendered up—but 'tis as certain too much may be retained, since there is no way more likely to lose ones liberty in the end than being too niggardly of it in the beginning. For he who grasps at more than he can possibly hold, will retain less than he could have handled with ease had he been moderate at first. *Omnes deteriores sumus licentia.*<sup>2</sup> But how much is necessary to be given up is the difficulty to be ascertained. We all know however the more desperate any disease has become, so much more violent must be the remedy—that if there be now a danger in making the attempt, it is owing more to the putting off to this late period that which at some time or another is unavoidable, than to any thing in the design itself. Having neglected this business until necessity pressed us forward to it, we see an anxiety and hurry now in some which is extremely alarming to others—when in fact had it been attempted at the close of the war, it might have seemed nothing more perhaps than a necessary guard to that tender infant, INDEPENDENCE, to whom we had just given birth.

Long had the friends to the late REVOLUTION observed how incomplete the business was when we contented ourselves under that

form of government, after the return of peace, which was only designed to bind us together the more effectually to carry on the war—and which could not be expected to operate effectually in many cases, the expence<sup>3</sup> of which no one at that time could foresee. At this late period then an attempt has been made to complete the designs of a war that ended many years before. And the first object which presented itself to our view in the business was the necessity of strengthening the UNION—the only probable way to do which, was the creating an authority whereby our credit could be supported—and in doing this (although it seems a single alteration in our old plan) the introduction of several other things was unavoidable. The credit of the UNION, like that of an individual, was only to be kept up by a prospect of being at some time or another able to pay the debts it had necessarily contracted—and that prospect could no way begin but by the establishment of some fund whereon the CONTINENT could draw with certainty. But the right of taxation (the only certain way of creating that fund) was too great a surrender to be made without [being] accompanied with some other alterations in the old plan. Among these the Senate, and the mode of proportioning the taxes with the representatives, seem to be the most material—the one acting as a curb, the other as a guide in the business. Though in fact the credit of the UNION depended<sup>4</sup> on several other things besides the payment of its debts—Its internal defence, its compliance with its treaties, and the litigation<sup>5</sup> of its own disputes, must be considered as inseparable from its national dignity. Therefore the additional authorities of the President, and the institution of the supreme court, were nothing more than necessary appendages to that AUTHORITY which every one seems to grant was necessary to be given up to strengthen our UNION and support our credit and dignity as a people—and when rightly considered can amount to nothing more than one alteration, so generally wished for, divided into several parts. One thing however appears to be entirely forgot: No one seems to remember that we had any foederal constitution before this. Or if they do they have entirely forgotten what it was—it must be remembered however, that there was no other<sup>6</sup> complaint made about that, but a want of energy and power. The removing this grand objection then, which seems to be the only material alteration made by this new Constitution, has not, as was expected, perfected the UNION; but it has served only to make way for the discovery of smaller imperfections which were not before seen. The want of a bill of rights, a charter for the press, and a thousand other things which are now discovered, have been heretofore unnoticed although they existed then in as great a degree as they now do.

Whenever any alterations have been made in any of these lesser faults, they have universally been for the better. For instance the appropriation of monies under pretence of providing for our national defence, which then was without hesitation, is now restricted to two years: For although Congress could not absolutely keep a large standing force in time of profound peace, yet they had it in their power to provide for an army when there was not an absolute war: For the declaration being at their sole will, and they not accountable for the necessity, left the appropriation which was given them for supporting the one, entirely at their discretion in time of the other. That when this article shall be viewed independent of the grand object, and considered as one of the smaller faults, separate and distinct from the right of taxation, it must be confessed that part of our SYSTEM has been altered for the better. And thus too respecting a bill of rights, and the liberty of the press, it may also be said, the objection has been diminished by the new plan: For what security had we on this head before but that which was in our state constitutions? And of what is the republican form of government which Congress is now to guarantee to each state to consist? Certainly of any thing each state shall think proper that does not take from Congress what this constitution absolutely claims. Even the very one we now have, or such parts of it as do not extend that far, may be that form of government which this new plan obliges Congress to guarantee. That so far from these objections being increased, they are diminished by the new plan; as there will not only be the same state security for these rights then, but also a continental conformation of them—there being nothing in the new system that excludes that part of the old. That it is not, because those smaller faults have not been before seen, they necessarily originate in, or are magnified by the new constitution: but the truth is, they have always been overlooked in beholding that grand blemish which marked the features of the old plan. The representation which was much more unequal and far more objectionable, then went unnoticed—as no one would observe the disproportion of the fingers while the whole carcass was disjointing for the want of sinews. The general cry and only wish then was, for more authority in our<sup>7</sup> government. It was not expected the amendments would extend much further—yet they have: Many inferior objections which existed in the old plan, are in the new altered for the better. That when we came to enquire into the merits of this matter fairly, and set apart in the first place those things which are absolutely necessary to compose that alteration in our federal plan which we all so ardently wished for, and then in the next place give the proper credits to this new constitution for the amendments made in the more inferior

faults of the old, we shall find there are but few things left worthy of grounding an opposition on. 'Tis much to be lamented however that we cannot avoid extremes on either side: For as all extremes are subject to a union in the end, it will be well if our violent opposition at this time, does not return to the most opposite submission at another. Indeed the comparisson of this opposition among ourselves to that of the late one towards our original situation, serves only to prove the likeness there is between the beginning and ending of our liberty—for there are no two things more strikingly alike than the first respirations of life and the last melancholy gasps of existence. But when confined to the likeness of situation itself, the same comparison is entirely unjust: For formerly we were governed by those who had no interest in our prosperity: But now it is our FRIENDS, our COUNTRYMEN, and our BRETHREN, on whom we are called to rely, whose very existence is so inseparable from our welfare as to render it impossible for them to injure us without giving a fatal stab to themselves and the happiness of their posterity. But to those who cannot distinguish between a cause and a people, a sentiment and an individual, the analogy may appear just, in its intended meaning—yet self-evident as the contrary is, it would illy become those whose reputations are immediately concerned to stifle an honest resentment on this occasion. When we behold the character of individuals held up to view as an argument in favor of any cause, we are sufficiently disgusted with the ignorance of the author; but when we see the credit of that ignorance (accompanied by illiberality) given to us who would willingly merit a better appellation than the secret movers of personal jealousy and detraction among citizens, we are doubly mortified—considering an endeavor to keep alive those<sup>(a)</sup> distinctions now which owed their existence to the<sup>8</sup> heat of war, as illiberal as a suspicion over our best friends would be unjust. The one serving only to keep up a perpetual war among ourselves; and the other to make distrust a justification for dishonesty—neither of which is a trait in the character of a real soldier it is presumed: For besides the dishonor, he who really knows what war is, would scarcely wish to keep it up when he could have peace. But it is<sup>9</sup> a trite remark that he who is most violent in time of the one, has generally been the most mild during the other. It is not at all surprising however that you should be brought to believe your liberties are now in danger, when you are thus shewn how that bravery you have once felt in your favor, is likely to take residence in the breasts of those thus capable of any thing. By thus assuming our names and holding to view their own genuine characters, designing men do us more real injury, and their own cause more essential service, than those who insinuate that



we shall be preferred from our former services to share the spoils when our country shall fall a prey to aristocratical invasion. These last only add insult to misfortune: For there is but little in our influence to rouse your jealousy, and much less in our situations to excite your envy, unless the nobleness of your gratitude should make you wish to share in our poverty and fears.—These being all we have obtained, there is but little prospect of our becoming your tyrants, since misery and wretchedness are seldom called in to share the dignities of oppression. In short, as there is nothing in this constitution itself that particularly bargains for a surrender of your liberties, it must be your own faults if you become enslaved. Men in power may usurp authorities under any constitution—and those they govern may oppose their tyranny: For although it be wrong to refuse the legal currency of one's country, yet there can be no harm in rejecting base coin, since there is no state in the world which compels a man to take that which is under its own standard.

It cannot be denied however but this constitution has its faults—yet when the whole of those objections shall be collected together and compared to the excellence of the main object, we cannot but conclude that the opposition will be like quarrelling about the division of straws, and neglecting the management of the grain. The period is not far distant however when it must be determined whether it be best to adopt it as it now stands, or run the risk of losing it by attempting amendments. This last consideration, deeply impressed on the minds of those who are interested in the welfare of America, cannot fail to call forth your attention, when a fitter season shall demand it, and another paper give it circulation.

(a) *Whig and Torie*. See "An Officer in the late Am. Ar." on *Con*.

1. Errata: "now" was deleted.
2. Translation: "By base pursuit of desires we all become worse."
3. Errata: "extence" was changed to "exspence."
4. Errata: "depend" was changed to "depended."
5. Errata: "legislation" was changed to "litigation."
6. Errata: "another" was changed to "no other."
7. Errata: "one" was changed to "our."
8. Errata: "the" was inserted.
9. Errata: "is" was inserted.

**Edward Carrington to James Madison**  
**Richmond, 18 January<sup>1</sup>**

I arrived here on Wednesday night last, and have as yet had but little opportunity to sound the people in any part of the Country upon the constitution—the leaders of the opposition appear generally to be

preparing for a decent Submission—the language amongst them is, that amendments must be tried if there should, at the setting of the convention, be a prospect of carrying them down in a respectable number of States, but that should this appear improbable, the constitution must be adopted—I have seen but few of these Gentlemen but have good information as to most of their dispositions upon the subject. The Governors letter to the Public,<sup>2</sup> which you doubtless have before this seen, marks out this conduct, and I think that publication will be of great service. Mr. Henry, it is said, is determined to amend & leave the fate of the measure to depend on all the other States conforming to the Will of Virginia. his language, is, that the other States cannot do without us, and therefore we can dictate to them what terms we please—should they be weak enough to stand out, we may alone enter into foreign alliances—the Value of our Staple is such that any Nation will be ready to treat with us separately—I have not heard of any who have Shewn a disposition to go this length with him, except Mr. Bullet<sup>3</sup> whom I saw at Dumfries, and I think at the day of trial but few will be found so mad.

Mr. B. Randolph whose apprehensions from the Gigantic features in the Constitution, appear to be as high as any whatever, is of opinion with the Governor—He thinks that should Nine states have adopted when the convention of Virginia meets, every idea of amendment ought to be abandoned, but that should there be a less number the attempt must be made, but with such caution as not to hazard intirely the fate of the measure. I am persuaded that this will become the prevailing Sentiment amongst the Malcontents, and in that case there will be tolerable safety, because I see no prospect of more than Rhode Isld. N. York & North Carolina holding out—the latter, it is said, & I believe with truth, have, out of respect for Virginia, defered her convention until after the time appointed for ours to sit.

I shall go up the Country<sup>4</sup> tomorrow and shall do myself the pleasure to write you more fully as soon as my information shall enable me to give you a more satisfactory account of the Public opinion.

I was last night favoured with yours of the 7th. Instant<sup>5</sup> and thank you for it—the Memorials of France & England had not appeared when I left N. York. I am glad to see that our good Ally can Still speak in a decided & manly tone.

inclosed is a copy of the Revenue Act passed at the last assembly. P.S. Since writing the above I have procured a copy of the Govrs. letter which is inclosed—be good enough to let our Friend at No. 73. King Street,<sup>6</sup> have a sight of it with my compliments.

1. RC, Madison Papers, DLC.

2. See "The Publication of Edmund Randolph's Reasons for Not Signing the Constitution," 27 December (above).

3. Cuthbert Bullitt, a lawyer-planter, represented Prince William County in the House of Delegates and in the state Convention, where he voted against ratification of the Constitution.

4. For the circuit that he made through Cumberland, Powhatan, and Chesterfield counties, see his 10 February letter to Madison (below).

5. Not found.

6. Probably Henrietta Maria Bethune Colden who lived at 73 King Street in New York City. Mrs. Colden was "noted for her masculine understanding and activity, as well as for feminine graces and accomplishments" (Boyd, XV, 148n-49n).

### **An Independent Freeholder Winchester Virginia Gazette, 18 January**

This essay, the conclusion of which appeared in the *Gazette* on 25 January (below), was perhaps written by Alexander White of Frederick County. (See Alexander White, *Winchester Virginia Gazette*, 22 February, below.)

#### *To the CITIZENS of VIRGINIA.*

Friends and Countrymen, I shall make no apology for intruding my thoughts on a subject which ought to engage the attention of every American, I mean the Constitution proposed by the late Federal Convention. To this plan many objections have been made. I shall take more particular notice of those published in the *Winchester Gazette* of sixteenth and twenty-third November last, said to be Observations by R. H. L. Esquire, and Objections by Colonel M—n;<sup>1</sup> and here I shall not attempt to prove that the Constitution would be inadmissible with their amendments, or absolutely to pronounce that it might not have been improved by the adoption of some of them, to determine this point it would be necessary to see the whole scheme when new modelled so as to receive the amendments, for however pleasing to the people an amendment might be, as a detached sentiment, we cannot otherwise know how it would accord with a plan of Continental Government—having built a convenient dwelling house in a plain style, I would not thank the ablest architect to introduce an highly ornamented Corinthian pillar as one of the supporters of my piazza. A *Bill of Rights* has a pleasing sound, and in some instances has been deemed necessary, but on occasions very different from the present. When by the abdication of James II. there was a suspension of Regal Government in England, the two houses of Parliament, accompanied the solemn tender of the Crown, which they made to William and Mary, with a *Bill of Rights*, stating certain acts, which the King, who has the executive powers of government, and is one branch of the legislature, should not do, without the consent of the other two branches the

Lords and Commons; but it never entered into the minds of the people of England to declare a Bill of Rights restrictive of the powers of the whole legislative body, tho' they have the choice of one branch only, the other two holding their seats by hereditary right, and one of them claiming by divine. At the American Revolution there was not only an end to the power of the crown, but a total dissolution of government; the people were reduced to a state of nature, under these circumstances several of the states conceived it necessary, previous to granting legislative powers, to declare that certain rights were inherent in the people, and to reserve those rights out of the grant. But is America in the situation Great Britain was in at the time of the revolution in that country, or in which she herself was at the time of the revolution in this? Nothing can be more remote; here is neither a total nor partial dissolution of Government; our social compacts and all our ancient rights remain entire, except such as are expressly granted to Congress. And this affords an answer to many objections, such as that religious liberty, the Freedom of the Press, the right of Petitioning the Legislature, &c. &c. &c. are not secured; no power over these matters being granted to Congress, she never can interpose to destroy them. Much more safely may we rest the Constitution on this ground than on a bill of rights, in that case all powers would be considered as granted which were not expressly reserved, it would not only be incongruous but dangerous, and might tend to sap the foundation of the whole structure. We have not been able to divest ourselves of our early ideas. We have been taught from our infancy to regard those men who opposed the arbitrary exertions of royal power in England as patriots and heroes, and without adverting to the difference of circumstances, conceive, that it is equally meritorious to clog the wheels of government in this country, to circumscribe the legislature, though constituted and chosen by ourselves as narrowly as the people of England have circumscribed the power of their kings. Yet it appears to me incompatible with the nature of government, that the supreme power in a nation should be restrained from raising an army, or doing any other act which may be necessary for the defence or security of the state, by any other means than the wisdom of the rulers and their regard to the public good, and we have no reason to doubt, from the mode of choosing the members of Congress, but that both these principles will act with full force under the proposed government, I believe such restraint has never been attempted. In England the keeping up standing armies in time of peace was opposed only when it was done by the sole authority of the crown. In this country we complained when troops were stationed among us *without the consent of our Assemblies*. I

shall not attempt to discuss the question, whether vesting the executive powers of government in a President and Council appointed by him, as proposed by R. H. L. Esquire, or in the President and Senate, as proposed by the Federal Convention would be preferable? I shall only observe, that the Convention seem to have had in view the government of Rome, the greatest and wisest republic, of which we read in history, conferring however, much less power on the President, Vice-President and Senate than the Roman Consuls and Senate enjoyed in the purest times of the republic, and that R. H. L. Esq. drew his ideas from the British government—I will acknowledge a great and wise *monarchy*. All men agree that a general Government for the union is absolutely necessary. How nugatory and vain would the acts of that government be were there no courts to enforce their execution? It is objected that the judges will not be independent, the words of the Constitution are, "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." Let the objector pen a more effectual clause. The original jurisdiction of the supreme court is to extend only to cases in which one of the United States or the minister of a foreign nation is concerned. It is therefore in case of appeals only that the objector supposes, "the vexatious and oppressive calling of citizens from their own country to be tried in a far distant court." But appeals are to be allowed only "with such exceptions and under such restrictions as Congress shall make." We may therefore rest satisfied that they will not be allowed except in important cases. When we were under a royal government appeals were not allowed from our general court in any case of less value than 500l. sterling, and this by instructions from the crown. If a prince would do this or his subjects what may we expect from our fellow citizens, when invested with power by the voice of their country; and when they and their posterity are to feel the consequence of all their acts? When you add to this, that the jurisdiction of the federal courts will not extend to disputes relating to property, real or personal, to contracts or personal injuries between citizens, which in general are the subjects of litigation; the apprehension of oppression from those courts must appear groundless. Trial by jury in all criminal cases is expressly secured, and that the trial shall be in the state where the crime is committed. Can you expect that the number of courts and the times and places of holding them through all future ages should be ascertained? What would you have done in such an instrument of government with regard to civil causes? Would you say the trial by jury shall be in all cases? Is the court of chancery

an institution to be abolished? Are you displeased with the mode of proceeding against sheriffs by motion, and in various other cases in which the legislature of this state has found it necessary to dispense with the trial by jury? And may not cases equally necessary happen under the continental government?

*(To be concluded in our next.)*

1. See "George Mason: Objections to the Constitution," 7 October, and "Richard Henry Lee and the Constitution," 16 October (both above).

### **Tench Coxe to James Madison**

**Philadelphia, 23 January (excerpt)<sup>1</sup>**

. . . I believe there is a real Change working in Virginia. Mr. Contee of Maryland,<sup>2</sup> now at New York, mentioned some Circumstances with regard to Mr. R. H. Lee that may be worth you possessing yourself of for the information of Mr. King. I am unacquainted with Mr. Contee but I am told he spoke of several things which promise a Change of Conduct, tho perhaps not of Opinion on the part of Mr. Lee.<sup>3</sup> I am informed also that Col. Grierson<sup>4</sup> has written in these terms "that the game is up for George has been undoing all that they have done.[''] The person who mentioned this to me told me he had seen the letter. . . .

1. RC, Madison Papers, DLC. Printed: CC:468.

2. Benjamin Contee, a merchant and lawyer, took his seat in Congress on 23 January.

3. On the same day that Coxe wrote this letter, Madison received a letter dated 10 January from George Washington in which Washington said that Richard Henry Lee had withdrawn his opposition to the Constitution and that a majority in Virginia favored the Constitution (above). Madison immediately wrote Rufus King, a member of the Massachusetts Convention who was keeping him informed about the deliberations of that body. He told King about the majority for the Constitution, but he neglected to pass on Washington's comments about Lee (23 January, Rutland, *Madison*, X, 409). On 30 January Madison replied to Coxe that he "had heard also that Col. R. H. Lee was relaxing in his opposition, if not in his opinions. The authority from which I have it is ~~so-good~~ such as almost to overcome the improbability of the thing" (CC:485). It is possible that Madison wrote King again because on 19 February the *Massachusetts Gazette* noted that ". . . information has been received from undoubted authority, that federalism daily gains ground in that state [Virginia]; and it has been reported that many of the LEE *faction* have changed their ground, and joined the federal interest."

4. William Grayson.

### **Valerius**

**Virginia Independent Chronicle, 23 January<sup>1</sup>**

*To the Honorable RICHARD HENRY LEE, member of Congress  
for the state of VIRGINIA.*

Sir, Presuming on the importance of your political character, and the *supposed* weight which your name might, perhaps, carry with it, you

have produced to the consideration of the public, through the medium of a *friend*, your collected objections to the new plan of confederation. Disdaining the clandestine mode of conveying information under a fictitious signature, you have boldly given your *name* to the public, and with a peculiar air of importance, you thought the *channel* of a pamphlet was more respectable and better suited to the dignity of your letter, than that of a news-paper.<sup>2</sup> The purpose, which you had in view, was judiciously conceived. For, a man of your sagacity and experience must have known, that a literary reputation, it is immaterial, whether it is justly acquired or not, sometimes supplies the place of genius, and a *great name*, on many occasions, makes up for a deficiency of argument. I confess myself pleased with the spirit, which you have shewn on this occasion; but, I suspect, sir, that there are some persons who will be perhaps so *uncharitably* disposed as to attribute the voluntary publication of your *name*, to something more than *spirit*. Personal resentments, and above all, an irascible disposition, wounded by repeated disappointments of a public nature, may perhaps, be supposed, by your *enemies*, to be the secret causes of your violent opposition to the fœderal constitution. Be this as it may, I might, probably, have been tempted to follow *your* example, and even annex *my name* to this address, if I was not deterred, by seeing the very little attention, and respect, which a *printed letter*, though recommended by the Honorable signature of Richard Henry Lee, receives from the Public.

It is not, sir, my intention to dissect your letter, nor apply to every argument, or rather *paragraph*, in your celebrated epistle. This would be a task, as tedious, as it would be disagreeable. The triumphs of victory, even over so respectable a personage as yourself, would scarcely recompence me for the fatigues and disgusts, which I should suffer in obtaining it. In political, as well as military contests, very little honor can be acquired, or laurels gained by defeating a weak and defenceless adversary. For, you must, sir, permit me to tell you, however disagreeable the language may be to a man of your *delicate* feelings and *sacred regard* to truth, that your letter, though published with so much formality, is but one continued series of "strong assertion without proof, declamation without argument, and violent censures without dignity or moderation."

I am, sir, a plain, unlettered man; I pretend not to an extensive knowledge in the many sciences of government. I have, scarcely, the reading of an obscure individual. But, the little knowledge, which I do possess, and I sincerely thank the *good being* for that little—effectually secures me from being carried away by the *haughty* overbearance

of *great names*, and may, perhaps, enable me to detect the errors, and unravel the sophistry of even so *consummate* a politician as yourself.

In the begining of your letter, you assert, that the proposed foederal constitution is defective; that amendments are necessary, and that to make these amendments, another convention ought to be called. Nay, you have gone fa[r]ther. To save *this convention* a great deal of deliberation and debate, and the *United States* much additional and unnecessary expence, you have graciously been pleased to point out the defects, and, without application, magisterially propose suitable amendments. What astonishing condescension! How generously patriotic! It is most *devoutly* to be wished, that your grateful county would liberally reward you at *some future period*, for this unsolicited kindness, and rest assured, sir, I should not interpose to stop your exaltation.

I am not, sir, a blind and enthusiastic admirer of the new constitution. I feel myself equally removed from that *puerile* admiration, which will see no fault, and can endure no change, and that *distempered* sensibility, which is, tremblingly, alive *only* to perceptions of inconveniency. I do not believe, that the constitution is absolutely perfect; but I am sure, sir, you have not convinced that it is defective. It is from the perceptible and long observed operation; from the regular progress of cause and effect, that imperfections in free governments are to be discovered, and adequate remedies applied. It appears to my understanding, clear beyond a doubt, that experience *only* can teach us the pernicious tendency of *that* new system of government, which you, in your *political visions*, have been pleased to discover. Permit me, now, to ask you a few simple questions. Have you considered the peril, and perhaps, the impracticability of calling another convention? Do you think it possible to obtain another conventional representation, which promises to collect more wisdom, and produce firmer integrity, than the last? Have you compared the foederal constitution, not with models of speculative perfection, but with the actual chance of obtaining a better? Are you certain, that the defects, which you have discovered, really exist, and that the amendments, which you propose, would be adopted? And, pray! sir, why might not all your *boasted* amendments be as liable to objections as the defective parts, which you have, with such peculiar sagacity discovered in the foederal constitution? As the doctrine of infallibility is rapidly declining, even in the *papal* dominions, perhaps you intend to transplant it into the uncultivated wilds of America, or else revive it in your own person. But, believe me, sir, it will not thrive in the American soil; neither will the sanction of *your* name procure it an implicit reception among *us*.



You say, that, "in the new constitution the president and the senate have two thirds of the legislative power." By what species of *calculation*, you have, *so accurately*, ascertained this point, I cannot conceive. It cannot be by *division* alone. It must then be by *your* favorite rule—*multiplication*—or perhaps by *both*. But, to be serious—with all due deference to your superior knowledge of *figures*, it may, in *my* humble opinion, be easily shewn that you have, in this enumeration at least, committed an egregious mistake. It is to be supposed, for you have given us no *data* to go upon, that you have divided the legislative power equally between the *president* and the *senate*. By this division, the *president* will have one *third*, the *senate* the *other*, and both together, (you will correct me, if I am wrong in my *calculation*) make *two thirds*, which is the *quantity* you have discovered. Whether the *senate* possesses one *third* or *more*, I must confess, I am unable to determine *exactly*. But, of *this* much I am sure, that the president cannot possess, without we call in the assistance of your *favorite rule*, the *one third* of legislative power, which you have, so *generously*, given him. As I never make an assertion without proof, I will fairly state the case, and appeal to the understanding of *every* man to draw the conclusion. The senate has the power of originating all bills, except *revenue bills*, in common with the house of representatives, and *no bill* can pass into a law without the approbation of *two thirds* of both houses. From this exclusion of the *senate* with respect to *money bills*, it is plain, that this *body* does not possess such extensive legislative power, as the house of representatives. The *president* can originate *no* bill of any denomination, and *his* negative, which, by the bye, is his *only* legislative power, is of *no* avail, provided *two thirds* of both houses concur in the bill. Hence, it is clear, that the *president* does not even possess such extensive legislative power as the house of representatives, and the *president* as the *senate*, how can it, justly, be made to appear, that the *president* and *senate* have *two thirds* of the legislative power?

You ask with an air of triumph, "can the most critic eye discover responsibility in this potent corps!" mea[n]ing, I suppose, the *president* and *senate*. Permit me, sir, to continue my usual stile of interrogation, as it best suits my capacity, and by opposing question to question, compel you to pronounce your own refutation. Is not the *president* responsible to the people, who, indirectly, elect him, and to the house of representatives, who can impeach him? Is not the senate amenable to the different state legislatures; by whose breath they exist and can be in a moment annihilated, and to the house of representatives also, which has the sole power of impeachment? Lay *your* hand upon *your*

heart, sir, and answer these questions, with *that* candour and honesty, as if you were in the immediate presence of your *God*.

Your next assertion is, "That Virginia has but one vote in thirteen in the choice of the president, and this thirteenth vote not of the people, but electors, two removes from the people." It is *extremely* disagreeable to me to give a direct contradiction to a gentleman of your respectable appearance, but in this instance, you have committed such a *flagrant violation* of the truth, that I cannot forbear it. Take up, sir, the fœderal constitution, read *that* part, which respects the election of the *president*, and contradict *me* if you can. Afterwards compare it with your *own* account, and blush for your folly and indiscretion.

Each state, that is, the citizens of each state, are to appoint in such a manner, as the legislature thereof may direct, a number of electors, equal to the whole number of senators and representatives, to which each state may be entitled in *Congress*. Now, as Virginia is entitled to twelve members to both houses, it must appoint an equal number of electors; and as each elector has two votes, Virginia will have, of course, *twenty-four* votes in the choice of a *president*, and these *twenty-four* votes will be, but *one* remove from the people. It is only, on a particular occasion, which may, perhaps, never occur, that the state has but *one* vote in thirteen. As you appear to be entirely ignorant of *this* matter, to oblige *you*, sir, I will mention it. When, upon the examination of the certificates, transmitted by each state to *Congress*, it is found, that no one person has a majority of votes, but that *two* or *more* have an equal number, then the house of representatives shall immediately choose *one* of them for *president*. But, in choosing the *president*, the votes are to be taken by *states*, the representation from *each* state having but *one* vote. The prudence, which dictated this exception from the general mode of election, is very conspicuous. The case can occur, but rarely, and when ever it does occur, Congress must elect *one* from the number of those who are highest, but equal in the list. How then dare you presume to assert in such general terms, that Virginia can have but one vote in the choice of a president, when by the constitution, it is, clearly, entitled to twenty-four. When I see questions of the highest national importance *thus* unfairly treated, and the first principles of the fœderal constitution grossly misrepresented, I must confess, that I cannot restrain my resentment. It must give pain to every benevolent mind, to see men of reputed abilities, and in *whose* integrity, much public confidence is reposed, giving into such *low* artifices, and descending so much *beneath* their true line of character. I would, fondly, believe, sir, that you are the *dupe* of your own sophistry, and that, the

many mistakes contained in your *printed* letter, proceed rather from ignorance, than from a premeditated design to deceive. But, let your motives be what they may, you must permit me, sir, to tell you, that there is such a fund of good sense in *this country* as will effectually prevent the *people* from being lead *astray* by any man or description of men whatsoever.

Have you, sir, weighed the consequences of committing your name, accompanied with such misrepresentations, to the free discussion, and merited censures of an in-sulted people? Are you aware of the injury which you do your *favorite* cause? Do you think that the people are to be deceived by such low arts? I am, sir, a candid, *very* candid man, and perhaps the familiar mode of *my* interrogations may displease the delicacy of *your* feeling.

You positively assert, "that the constitution is highly and dangerously obligarchic." This, Sir, is *another* of your numerous assertions without proof, and though it *may* receive the concurrence of your correspondent, yet his *solitary* approbation will not stamp it with the signature of truth. The assertion in its present form, is not entitled to my notice, but produce *your* arguments, and I, thus, in the most unequivocal manner, oblige *myself* to prove them groundless.

The reflection you have thrown upon the house of representatives, savours strongly of an exasperated spirit; you stile it "a mere shred or rag of representation." But, the description is as false, as the language is vulgar. What! shall a body of the *choicest sons* of America, elected by the unbought, unbiassed voices of *a whole nation*, entrusted with sovereign powers, and whose important charge is the common defence and general welfare of *thirteen confederated states*, shall *this* body be stiled "the mere shred and rag of representation." For shame! sir, for shame! let me beg of you to be more guarded in your expressions. Do not let your passions force from you such indecent and improper language.

"With the constitution," you say, "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 with 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."<sup>3</sup> This sentence is so tedious, contradictory and ambiguous, that really it is scarcely worth the trouble to comprehend it. But, as I intend to examine it a *little* in a subsequent letter, I shall at present make but one remark upon it. It is this, that it conveys an insinuation as little worthy of the gravity of your character, as it is

useless to your purposes; it appears too much like a peevish expression of resentment, or the hasty language of pique and invective.

The fœderal constitution, sir, has been submitted, by the unanimous consent of Congress, to the consideration of the people, in the same unaltered shape, in which it came from the hands of its parents. It goes forth among us in the unprotected situation of an *orphan*, with a modest request to all, entreating, that it may be heard, before it is abused, and examined, before it is condemned. To blacken its reputation by false reports, and disfigure its most lovely features with wanton levity, would discover uncommon cruelty of heart, and awaken resentment in the bosom of every honest, humane man.

From the manner in which this letter will reach you, you must perceive, that it was not intended for your private amusement *only*. I wished, at once, to point out to you *your errors*, and remove from the minds of my fellow citizens, the *bad* impressions, which they might have made.

I am unknown to you, sir, and perhaps I will *ever* remain so. I fear *no man's frowns*,<sup>4</sup> I dread *no man's resentment*. As long as I am capable of exercising that rational *intellect* which the *good being* has been pleased to impart to me, I shall consider it as *my duty* to stand forth and endeavour to undeceive the people, when the *vilest* arts are made use of to mislead and delude them.

I shall conclude this letter with a quotation from a late anonymous writer, not only, because it is applicable to our respective situations, but because it conveys my sentiments in more expressive language, than I am capable of using.

“To such as make a fictitious signature an objection to belief, I reply, that it matters very little, who is the author of sentiments, which are intended for public consideration; that error, though supported by *dignified* names, will never be adopted; and that truth though it comes from a cottage, will always prevail.”

Dec. 1787.

1. On 12 December the printer of the *Virginia Independent Chronicle* noted that “Valerius” “is received.” A week later the printer said: “Although the writer of VALERIUS concludes with pledging his veracity as a man, that he will, if necessary, lay aside his questionable shape, assume a visible existence, and give his name to the public with as little reserve as he there gives his opinions; but as he has not favored the printer with his real name, and his reflections are so pointed and personal, an interview with the author is requested before the piece can be published.”

“Valerius” answers Richard Henry Lee’s letter of 16 October (including Lee’s amendments to the Constitution) that was published on 6 December in the Petersburg *Virginia Gazette*. For the letter and the amendments, see “Richard Henry Lee and the Constitution,” 16 October (above).

2. For this pamphlet, see "Richard Henry Lee and the Constitution," 16 October (above).

3. The italics in the quoted material were inserted by "Valerius."

4. Derived from Alicia Rutherford Cockburn's 1765 lyrics to the old song *The Flowers of the Forest*: "Thy frown cannot fear me,/Thy smile cannot cheer me." See also The Editors, Winchester *Virginia Gazette*, 9 April, in "The Post Office and the Circulation of Newspapers," 26 March–9 April (below).

**John Breckinridge to James Breckinridge  
Grove Hill, Botetourt County, 25 January (excerpt)<sup>1</sup>**

How stands Accounts on the Subject of letters? You have written two; so have I.—Your last, was dated the 14th. Ulto.,<sup>2</sup> which I did not receive till very lately. My last was dated about new-years-day;<sup>3</sup> From whom is the next letter due? certainly from you: Mine is of the later Date. This one therefore, shall go on the Debit side of your Account, and as I am pretty much at leisure, I shall probably this Winter lengthen your Acct. considerably, expecting however you will be punctual in making Payments in the Spring.

I find by your last you have had the Courage to take up Blackstone; and are fond of him. I am pleased to hear it; unless it is that kind of fondness, certain religionists [have?] for the D—I; they worship him, because they [also fear?] him. But I am sure you are a Man of [character?] & Are not afraid of being overpowered by him—[If you?] look around you (among those I mean, whose line in Life you intend to pursue), it is impossible you can be discouraged.

If you take a closer Inspection, & view the foundation in which they built their Knowledge, with their slender Talents to acquire any Knowledge whatever, & moreover view their Success & Eclat that attends their Career; If after all this, you will look inwardly, & consider your own Foundation & Talents; you must upon such a View, feel a just Confidence, & Superiority in yourself, which will entitle you in all Events, to *hope [well?]* of your present Undertaking.—If you mean to pursue the Law for a future Support; if you prefer it through Choice to every other, & think that nature designed your Talents for it; you need not only hope for Success, in the Study of it, but rest satisfied that Success is *ensured* to you.

I can't help almost envying your Situation, when I bring back to my Rememberance, the time I agreeably, & so usefully spent, when situated as you now are. The Hope, the Ambition, the Desire to please & excell, that ruled my Mind by turns, I almost feel at this length of time.

You hint nothing in your Letter respecting your little Assembly. I am afraid it languishes, & that *you* don't attempt to administer any

thing towards its Recovery. If you are getting the Materials, & holding yourself in readiness to display in the Spring or at some short period, I am satisfied; not otherwise. You have often heard my Opinion on that Head. Would not the Subject of the F. Constitution be as Important & fit one of Discussion? Or [has?] it not been already too much battled about; and is of itself too [— — —] to decide on?—You ask my Opinion of it.—N[ever have I been?] so at a loss to decide absolutely on any Question as on that [one?].

I am for it, and against it. I sufficiently despise the present [one?] and think the one proposed, has some Fundamental Objections, which if adopted in the Gross, will be objections during its Existance; such as the inequality of Representation in the Senate; The Judicial System &c.

I am so much a Friend to it however, if I was satisfied from the Mouths of some of the Members who assisted in forming it, that no Amendments could be expected from a second Convention, I would instantly substitute it in Room of the old one; satisfied that the Spirit of Accomodation is at its Height; that nothing could accrue from a Delay, but to afford time to the British or some other Nation to intrigue with some of the little States; & by that means be enabled hereafter [to] dissolve the Confederacy.—The Convention of Virga. I imagine, will have little to deliberate on by the Time they meet. Nearly all the States will have met before June, & this State will agree with the Majority.—I have not offered in the County, and do not wish to be in the Convention; tho' I got an Invitation, from the principal Men of an adjacent County to hold a Poll among them—I shall not do so, without I change my Mind. . . .

1. RC, Breckinridge Family Papers, DLC. John Breckinridge dated his letter from "Grove Hill," the Breckinridge family home in Botetourt County.

2. See "The Union Society Considers the Constitution," 21 November 1787–5 January 1788 (above).

3. Not found.

### **Tobias Lear to John Langdon**

**Mount Vernon, 25 January (excerpt)<sup>1</sup>**

When I wrote to you last<sup>2</sup> the opposition to the proposed system of Government, in this State, was very violent, but I have now the pleasure to inform you that it has, in a great measure, subsided; the people begin to reflect coolly upon the subject—they are convinced of the absolute necessity there is of an efficient general Government—they see the cordiality with which the proposed plan is received in most of the States & that those which have decided upon it have either done

it unanimously or by a very large & able majority.—The opponents themselves are not so sanguine in their expectations nor so warm in their measures as they have once been.—It is said (& from good authority) that Mr. R H. Lee has declared that he shall no longer oppose its adoption as he finds it is the wish of the people that it should take place, but he does not retract his sentiments upon it.<sup>3</sup>—You have undoubtedly seen (by the publick papers) Governor Randolph's objections, in a letter to the General Assembly of this State.<sup>4</sup>—they will operate much in favor of the Constitution, for he acknowledges, in the first place, that a union of the States is essential to our very existence as a people, and declares that the present confederation is not, & cannot be made adequate to [the pur]poses of our being united;—and he concludes with saying, notwithstanding his objections, that if the proposed plan meets the approbation of the people it shall have his hearty concurrence.—Mr Mason & Mr. Henry still continue their opposition with unabated violence, but their mortification will bear some proportion to the zeal which they have shewn upon the occasion when they see their views baffled by an adoption of the Government.—North Carolina has, in complaisance to this State, put off the meeting of their convention till after ours that it may take its tone from here.<sup>5</sup>—We learn nothing decisive from the two southern States.—Last Evening's mail brot us the result of the Connecticut convention.—That of Massachusetts we suppose to be still in session, and the concurrent accounts from that quarter leaves little or no doubt, with us, of their acting properly.—Your New Hampshire is next in course & we have already set her down as one of the assenting States.—

The Potomack has been shut up by the ice for almost three weeks & the present state of the weather renders it uncertain when it will be open.—

I would apologize, my dear Sir for troubling you so often with my letters was I not convinced that whatever respects the publick welfare cannot be indifferent to you.—Shall I beg the favor of you to deliver the enclosed letter to its address?

The General is in good health & desires me to make his Compliments acceptable to you. . . .

1. RC, Langdon/Elwyn Papers, NhHi.
2. See Lear to Langdon, 3 December (above).
3. See Washington to Madison, 10 January (above).
4. See "The Publication of Edmund Randolph's Reasons for Not Signing the Constitution," 27 December (above).
5. On 6 December the North Carolina legislature voted to call a state convention to meet on 21 July 1788.

**James Madison to George Washington**  
**New York, 25 January (excerpt)<sup>1</sup>**

I have been favoured since my last with yours of the 10th. inst. with a copy of the Governours letter to the Assembly.<sup>2</sup> I do not know what impression the latter may make in Virginia. It is generally understood here that the arguments contained in it in favor of the Constitution are much stronger than the objections which prevented his assent. His arguments are forceable in all places, and with all persons. His objections are connected with his particular way of thinking on the subject, in which many of the Adversaries to the Constitution do not concur. . . .

1. RC, Washington Papers, DLC. Printed: Rutland, *Madison*, X, 419–20. Most of the remainder of Madison's letter is a long extract from Rufus King's letter of 16 January about the Massachusetts Convention.

2. See Washington's 10 January letter, and "The Publication of Edmund Randolph's Reasons for Not Signing the Constitution," 27 December (both above).

**William Russell to William Fleming**  
**Aspenville, 25 January<sup>1</sup>**

It afforded me, much pleasure, to be informed by Mr. Stewart, that you, & Mrs. Fleming, were well; and, afforded equal pleasure to Mrs. Russell.

I have long wished for a line from you, and have, as long neglected to claim the right.

But sir, calling to mind our long and happy acquaintance, I am emboldened, at this critical juncture (when the sentiments of our Nation seem so greatly devided, on the new plan of Government) to ask, that your wēl grounded judgement on government, be given to me, thereupon; which will, no doubt be satisfactory to many others in this quarter, besides my self. Having matured my thoughts upon it, confess I am much alarmed, & am prone to think (although it is a production of much *genius*, yet, it demands the closest attention of every friend to our Country; or it may prove an *engine* of destruction to the liberties, we have been so long [— —] contending for, & at length acquired, at vast espence of blood & treasure.

The first article giving powers to Congress legislatively; & 8th. article [i.e., section] refining these powers, yeild to Congress the sole power to lay & collect taxes &C, to borrow money, to regulate commerce, to constitute tribunals to define & punish piracies, to declare war, to raise & support armies, to provide & support a Navy, to call forth the Militia, & to be abosolute over all Forts, Magazines, Arsenals, Dock-



yards & other needful building thereunto belonging;—together with a variety of other powers; must, I think require the utmost circumspection, whether these powers are dangerous or not. And next, please examine the following Article—(“And to make laws that shall be necessary & proper, for carrying into execution the foregoing powers; & all other powers vested by this constitution; in the government of the United States; or in any department or offices thereof”) to which, I think, you will readily say, that no power is reserved or withheld from Congress.

It seems to me, if Congress, have a right to make all laws that may be necessary & proper, that no inferiour Legislature, can be more than a Mitaphysical nothing.

It must be evident, that only force under the new constitution can dictate to Congress; which is a misery every good man wood wish to escape.

The late President has wisely observed. “It may be said that the new Legislature may provide remedies; but as they may so they may not, & if they did, a succeeding assembly may repeal the provision, & adds, the evil is founded resting upon constitutional bottomn, & the remedy upon the mutable ground of legislation, & revocable at any annual meeting.”<sup>2</sup>

Time at present, wont allow me, or my mind might be enlarged on, my fears of the Constitution without amendments; but, am encouraged from the judicious remarks so many able pens have pointed out, that the people will behold the danger eer it be too late, & make choice of men for, the Conventions of the different States; whom, the hand of Providence, may direct, to wholesome amendments, upon the most permanent basis.<sup>3</sup> I shall now rest my sentiments, hoping shortly for your better judgement, to aid your friend, & the good people of this country, in so important an object. I think but few here understand it yet. We lately heard from Mrs. Christian, all well there; as are Mr. Madisons<sup>4</sup> family.

1. RC, Emmet Collection, NN. The letter was “favd. by Mr. Stewart.” Russell (1735–1793), a planter, was brevetted a brigadier general in the Continental Army in 1783. He represented Washington County in the House of Delegates, 1784–86, and he was a member of the Senate, 1788–91. Fleming was a Botetourt County planter.

2. See “Richard Henry Lee and the Constitution,” 16 October (above). Lee had been President of Congress in 1784 and 1785.

3. On 5 February Russell wrote his son Robert S. Russell: “I find Virginia and all the continent much puzzled about the new Constitution, as is the case here with us. I think there will be a great majority of my own opinion, which after due reflection is decidedly against it, as it is in its nature most dangerous to the liberties of man. I wish it to be amended at all events. The state of your mamma’s health prevents me from offering my abilities in opposing it, or rather, advocating its amendment. I wish the

consequences may not produce much confusion, and it is to be hoped that all who have the good of posterity at heart, will mature all difference of opinion with the utmost calmness" (Anna Russell Des Cognets, *William Russell and His Descendents* [Lexington, Ky., 1884], 23).

4. Probably Thomas Madison of Botetourt County, a cousin of James Madison. See Fleming to Thomas Madison, 19 February (below).

### From Olney Winsor

Alexandria, 25 January<sup>1</sup>

Since Writing the foregoing, a very cold stormy day has given me an opportunity to peruse our Governors long letter to the genl assembly<sup>2</sup> on the Subject of the Present Confederation the defects of wch. he has largely discussed, & dispardgd its inadequacy to the purposes of the Union, & of the Constitution proposed to cement & perpetuate it under a firm & energetic System.—He appears to be a real friend to the Union, and fully convinced that in Union, we can only stand as a Nation—his fears of a dissolution are very freely expressed—

When he comes to state his objections to the Constitution I think he speaks loudly to the Lesser States of the Union, & especially to the Eastern—"The equal Representation of the States in the Senate—and the submitting the Regulation of Commerce to the mere Majority of the Legislature and the Reason why" he would wish an amendment of the Constitution before adopted, I think to be inconsitt. ~~with Republican principles~~ for he says "it is much to be doubted, if after it's operations is proved to be of general advantage, two thirds of the States can be brt. to amend—indeed they ou[gh]t not—for upon republican & equal principles the general Interest of the Union ou[gh]t to prevail[']"—Pardon me for taking the Liberty to dissent from so great a Character, much more to comment on his Letter—however it is a Right I claim as a Citizen & which I never did nor will Surrender.—The Contest between the Federalists & Antid. in Pennsa. has arrisin to great heigth I have only to wish Peace & Unanimity restored to them & to all the States,

1. FC (incomplete), Olney Winsor Letters, Vi. This fragment of a letter, signed "OW," includes neither the addressee nor the place of writing. It is dated "Friday Even'g Jany 25. 88." Winsor (1753–1837), a native of Rhode Island, was an Alexandria merchant.

2. See "The Publication of Edmund Randolph's Reasons for Not Signing the Constitution," 27 December (above).

### An Independent Freeholder

Winchester Virginia Gazette, 25 January<sup>1</sup>

(Continued from our last.)

To the CITIZENS of VIRGINIA.

Friends and Countrymen, I can conceive no reason why the ordinary business of legislation should not be determined in Congress by a

majority of voices as is done in all our assemblies, and other public bodies. If you suppose 8 states will oppress five, with the same reason we may believe 12 will oppress 1, hence an argument equally well founded for unanimity, which would put an end to government. Colonel M—n applies his objection to commercial regulations only, and assigns this reason, "that the produce and circumstances of the five southern states are totally different from that of the eight northern and eastern," and thence infers rigid and unjust regulations may be made. When gentlemen deviate so far from the real state of facts to support their arguments, those arguments can have little weight. The produce and circumstances of the states change gradually with the climates, but it so happens that the four middle states are more nearly assimilated to Maryland and Virginia, than to the eastern states. Wheat is the staple commodity of the middle states, and the second if not the first article of commerce in Virginia and Maryland; whereas the New England states (some of them at least) do not grow sufficient for their own consumption. Why should not the senate have the power of altering money bills? Would such an idea have ever existed had not something in the British policy given rise to it? True it is, the British House of Lords are not permitted to amend money bills. The Peers of Great Britain are a great hereditary body, possessing immense wealth, composing one branch of the legislature, their honors derived from the crown, and their numbers increased at the will of the Prince, it was therefore necessary that the House of Commons, in order to support their influence, and keep the balance even, should exercise the sole right of taxation. But our senators are not created by a Prince, their honors do not descend to their posterity, they can have no interest distinct from that of the people at large, nor will they enjoy wealth sufficient to enable them to give an undue bias to government. It is suggested that Congress will extend their powers to the subversion of the state legislatures, this to me appears highly improbable; there will no doubt subsist a jealousy and competition in power, but where wealth and numbers unite the scale must preponderate these in favor of the state legislatures, as sixteen to one in Virginia,<sup>2</sup> and I suppose nearly in the same proportion throughout the union. I rather fear the members of Congress will not have firmness and resolution to exercise their proper powers, least through the misrepresentation of designing men they may become obnoxious to the people.

With as little reason it is said, "that the judiciary of the United States is so constructed and extended as to absorb and destroy the judiciaries of the several states." How can this be? there is no appeal, no preeminence in any one instance.

That the exclusion of *ex post facto* laws should be made an objection is to me astonishing. I do an action to day which is in itself innocent and prohibited by no law, at a future day you pass a law to punish me for it. Let every man's own mind answer whether this is just, and whether the existance of such a power is not inconsistent with the principles of liberty? Colonel M——n says every legislature will make such laws, which in other words is saying every legislature will do wrong. Indeed his Observations with regard to the power of pardoning have no weight, but on a supposition that rulers are generally inclined to do wrong. I agree that the vices as well as the frailties of men ought to be guarded against, but cannot agree that they will intentionally do wrong without strong inducements, that they will injure the public without fair prospects of great advantage to themselves. From whence will such prospects arise under the proposed constitution. The president cannot procure in addition to his salary, he cannot transmit his honors to his posterity, he cannot even hope to render it customary to elect the son in the room of the father, for though some men live to see a son of 35 years of age, it so seldom happens that it never can introduce a general custom. How then can he propose to promote his own honor and imolument, but by acting such a part during his presidency, as will induce the people over whom he presides to reelect him? This reasoning applies with equal force to the senators and delegates, but I do not believe any man seriously apprehends danger from them. The most effectual method to prevent the abuse of power (except that of removing all inducements) is by a distribution of the supreme power, rendering the concurrence of different bodies of men necessary in every act of legislation. In this respect the government of Great Britain stands foremost among the nations (for I do not call any one state in this union a nation) but it is far inferior to the proposed constitution. I will not argue this point, let every man realise the case. Let him attentively read the federal constitution, then let him imagine for a moment, that instead of the president and senate we were to have a hereditary monarch on the throne with all the acknowledged powers of the king of England. Let him conceive that twenty six of the most wealthy and powerful men in America were selected by the Monarch, and entitled to compose one branch of our legislature, and to all the privileges of British Peers, that their rights would descend to their heirs, and that their numbers might be increased at the pleasure of the prince—his feelings will decide the question. A most powerful check arises from the state legislatures, it is true they have no right to check congress in the exercise of their proper powers, but

they will keep a watchful eye and take special care that congress do not exceed their powers; and if any of those powers should from experience appear dangerous to liberty, the constitution in a clause which will conclude this address, points out the remedy.

Colonel M——n acknowledges that this government in its commencement will be moderate, all the opposers of it with whom I have conversed agree the same, hence I infer it is good in its nature and present form. Why should it not continue so? It will continue so as long as the people retain their virtue. When virtue is no more a government founded on virtuous principles cannot exist. It is impossible to say into what form it will change, or when it may end, the corruption of government will probably keep pace with the depravity of manners. I suppose it is as difficult to form a plan which for a succession of ages will prevent every kind of male administration, the corruption and final dissolution of a government as it is to prescribe a regimen which will preserve health unimpaired, and life without end to the human body. In so complex a subject as government it is impossible to form a plan which may not be liable to many specious, and perhaps some solid objections.—Therefore when we say a government is good, we do not mean that it is perfect, but that it is better than other governments. Now let the opposers of the federal constitution present to our view another plan. Let them take their choice of all the governments which now exist, or which ever did exist on the face of the globe. I have already given you a slight sketch of the British government, and I pledge myself, that this as well as all others, which have had the experience of ages will be rejected. If this will not do, let them retire to their closets and form systems complete in all their parts, according to their ideas of perfection, each man will have a different system. And all the world will prefer the federal constitution to either of them, except the framers themselves. But if speculative opinion create doubts, or leave them upon the mind, we may safely refer, in this instance, to the great arbiter experience, for it is expressly provided that, “Congress, when ever two thirds of both houses shall deem it necessary to propose amendments to this constitution—or on the application of the legislatures of two thirds of the several states, shall call a convention for proposing amendments, which in either case shall be valid to all intents and purposes, as part of this constitution when ratified by the legislatures of three fourths of the several states, or by conventions in three fourths thereof, as one or the other mode of ratification may be proposed by congress.” A provision so favourable to liberty was never before ingrafted in any constitution. To conclude

then my friends and countrymen, if you know a better government, I candidly yield, if not, concur with me in adopting the one proposed.

1. The first part of this essay, written perhaps by Alexander White, was printed on 18 January (above).

2. Under the new Constitution, Virginia had ten representatives and two senators. The state House of Delegates had 168 members and the Senate 24, making a total of 192, or exactly sixteen times the number of Virginia members in Congress.

### **William Hartshorne and Company to Nathaniel West and Company, Alexandria, 26 January (excerpts)<sup>1</sup>**

... Our Assembly have lately increased the duties on several imported articles very considerably, to take place the 1st March next these duties are in addition to what was paid last year and are payable in Certificates<sup>2</sup>—articles that are the produce and manufacture of America are free, but such as are produced from foreign raw Materials are subject to duty which will much injure our Trade with New England, as Rum & Loaf Sugar are included, but we hope and believe our State with most of the others will adopt the new Constitution and when the general Government takes place all such duties will have an end and we shall be again as one People. . . .

For the Convenience of ourselves and such Friends as<sup>3</sup> may Consign us any Goods this Year, we mean to erect a Temporary Store at George Town<sup>4</sup> and by that means avoid paying those unreasonable duties which are far more than they will bear. . . .

1. RC, John Barton Letters, Essex Institute Library, Salem, Mass. Hartshorne, an Alexandria wheat and flour merchant, was treasurer of the Potomac Company from 1785 to 1800. Nathaniel West and Company was a Boston mercantile firm.

2. Hartshorne refers to an act passed on 1 January 1788 and entitled "An act to amend the laws of revenue, to provide for the support of civil government, and the gradual redemption of all the debts due by this commonwealth" (Hening, XII, 412–32). A long list of the "New Duties" was included as a postscript to this letter.

3. Hartshorne inadvertently wrote "are" instead of "as."

4. Georgetown was in Maryland.

### **John Brown to James Breckinridge New York, 28 January<sup>1</sup>**

In your last you promised to write to me from Richmond, have heard of your being there but have expected your letter in vain. I was the more anxious to receive it expecting it might contain some account of the Proceedings of the Assembly concerning which have had very imperfect information; but suppose your hurry of Business has prevented your writing. I must request that you will write to me more

frequently, be assured that the regular Correspondence of a Relation & Friend for whom I have the greatest Affection & esteem would add very much to my Happiness—

We have at length formd a Congress but as only Seven States are yet fully represented no Business of Consequence has been taken up. I shall bring forward the Kentucky Address at as early a Period as possible, from the soundings which I have been able to make, have sanguine hopes of Success;<sup>2</sup> but with me it is an object of such consequence that I shall not be free from Anxiety untill it is finally determined. I think little is to be feared from the Project for ceeding the Navigation of the Mississipi to Spain almost a total change of Sentiment upon that Subject has taken place, the Opposition has acquired great Strength from the Sales of Western Territory; many Inhabitants of the Eastern States of great Influence & powerfull Connections have become Adventurers in that Country & are now engaged in forming Settlements at Muskingum Miamia &c.<sup>3</sup>—The fate of the New Constitution becomes every day more precarious—Connecticut & the Three States South of this have adopted it. in this it will meet with Opposition the Convention of Massachusetts is now sitting but the event of their deliberations is extremely doubtful—such warmth has already prevailed as had well nigh ended in total confusion—both parties are equally confident of Success—should it be rejected in that state I fear the consequences will be fatal to the Plan. The hope of its succeeding is the only Prop which at present supports the Feederal Government—If it was finally rejected I fear we should immediately experience the dire effects of Anarchy—& the total dissolution of our Confederacy—But we will not yet dispair there is still room to hope. Count Mutiers<sup>4</sup> Ambassador from [France] arrived here a few days past, he is shortly to be recd. by Congress we shall have much Scraping & Bowing no doubt—Peace is established in Europe—If you have had any information from our Relations in Botetourt or Montgomery<sup>5</sup> pray communicate it to me; In what manner could Letters be conveyed into that Country? My Complts. to Jammy I wrote to him last Post—Adieu—live contented & happy

1. RC, Breckinridge Family Papers, ViU. Brown and Breckinridge were cousins.

2. On 29 February Virginia's congressional delegates submitted an address from "the people of Kentucky in convention" and moved that Congress approve the "Compact" between Virginia and the District of Kentucky for making the latter a separate state. The address and motion were submitted to a committee of the whole house. On 2 June the committee recommended that Kentucky be made a separate state, and the next day a grand committee of a delegate from each state was appointed to report an act granting statehood to Kentucky. On 2 July the grand committee asked to be discharged. Brown made a motion, seconded by Edward Carrington, that Congress ratify and confirm the compact between Virginia and Kentucky. The next day the motion was postponed and

another motion was adopted to defer the statehood question to the new Congress under the Constitution (JCC, XXXIV, 72-73, 194, 198, 287, 287-94).

3. In October 1787 Congress sold land in the Northwest Territory (southeastern Ohio) to the Ohio Company, a New England-based group. In the spring of 1788 groups of New Englanders began to settle in that territory.

4. Comte de Moustier, France's minister plenipotentiary to the United States, presented his credentials to Congress on 26 February (JCC, XXXIV, 62-65).

5. One of the relations was John Preston of Montgomery.

### James Madison, Sr., to James Madison 30 January

For this letter, see Orange County Election (II below).

### Philadelphia Freeman's Journal, 30 January<sup>1</sup>

By private accounts from Virginia, we learn, that political disputes run very high in that State; that the advocates of the proposed Constitution are losing ground daily; that they avoid all argument, and depend principally upon the magic of Names, declamation, songs &c; that there will be two to one against it in their Convention, which meets next June; that their Assembly had passed an act to set apart a sum of money for the expences of deputies to propose, to the other States, amendments;<sup>2</sup> that it was currently reported in that State, that all opposition had ceased in Pennsylvania to the proposed Constitution: That the North Carolina Convention would meet in June; and that the people to the southward were all kept in the dark by the stoppage of the newspapers in the Post Office.<sup>3</sup>

1. Reprints by 25 February (10): Mass. (4), R.I. (2), N.Y. (2), N.J. (1), Pa. (1). The *Boston Gazette* reprinted this item on 18 February, and the next day the *Massachusetts Gazette* noted: "A correspondent remarks, that little heed is to be given to the paragraph in yesterday's Gazette, respecting the progress of anti-federalism in Virginia; as information has been received from undoubted authority, that federalism daily gains ground in that state; and it has been reported that many of the LEE faction have changed their ground, and joined the federal interest."

2. See "The General Assembly Adopts an Act for Paying the State Convention Delegates," 30 November-27 December (above).

3. On 6 February the *Norfolk and Portsmouth Journal* stated: "A disappointment in not receiving the Northern mail as usual (after waiting to the latest hour), renders an apology to our kind Subscribers necessary, in ushering to their presence a barren sheet for this week's Number. . . . The Public will please to cast a favorable eye on this day's publication, and generously ascribe its *vacuum* to the real cause above assigned" (CC:Vol. 4, p. 550).

### Civis Rusticus Virginia Independent Chronicle, 30 January<sup>1</sup>

(The following was written previous to the publication of that in Mr. Dixon's paper of the 5th instant,<sup>2</sup> but not sent to the printer when written from want of a conveyance, the person who wrote it living at a distance from Richmond.)



To Mr. DAVIS.

*The following "objections to the Constitution of Government formed by the Convention," are stated to be Col. Mason's.*<sup>3</sup>

I shall remark on them with that freedom which every person has a right to exercise on publications, but, with that deference, which is due to this respectable and worthy gentleman; to whose great and eminent talents, profound judgment, and strength of mind, no man gives a larger credit, than he, who presumes to criticise his objections—these, falling from so great a height, from one of such authority, may be supposed, if not taken notice of, to contain arguments unanswerable—not obtruding themselves on my mind in that forcible manner, I submit to the decision of the public, whether, what is now offered, contain declamation or reason; cavil, or refutation.

1st. "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.

2d. 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.<sup>4</sup>

3d. 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 power (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.

4th. 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.

5th. 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 will become a tool to the senate—or a council of state will grow out of the principal officers of the great departments; the worst and most dangerous of all ingredients for such a council in a free country: For they may be induced to join in any dangerous or oppressive measures, to shelter themselves and prevent an enquiry into their own misconduct in office; whereas had a constitutional council been formed (as was proposed) of six members, viz. two from the eastern, two from the middle, and two from the southern states, to be appointed by vote of the states in the House of Representatives, with the same duration and rotation 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.

6th. 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 unrestraining 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.

7th. By declaring all treaties supreme laws of the land, the executive and the senate have, in many cases, an executive<sup>5</sup> 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.

8th. 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 monopolise on 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.

9th. 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.

10th. 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.

11th. The state legislatures are restrained from laying export duties on their produce.

12th. The general legislature is restrained from prohibiting the further importations of slaves for twenty odd years; though such importations render the United States weaker and more vulnerable, and less capable of defence.

13th. 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 invocations.<sup>6</sup>

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."

*Ob.* 1st. This objection proves too much, it goes against all sovereignty, "it being paramount to all laws of the several states, the declaration of rights in the separate states are no security," if the declaration of rights in the separate states be no security, which it is confessed are not repealed, neither would a general declaration of rights be any security, for the sovereign who made it could repeal it; "the very title of sovereignty shews the absurdity of an irrevocable

law." The people have every security of enjoying the benefits of the common law, and all acts of parliament previous to the fourth of James the first, they ever had—they remain unrepealed,<sup>7</sup> and are the palladium of the rights of the people: as long as *they* retain the spirit of freedom, these rights will exist, amidst the mighty shock of revolutions, the crush of power, the fall of colonies, and the rise of empires.

There are only five states in the union that have declarations of rights<sup>8</sup>—the proposed government is thoroughly popular—the house of representatives are immediately chosen by the people, the senate mediately by their representatives *in Assembly*, and the president by electors, in such manner as the legislature of the state may direct—at the end of four years, he may, and will be removed from his situation, unless he discharge the duties of it, to the approbation of the people, and to the glory and advantage of America. A government thus constituted stands in need of no bill of rights; the liberties of the people never can be lost, until they are lost to themselves, in a vicious disregard of their dearest interests, a sottish indolence, a wild licentiousness, a dissoluteness of morals, and a contempt of all virtue.

2d. "The house of representatives is not numerous enough," and yet they exceed in number the present Congress:<sup>9</sup> there was a time when these could acquire information, and why should not their successors? the number from this state will be ten, besides two senators; the number at present only five.—The reason of not augmenting the representation, I take to be this; the fear of augmenting the expences of government; and considering the condition of America, it is wise to pay a particular respect to this circumstance.

3d. "The senate have the power of altering money bills;" and why not? because the Lords in England, an hereditary aristocracy, have not, of late years, been permitted by the commons to exercise this power, shall the senate, a rotatory body, chosen by the representatives of the people, be deprived of this essential right of legislation? the people cannot be taxed, but, by the consent of their immediate representatives.

They can fix no salaries without the consent and approbation of the president: Here they are checked; if we suppose both these bodies colluding, (which would at once demonstrate their wickedness and folly) and setting salaries at an infinitely exorbitant pitch, and above services; will not the house of representatives reclaim against such measures, and refuse all grants of money, 'till these are altered, and redressed? Of this truly respectable part of the constitution, in my idea, there is not the least ground for apprehension or fear: they cannot take their seats, 'till thirty years of age: the presumption is not a violent one,

that their integrity will be tried, and their abilities known and approved: most of them probably will be past, "the hey-day in the blood;"<sup>10</sup> weaned from the intoxicating dissipation of youth, and the hot allurements of pleasure.

4th. The judiciary of the United States have *original jurisdiction only*, in all cases affecting ambassadors, other public ministers and consuls, and those in which a state shall be party—The convention has only crayoned the outlines, it is left to the Congress, to fill up and colour the canvas—To these able artists, the representatives of the states, the Wittenagemot of America<sup>11</sup> (this task, the finishing of this piece) is left with great propriety—*It is taken for granted* by Mr. Mason that law will be rendered tedious and expensive, &c.—Let us pass over this begging of the question, and ask, what could this enlightened gentleman mean? by instancing England, as the place where justice is tedious and unattainable—"At the sittings in London and Middlesex there are not so few as eight hundred causes set down a year, and all disposed of; of these not more than twenty or thirty are ever afterwards heard of in the shape of special verdicts, special cases, &c.—Notwithstanding this immensity of business, it is notorious, that in consequence of method and a few rules, which have been laid down to prevent delay (even where the parties themselves would willingly consent to it) nothing now hangs in court—Upon the last day of the term there was not a single matter of any kind that remained undetermined" Burrow's Rep. 4th vol. p. 2583.<sup>12</sup> May justice in America be always attainable as in England, and may it be administered here precisely as it is administered at Westminster-Hall! The rich here, as in all other countries, will have an advantage over the poor, in all cases where the services of eminent and learned men are to be commanded by the influence of money.

5th. Had the convention left the executive power indivisible, I am free to own it would have been better, than giving the senate a share in it; or had they left the power to the president of appointing his own privy council, upon each of whom for every measure be advised and carried, responsibility should have been fixed, this blending of what should be separate would have been avoided—The following conjecture may explain the reason of this: A jealousy of executive government; and a jealousy in the minor states, which made them anxious to add every weight to the scale of the senate, considering it as the inexpugnable barrier of their privileges, and the soul of their existence.

6th. The powers of the vice-president do not strike me as dangerous; he will seldom or ever have that devolution of power by the death, resignation, or inability of the president; and, if he should, he will exercise it for a short time—The president's having the unrestrained

power of pardoning for treasons is another objection; and why? "it may be sometimes exercised to screen from punishment those whom he, (the president) had secretly instigated to commit the crime, and thereby prevent a discovery of his own guilt"—I appeal to this worthy gentleman himself, I appeal to the public, whether there be in this objection, more of validity and force, or chimera and imagination.

7th. The infraction of the present treaty shews the necessity of treaties having the force of laws—When any publicity of them will not be injurious to America, they will be submitted to the representatives in Congress. The King of England can make peace or declare war; can make treaties, but, whenever the Commons disapprove of the measures by which these have been brought about, we know the consequences—Col. Mason is too well read in parliamentary history, not to know what the effects would have been, had the Commons frowned on those of Hanover, Seville, &c. negotiated in the administration of Sir Robert Walpole—The cast of the proposed constitution is surely more popular than the English.

8th. Our interest is variant, not opposite; different from, not contrary to, that of the eastern states: I confess, on this point I have had my fears: as a Virginian, it would be more to my mind not to have the possibility of restraint imposed on the free transport of our staple, but, as an American I would submit this to the general sense, rather than secede—If, as I believe, for I will not assert, the agricultural system in Pennsylvania prevail over the commercial, we need not fear monopolies in the carrying business, restrictions, and navigation acts. I believe too, but I will not assert, be this as it may,—that the representative Congress of the United States will not, in fifty years, make so large a sacrifice of the trade of Virginia on the altar of selfishness and monopoly, as her assembly has made of it, in four, on the altar of ignorance and absurd prejudice.

9th. The latter part of the answer to the 6th objection may suffice for this—*Valeat quantum valere potest.*<sup>13</sup>

10th. "No declaration of the liberty of the press." Our Bill of Rights declares, and it is not repealed, that the freedom of the press is one of the great bulwarks of the liberty of the people, and never can be restrained, but by despotic power.<sup>14</sup> The people of England have no other security for the liberty of the press, than we have—Their own spirit, and an act of parliament—their act of parliament *may* be repealed—our Bill of Rights *may* be repealed. Of that no man has any fear, of this no man need have, while this spirit is in the people—"This peculiar privilege must last (says a learned writer) as long as our government remains, in any degree, free and independent—it is seldom

that liberty of any kind is lost at once—slavery has so frightful an aspect to men accustomed to freedom, that it must steal upon them by degrees, and disguise itself in a thousand shapes in order to be received.—But, if the liberty of the press ever be lost, it will be lost at once.—The general laws against sedition and libelling are at present as strong as they can possibly be made, nothing can impose a further restraint, but, either clapping an imprimatur on the press, or giving to the court very large discretionary powers, to punish whatever displeases them—but these concessions would be such a bare faced violation of liberty, that they will probably be the last efforts of a despotic government—Hume's essay vol. 1. p. 17."<sup>15</sup>

The last efforts of a despotic government! Can we then a popular government, a guaranteed republic, fear this more under the proposed, than the present constitution?

A standing army without the consent of the representatives of the people in Congress there never can be: to their wisdom and their discretion we submit—Necessity may oblige America to raise an army—and who can judge of this necessity so well as Congress? Where can this power be more safely reposed? Dr. Smith (in his "Wealth of Nations," book 5. ch. 1.)<sup>16</sup> is of opinion in some cases, that a standing army is not dangerous to liberty—of this the people of America will judge, and a people jealous of their liberty, vigilant over executory magistracy, will oppose with their united voice this institution, when they discover its end to be usurpation and tyranny.

11th. Happy for Virginia, that this restraint is imposed. Laying duties on exports is the acme of impolicy, and has been the practice of our Assemblies.

12th. Not restraining for twenty years the importation of Africans will not effect us—This gives South-Carolina and Georgia that privilege, if it be their pleasure to avail themselves of it—Is not this objection, the excess of criticism?

13th. Ex post facto laws have ever been considered as abhorrent from liberty: necessity and public safety never can require them—"If laws do not punish an offender, let him go unpunished; let the legislature, admonished of the defect of the laws, provide against the commission of future crimes of the same sort—The escape of one delinquent can never produce so much harm to the community, as may arise from the infraction of a rule, upon which the purity of public justice, and the existence of civil liberty essentially depend"—Pæley's Principles of Moral Philosophy, vol. 2. p. 234.<sup>17</sup> Oc[tavo] Ed.

14th. The last objection does not call for any particular animadversion—What the government may terminate in depends on the people—

let them feel their importance, be alive to their own interests; elect those of the best abilities and character; keep a jealous eye over their representatives, and over judicial and executory magistracy; be disposed to reverence the authority of laws, yet active to detect and expose malversation and wrong measures: the proposed government will then, not only induce external consideration and respectability, but will have internal efficiency and permanence, and will ensure to the present and future generations, security of property, and peace, happiness, and liberty, the great end of political and civil society.

I have now finished, what I proposed to observe on these objections, and trust no person will conclude my design has been to condemn this respectable gentleman for not putting his signature to the constitution; on the contrary, thinking as he did, I commend him—The man of abilities, firmness, and integrity will dare to think, to judge, and act for himself, his principles have not the pliancy of his gloves, neither has he his mind to make up at every revolution of an hour: authority with him is not the guide to truth, nor does infallibility rest in numbers—He has a surer monitor; his own judgment and the dictates of his conscience of such stern matter is, if I am rightly informed, the mind of Mr. Mason composed, never yielding itself up, when convinced of its rectitude, at the arbitrium of the popular breath, nor giving into opinions that are not its own.

*Dec. 29, 1787.*

1. On 23 January the *Virginia Independent Chronicle* reported that "Civis Rusticus" was received.

2. John Dixon's *Virginia Gazette and Independent Chronicle* of 5 January has not been located. "Civis Rusticus" dated his essay 29 December.

3. See "George Mason: Objections to the Constitution," 7 October (above). The objections that appeared in the *Virginia Journal* on 22 November were not numbered (CC:276-B). "Civis Rusticus" combined some of the objections and changed punctuation, words, and capitalization. He also deleted one passage. (For significant alterations, see notes 4-6, below.)

4. "Civis Rusticus" omitted the footnote to this paragraph: "*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.*"

5. "Exclusive" in the *Virginia Journal* version.

6. "Innovations" in the *Virginia Journal* version.

7. The fifth revolutionary convention that met from May to July 1776 passed an ordinance stating "That the common law of England, all statutes or acts of parliament made in aid of the common law prior to the fourth year of the reign of king James the first, and which are of a general nature, not local to that kingdom, together with the several acts of the general assembly of this colony now in force, so far as the same may consist with the several ordinances, declarations, and resolutions of the general convention, shall be the rule of decision, and shall be considered as in full force, until the same shall be altered by the legislative power of this colony" (Hening, IX, 127). See also James Madison to George Washington, 18 October, and "Brutus," *Virginia Journal*, 6 December (both above).



8. Seven of the states that had adopted new constitutions since 1776 had declarations of rights: New Hampshire, Massachusetts, Pennsylvania, Delaware, Maryland, Virginia, and North Carolina. The declaration of rights of Connecticut, a state whose colonial charter was its constitution, was incorporated in "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).

9. Under the Articles of Confederation, each state could appoint between two and seven delegates, making a maximum total of ninety-one. Most states, however, did not appoint seven delegates and often, when states were represented in Congress, they had only two or three delegates. For the federal year beginning in November 1787, the thirteen states appointed fewer than sixty delegates. The House of Representatives under the Constitution consisted of sixty-five representatives.

10. "You cannot call it love; for at your age/The hey-day in the blood is tame, it's humble./And waits upon the judgment" (*Hamlet*, act 3, scene 4).

11. In Anglo-Saxon, the word witenagemot means an assembly or gathering of wise men. The Anglo-Saxon witenagemot was an assembly (large or small) of important nobles (secular and ecclesiastical) called together by the king to consult on legislative, executive, and judicial matters. It was controlled by the king who initiated most business. Later generations mistakenly likened the witenagemot to a democratic body.

12. Sir James Burrow, *Reports of Cases Argued and Adjudged in the Court of King's Bench* . . . (5th ed., 5 vols., London, 1812), IV, 2583.

13. Translation: "It shall have effect as far as it can have effect."

14. See Appendix I (below).

15. David Hume, *Essays, Moral, Political and Literary* (London, 1963), Part I, essay II ("Of the Liberty of the Press"), 12n. This essay was first printed in Edinburgh in 1741.

16. Adam Smith, *An Inquiry into the Nature and Causes of the Wealth of Nations* (Modern Library ed., New York, 1937), Book V, chapter I, part I, 667-68. *Wealth of Nations* was first published in London in 1776.

17. William Paley, *The Principles of Moral and Political Philosophy* (4th Amer. ed., from the 12th Eng. ed., Boston, 1801), Book VI, chapter VIII, 376. *The Principles* was first published in London in 1785.

## Nov. Anglus

### Norfolk and Portsmouth Journal, 30 January<sup>1</sup>

*To the VIRGINIANS.  
(Continued from our last.)*

Thus, we see Great-Britain in circumstances as different from those they stood in at the conclusion of the American war, as perhaps can be conceived.

Engaged with a powerful division of Americans, that were claimed as British subjects; France and Spain united, and exhausting the resources of both nations against her; Russia, who owed her obligations, silent; and the United States of Holland, who had derived their political salvation from a British Sovereign, acting as open and hostile enemies.

A people thus attacked, on all sides, by three powerful nations (through their own imprudence), and engaged, at the same time, in a civil war at three thousand miles distance, with a part of their own nation, and who have extricated themselves from such complicated

difficulties, and who, notwithstanding their lots, have maintained with unabated splendour their active, national power, would have deserved the most honourable wreath of military laurels had their exertions been made in a better cause.

This description may appear to some unpopular; it appears to me impartial and true; I shall however make a popular use of it, by assuring you that you are not to expect to sit down under the eye of such a nation, thus circumstanced, with security or peace, in the character of several *petty* Confederacies.

Exclusive of your own jarring interests, which have been sufficiently pointed out to you by able pens, the very idea of a dissolution of interests, carries with it a dispensation from all obligations to assistance; if this ever becomes optional, the conclusion is inevitable.

Your situation and circumstances will be conspicuous; you will tempt and invite your own destruction. The vast, investing province of Canada, loaded with foreign troops, which I have shewn you Britain is able to send, *without the European interruptions she before experienced*; and, perhaps obtain, *with a facility then out of her power*, will enable that country<sup>(a)</sup> to turn a fate upon you which otherwise would unavoidably be their own; and with this serious and alarming difference, that yours will be a vindictive subjugation, whereas theirs would be a happy one.

If then the observations and arguments which have been advanced by so many writers, and placed in such various lights, are just, no American, especially if a public servant, can lose sight of the general interest, without being reproachable for the future calamities of his country; and few men are hardy enough to bear, without affliction, the just reproaches of a whole people.

I shall therefore conclude this paper, with recommending to your choice in the approaching important delegation, men of enlightened understandings, and impartial principles; and who do not violently, on all occasions, declare their opinions. Such men will deliberate with coolness, and the same patriotic sentiments will probably pervade their councils that acquiesced in the accession of this State to the first Confederacy; and thus the same conviction of common interests and of common dangers, will continue your preservation, which was a principal cause of first making this a free and independent country.

Hampton, January 10, 1788.

(a) *Canada.*

1. This essay by "Nov. Anglus" was continued from the 23 January issue of the *Norfolk and Portsmouth Journal*, which is no longer extant. An earlier essay by "Nov. Anglus" was printed in the *Journal* on 12 December (above).

**William Short to William Grayson**  
**Paris, 31 January (excerpt)<sup>1</sup>**

I recieved by Commodore Jones your agreeable letter of Nov. 10. & was prevented from answering it by the last packet by the Commodore's having retained it in his possession by mistake, until it was too late. I cannot express to you Sir all my gratitude for the abundance of information contained in it on American matters. The observations which you make on the proposed constitution are such as appear perfectly reasonable to all thinking men on this side of the Atlantic. I confess to you my ideas of federal matters have been all turned topsy turvy by reading & [studying?] on the result of the federal convention. When I awake from a reverie I cannot help [but?] thinking it all a dream. I ask myself, is it possible that the Citizens of America should have made in three years larger strides towards a toleration of monarchical principles than it had been supposed possible they should have made in as many centuries? I am forced to answer myself in the affirmative—the proposed constitution, a great part of [what?] is written on it in the public papers combine to shew that it is so.—This alarms me Sir not so much for the present as for future generations. despotism will probably not venture to shew itself in all its terrors during our time; but if we go on from three Years to [five?] years as we have done lately, an able political calculator would have no difficulty in shewing us to what a degree we should have advanced by the next generation.—I turn & twist this matter every way in order that I may get one favorable, one consolatory view of the subject but it is all in vain.—I am forced to return to the same position—that is, that so desperate a remedy would not have been proposed, much less tolerated, but in a desperate case. and surely the case is sufficiently desperate when we consider that violent as the dose is, the best thing we can do is to swallow it: for I confess to you I see at present [no alternative to?] an acceptance of this constitution or a dissolution of the union. the former [is certainly?] to be preferred, & among a variety of reasons for this one particularly that [there remains yet?] some hope of the States changing the new constitution by degrees [shaping it as much as?] possible to what it ought to be. whereas in the other case of a dissolution no hope is left.

Yesterday at three o'clock the edict for the toleration of non catholic religions (& of which you have probably heard a great deal) was enregistered by the Parliament of Paris, [one?] hundred votes for, fifteen against it.—It is thought this edict will do a great deal of political good to the Kingdom. it cannot fail to do good; but time alone can shew

us the quantum.—The majority by which it was approved shews the progress of information & the increase of good principles in this country—indeed in every part of Europe there seems unquestionably a progression towards the points of information & of liberty, so much to be desired. I wish the same could be said of our dear country—[There?] progression of late years has been certainly retrograde, & that to the astonishment of the truly philosophical part of the learned here.—You know among the learned there are two opinions respecting the human species relative to government. the one that they are capable of enjoying the purest degree of liberty, & that they were intended for it by the great author of all things—the other that nature never intended them for any thing more than a partial degree of liberty & that consequently the idea of a pure republic is a visionary idea.—Our country, Sir, was the great standard to which these disputants always referred.—consider what a victory the latter party has lately gained, by America herself declaring that no government can exist without a monarch; though he shall for a time be called a President. . . .

1. FC, Short Papers, DLC. Short's press copy of this letter is often illegible.

### **Virginia Gazette and Weekly Advertiser, 31 January<sup>1</sup>**

We learn that in the course of this month, the states of New Hampshire and Connecticut have adopted the proposed FEDERAL CONSTITUTION, the latter by a majority of 127 to 40.—Five states have now ratified the Fœderal Government, viz. Delaware, Pennsylvania, New Jersey, Connecticut, and New Hampshire.

1. The *Gazette* was incorrect about New Hampshire; its convention did not meet until 13 February.

### **Martin Oster to Comte de la Luzerne Norfolk, 4 February (excerpt)<sup>1</sup>**

The refusal made in Convention by Mr. Randolph, Governor of Virginia, to adopt the new federal government, having occasioned in this country, a sort of unrest that made well-intentioned politicians uneasy, and the adoption of this government, by each of the United States, having seemed to me of concern to French commerce, I went to Richmond, in order to learn firsthand the opinions of the majority for and against it, and I discovered that as a result of the system's having been submitted to the examination of the people by the general assembly, the opposition party had strangely diminished, but it is nevertheless still considerable and even to be dreaded. It is composed generally of the richest and most indebted inhabitants. Randolph, Henry,

Richard Henry Lee, and Masson, all ambitious men, and full of personal designs, are its leaders.

Attached, My Lord, I have the honor to transmit to you two pamphlets, against the Constitution. One is by the dissidents of Pennsylvania,<sup>2</sup> and the other by the Governor of Virginia.<sup>3</sup>

The Pamphlet by the dissidents is considered the best of all those that have appeared.

As for that by the Governor, no one is pleased with it. He expresses in it the greatest apprehension of the frightful misfortunes that would result from a dissolution of the Union, whether the States become 13 disconnected sovereignties, or whether they are divided into two, or three Confederations. He also fears the most fatal consequences, if this chance to establish a firm and energetic government is allowed to escape. He does not mention that any artifice or wickedness was employed in the federal Convention, and he says, that if the Constitution is adopted, it will be his duty to acquiesce in it.

It is not known here, My Lord, what to think of the indecision and the assertions of the Governor, on the new form of Government. His arguments, his principles, are too confused, and have something of sophistry; but the attentive observer, nevertheless discovers, a duplicity there that no longer allows a doubt as to the active motives of the person. They consist principally of egoism, of the consuming desire to take the lead; and of a jealousy mingled with the most active fear of seeing the functions and prerogatives of the governors reduced to only internal regulations. According to this understanding, one judges of his Pamphlet:

1st. that he tried to become the hero of a new scene, by frightening and stirring feelings.

2nd. that he lacks that sound judgment, and that boldness of spirit that make true republicans.

3rd. that he is of a character that bends according to how his interest varies, and in addition that always follows the strongest party.

That, My Lord, is what I think I perceive in the conduct of the current Governor, relative to the new Constitution which all good citizens ardently desire, and without which it will perhaps come to pass that the dissidents will divide the continent into several Confederations that will be perpetually agitated by internal divisions and that, by their weakness, will remain languid, and will only be of short duration.

Virginia holding the first rank among the 13 States of the Union, its influence against the Constitution is particularly feared. The assembly of its delegates to decide on the approval or rejection of it is set for the month of June next; and as the deliberations of this assembly

on this subject will be interesting, I propose to go there to follow the debates, in order to give you an account of them. . . .

1. RC (Tr), Correspondance Politique, États-Unis, Supplement, Vol. IV, ff. 328–32, Archives du Ministère des Affaires Étrangères, Paris. The letter was not sent until at least 21 February. An enclosure to the letter lists the states that ratified the Constitution by 21 February; New Hampshire was incorrectly listed as one of them. (See *Richmond Virginia Gazette and Weekly Advertiser*, 31 January, above.) Oster's dispatch, number 52, was endorsed as received on 12 April. The Comte de la Luzerne (1741–1791) was Minister Plenipotentiary to the United States, 1779–84, and Minister of Marine and Colonies, 1787–90.

2. The "Dissent of the Minority of the Pennsylvania Convention" was first published in the *Pennsylvania Packet* on 18 December (CC:353), and then reprinted in Richmond as a pamphlet on 4 January by Augustine Davis.

3. See "The Publication of Edmund Randolph's Reasons for Not Signing the Constitution," 27 December (above).

### **George Washington to Jonathan Trumbull, Jr. Mount Vernon, 5 February (excerpt)<sup>1</sup>**

. . . Altho' an inhabitant of this State, I cannot speak with decision on the publick sentiment of it with respect to the proposed Constitution—my private opinion however of the matter is, that it will certainly be received but in this opinion I may be mistaken.—I have not been ten miles from home since my return to it from Philadelphia—I see few who do not live within that circle, except Travellers and strangers and these from opinions upon too slight ground to be relied on—The opponants of the Constitution are indefatigable in fabricating and circulating papers, reports &c. to its prejudice whilst the friends *generally* content themselves with the goodness of the cause and the necessity for its adoption suppose it wants no other support. . . .

1. FC, Washington Papers, DLC. Printed: Fitzpatrick, XXIX, 399–400. Washington answers Trumbull's letter of 10 January, which Trumbull had misdated 9 January. Trumbull informed Washington that the Connecticut Convention had ratified the Constitution "by a great Majority"; and he expressed the hope that this would "have a happy influence" on the Massachusetts Convention which was convening (RCS:Conn., 568). Trumbull (1740–1809), Washington's aide-de-camp from 1781 to 1783, was a Lebanon, Conn., farmer, and a justice of the peace of Windham County. He served in the state House of Representatives, 1774–75, 1779–81, 1788–89 (speaker), and the U.S. House of Representatives, 1789–94 (speaker, 1791–93).

### **The State Soldier II Virginia Independent Chronicle, 6 February<sup>1</sup>**

*To the good PEOPLE of VIRGINIA, on the new FEDERAL CONSTITUTION, by an old STATE SOLDIER, in answer to the proposition for amendments.*

Under a persuasion of the utility of the UNION themselves, some persons till lately have been weak enough to suppose that no one would contend for the separation of the States. But all things have their duration—Politics as well as dress are often under the controul of fashion; and there are stated periods when the plainness and honesty of the old, must give way to the artifice and foppery of the new.

Impressed with the necessity in time of danger, each state was taught to believe, that it was by being “united they were to stand—and when divided to fall.” And unaware of such open confessions as has lately been made of the contrary, I had intended to confine myself at present entirely to the subject of altering the new fœderal constitution—but finding the one so inseparably linked with the designs of the other, a few observations will necessarily occur in the course of this paper, as well to shew the necessity of continuing the UNION, as to strengthen the objections I had to offer against an attempt to alter the new plan of government.

It would be difficult, if not impossible however, to point out the difference between a public attempt to amend this new system, and a secret design to destroy it—yet it may not be hard to shew the evil tendency of either.

That no other method for bringing about so useful a business as the separation of the states could be devised but the framing a new constitution for the more effectually binding them together, and then destroying it, seems at least strange. GOVERNMENT being the foundation of all human happiness, untinctured with fickleness, should be the solid work of WISDOM and mature DELIBERATION—Children indeed may make impressions on the sands and rub them out when they become tired of looking at them; but states when they do childish things make impressions which their maturer days cannot efface.

For the noble purposes of combining us together and making us respectable as a nation abroad, and rich as individuals at home, a system of government is now offered to our service—which, though fraught with some lesser evils, has every important recommendation—but to correct the one we are now invited to risk the other—for as the principle objection to this constitution is the undue influence which some of the states will have over the others from their superiority in number, it is too obvious what must be the remedy applied in the first instance. For it being too well known to admit of a dispute that the same majority which the northern states now hold, will at another time be as great, it becomes as obvious that no alteration in that system at this time can correct this inconvenience but a dissolution of the

UNION—yet a remedy may be found indeed in that very constitution itself as it now stands.

Through the feebleness of the UNION and popular turn of our system, the different interests of the states have heretofore been rendered somewhat discordant—Congress being entirely dependent on, and ever amenable to the state legislatures, that same fear of offending which has often operated on the state representative (in favor of a few to the prejudice of the many) extends itself to the continental delegate—which, when aided by the consideration of the dependence which most preferments have on the individual states, together with the insignificance of the present UNION, render the interest of a part more the object of foederal consideration than the welfare of the whole—whence arises that contention of interests in which some states may have suffered; and is at this time so much dreaded.

Powerful however as that objection may appear against the existence of a general UNION, it has little to do with that question now: for to argue from what experience we have already had, would be nothing against the necessity of a UNION. Having never yet felt the effects of a perfect one, all that can be drawn from the experience of the old, will only prove the necessity of a new.

The present foederal constitution, though under the name of a UNION, wanted every proper, strong, and well-trying string at its formation (if I may so express myself) to produce a perfect unison—the want of authority and independence rendered it too feeble an instrument to produce the wished for effects. When on the contrary had the general government of the continent been set at a proper distance above those of the states, the objections now started might never been known perhaps. The representative instead of contending for the particular interest of his own state, would then have had something of higher dignity in view—Congress being considered the only head of the continent, to ornament which so as to make a figure among the other nations of the world, would [have] been his only object—since from that source alone would spring the only political reputation worth adding to his name. And all preferments of the highest honor and emolument coming from the continent at large, it would thence have been immediately his interest to consult the dignity of the whole, and not the contracted, and too often illiberal interest of a part.

Whence we may consider the want of a perfect UNION the very cause of those evils which are so much dreaded, and now urged against a confederation of the states—For as men of contracted habits and moderate circumstances see no way of mending their fortunes but a selfish and narrow œconomy in their own system, so states will look



no further than their own immediate interests, till a friendly intercourse with others has taught the benefit of making trivial sacrifices for double gain.

The use of trade has taught the benefit of loan—and favors with obligations by frequent and mutual intercourse become reciprocal interest at last. By a strict confederacy, under which the fruits of commerce would find a regular and general circulation, it would soon become the interest of each state to contribute to the profits of the whole—And acting under one uniform system, nothing but superior industry could give an advantage to any particular part: for it then being out of the power of each state to intrigue for its traders, party skill would necessarily give way to political wisdom—and thus the states, habituated by confederation to alternate sacrifices and advantages, growing into one grand EMPIRE, would gradually lose sight of every local and pernicious interest as the whole advanced into national perfection. And as the government became more and more fixed and freed from those local prejudices and interests, any necessary alterations might more easily be made.

But since those evils can no way be remedied at this time but by a separation of the states, I trust you will treat the attempt with that detestation which a design to ruin you forever would deserve.

For my part it is far from me to suspect any man of private designs in his public acts—But I fear every one will not be so liberal. The great opening which this doctrine leaves for suspicion to enter in, will not be long unoccupied I suspect. The many accomplishments which are necessary to entitle men to the presidency and other high offices under a government so extensive as this is likely [to] be; and on the contrary the few ingredients necessary to constitute that fitness where a state or two shall compose a UNION, render this darling scheme of disuniting the states too suspicious to go unnoticed by all. A general reputation throughout the continent, both military and political, will be necessary in the one, and a few marches and retreats about Williamsburg at the beginning of the war, the taking a tory or two by surprise at their own houses by night, together with a popular eloquence, will be sufficient recommendations, both military and civil, in the other.

Though for my own part I should rather suppose that this strange, wild, and dangerous scheme has arisen from a mistaken zeal in some, and been kept up from a reverence for the opinions of particular men by others. For let a man whose wisdom, experience, or patriotism has been thought uncommon, advocate an opinion, however fallacious it may be, he will always find converts. And this I take to be the case in the present instance.

Some celebrated statesman<sup>2</sup> perhaps has taken up an opinion that we cannot exist but by separate governments—and a number of others, who under an admiration of the man have adopted his opinions by way of recommending themselves, as if they thought it sufficient for that purpose if their wisdom could come up to a level with his folly.

Long, too long indeed my countrymen, have we been liable to be lulled into a fatal stupor by the musical eloquence of a single man!—Whence our government, free as it appears to be, has ever had the worst of tyranny lurking in it.

At all times liable to be governed by the breath of a single man, under a constitution subject to be swept away by his eloquence, no one can foretell at what instant we may fall a prey to his ambition. These being the only dangers you have to dread from designing men, you have it now in your powers to be relieved from every fear of the sort in future.

Under the general government of a UNION, whose members will be farther removed from those fears which spring from popular sources, another kind of eloquence than inflammatory declamation will be necessary for persuasion. And from an assembly composed of men (many of whom of equal abilities, or at least of too great an equality of pride and ambition to suffer an individual of their own number to dictate to the rest) would flow laws founded on the combined abilities of all North America, and supersede those which were but the labours of some popular individual in each state.

Commerce then, freed from the oppressive hand of state jealousy and local interest, traversing the whole continent and seeking your commodities, would stamp a higher value on all your property. While policy and justice, unawed by popular resentment, extending their united hands, the one receiving from the delinquent states that portion of supplies which they have so long withheld, and the other placing it where it most righteously belongs—together with the assistance of a general impost, would soon relieve you from your debts both foreign and domestic, public and private. For as our present private embarrassments are in a great measure owing to the daily public demands which come against us, the[y] being relieved from the latter by any means whatever, will surely render us the more able to get rid of the former.

But while we impute to the taxes we pay towards supporting an ill-managed government our inability to discharge our private debts, let us recollect to what cause we owe that mismanagement itself;—and in doing this we shall probably find how inconsistent we are in opposing

a government in every degree calculated to correct the evils of which we complain.

To look up for favors to others, without being willing to do a kindness in return, would be equally pitiful and unjust; and to expect to enjoy the benefits of a society to whose interests we are not always willing to adhere, would be unreasonable and absurd. Yet there are those who do not scruple to claim the most unbounded liberty, while they condemn the mismanagement of a government, the pressures of which are entirely owing to its being already too feeble and too popular to subsist but by relaxing first into the very lowest stages of existence, and then struggling and straining into vigor. Whence, though they are blinded to the cause, proceeds all the miseries they feel.—For that government which is distressed itself, by relenting in its demands at one time, must be the more rigid and severe at another.

To the different postponements of our taxes therefore, which have only been to please for the instant and not to give any lasting and permanent relief, we may justly [attribute?] the most of our present distresses since the removing those necessary payments from time to time the further from us, only served to accumulate the load which at some time or another through necessity was doomed to fall on us with a threefold wretchedness—for the arrow that goes upwards is not rendered the less dangerous by being removed the further from us; but on the contrary the higher it ascends with so much the more force and weight it will return on our heads.

To an endeavor then to heal the wounds which that kind of policy has already made, which if too long irritated might become incurable at last, as well as to the causes before mentioned, the matter now under consideration owes its existence. But unfortunately that constitution, like all other human things, has its faults; and those faults are such as cannot be removed at this time without destroying it entirely—and what is worse, as I have before advanced, disuniting the whole of the states. And this last I trust, if sufficiently proved, will render the idea of amendments at this time as shocking in the eyes of the undesigning as the intent is treacherous in the minds and hearts of all others.

Let us for a moment however remove from our view the powerful tendency which the amendments themselves proposed by such men will have that way, and view them earnestly endeavoring to have those objectionable parts eradicated without a design of endangering the UNION. To that end it will only be necessary to consider the effects which the favorable reception that constitution may meet with from a

part, will have on the UNION when met by such obstructions as amendments from the rest.

For it will not only be confessed, but it has already been urged as an objection to this new system of government, that it will be the interest of a majority of the states to oppress the rest—and it being the interest of that same majority to accede to any measure so highly favorable to that end as the new constitution will be, renders it at least probable that it will be adopted by a large majority of the states—which done, the proposing an amendment will be nothing less than a request to those states to undo and reconsider what they have already finally determined on;—and obstinately to persist in such amendments when that shall be the case, will be nothing less than in other words to withdraw ourselves from a connexion with them.

Though when we consider how numerous the objections as well as those who start them are, and how natural it is for all men to be attached to their own opinions, it will not be necessary to admit that nine states shall have adopted it to render an attempt to amend it the same with a design to destroy the UNION.

The many local interests which will rise up in opposition to each other throughout the continent, not being naturally reconcilable, if set in motion at a time when there is no legal restraint to their operations, will necessarily form the states into parties which no future exertions can reunite.—When on the contrary if under the interference of a government whose existence will depend on the welfare of the whole, those necessary amendments may be made by sacrificing a small share of the interest of different parts, without endangering that last and deepest interest of the whole—the existence of the UNION.

In securing to the states their different rights the larger received a considerable advantage over the smaller in the number of representatives they found themselves entitled to in Congress—and those smaller states could no way be prevailed on to join in a government which would only [have] been formed for the advantage of others and the destruction of themselves, had they not also been secured. To that end an equal representation has been allowed them in one of the branches of the legislature;—to deprive them of which, would be to take from them not only their only inducement to engage in the business as well as their only safety when united; but also the only possible means of bringing them up to a level with those parts with which their respectability was to join in making up the dignity of the whole.

Yet such is the anxiety of some to bring about a separation of the states that while they feign the most pious wish to perfect this new work, they plot its destruction by proposing amendments, the success

of which they know must inevitably carry along with them the consequences they wish. For when any of the states shall be deprived of the only inducement they can have to unite themselves with, and what it worse, the only thing that can secure them from being swallowed up by the more important interests of the rest, how long must it be expected they will continue in that situation?—And to force others to withdraw from the UNION will no way differ from doing it ourselves, except that those who contrive this artful expedient to separate the states, will secretly effect the blackest design while they publicly wear the fairest face the most sincere love of their country could put on.

Nor would there be wanting pretences still more plausible than the representation in the senate to effect the dissolution of the UNION by pretending amendments. Objections which are called general, and really appear so at first, would be started and urged with a degree of plausibility that might impose on some of the best friends to the UNION.

It is well known that several of the states on the continent have never made any formal declaration of their rights. Well aware of the impossibility of enumerating all those blessings to which by nature they were entitled, and highly sensible of the danger there was intrusting to their recollection of them (knowing that when once they attempted to set to them legal bounds, what ever should by chance be left out, was of course given up) some of the states more prudently thought fit to enumerate on the other hand what should be the powers of their government, when of course what ever was omitted on that side, remained as their natural and inviolable rights on the other. And but few states in the world have deemed it safe to do otherwise.

England itself until the reign of King John remained in this situation, when that foundation of the present British constitution, the Magna Charta of the land, made its appearance, under whose benign influence the plant of liberty was expected to grow and flourish. But unfortunately that bright luminary in the British constitution dawned but with a glimmering ray on this quarter of the world from its first settlement. America, though secured under the constitution of England, from time to time felt itself oppressed by its laws—till at length it was found, but little also than mercy, instead of our own rights, was left us in that government to depend on for safety—“when enquiring into the first principles of society, we became convinced that power, when its object was not the good of those who were subject to it, was nothing more than the right of the strongest, and might be repressed by the exertion of a similar right.” And growing more and more restless the attempt soon followed the discovery.

The whole of the states at once becoming united, in what was considered the common cause of all, a general agitation took place, which increased as it extended itself across the continent "like the rolling waves of an extensive sea." When all the world, though interested in the event, stood motionless at first with astonishment at the attempt. Yet relying on the justness of their cause, while destitute of every resource, the thirteen states of America thus united and impressed with a true sense of the origin of power, most piously resolved to maintain those natural rights, the relinquishment of which to aggrandise any power on earth, would only be an insult on that divine authority from whence they sprung.

And to forge indiscriminately now those states into a declaration of their rights, who may think it still unsafe to rely on a bare recital of them, particularly in a general government which at its commencement must involve its authors in too great a variety of difficulties and cares, to be sufficiently mindful of every natural right necessary to be secured to each particular state, would be as unjust and inconsistent with our former pretensions, as its natural consequence—the separation of the states—would be contrary to that policy which gave us success.

But why need I labour thus to prove what is in itself so definitely clear?—The constitution itself admits of no amendments till put in force. To adopt it or reject it is all we have to do—The one I confess is the most ardent wish of my heart—though the other were to entitle me to the credit of prophesy; from whose foresight I should only most earnestly recommend to you to consider well before the approaching election whether a total dissolution of the UNION is desirable; for that I apprehend to be the only amendment which can be made in the new plan of government by our state convention.

1. On 30 January the printer of the *Chronicle* announced: "The STATE SOLDIER, No. 2. and the piece signed a PLANTER, are received, and will be published in their turn." For the authorship of "The State Soldier," see the *Virginia Independent Chronicle*, 16 January (above).

2. Patrick Henry was often accused of supporting the idea of separate confederacies.

### **Thomas Jefferson to Alexander Donald Paris, 7 February (excerpt)<sup>1</sup>**

... I wish with all my soul that the nine first Conventions may accept the new Constitution, because this will secure to us the good it contains, which I think great & important. but I equally wish that the four latest conventions, whichever they be, may refuse to accede to it till a declaration of rights be annexed.<sup>2</sup> this would probably command the offer of such a declaration, & thus give to the whole fabric, perhaps

as much perfection as any one of that kind ever had. by a declaration of rights I mean one which shall stipulate freedom of religion, freedom of the press, freedom of commerce against monopolies, trial by juries in all cases, no suspensions of the habeas corpus, no standing armies. these are fetters against doing evil which no honest government should decline. There is another strong feature in the new constitution which I as strongly dislike. that is the perpetual re-eligibility of the President. of this I expect no amendment at present because I do not see that any body has objected to it on your side the water. but it will be productive of cruel distress to our country even in your day & mine. the importance to France & England to have our government in the hands of a Friend or a foe, will occasion their interference by money, & even by arms. Our President will be of much more consequence to them than a king of Poland. we must take care however that neither this nor any other objection to the new form produce a schism in our union. that would be an incurable evil, because near friends falling out never reunite cordially; whereas, all of us going together, we shall be sure to cure the evils of our new constitution, before they do great harm. . . .

1. FC, Jefferson Papers, DLC. Printed: Boyd, XII, 570–72. In a portion of the letter omitted here, Jefferson said that he had received Donald's letter of 12 November (above).

The James Monroe Papers at the Library of Congress contains a transcript of an extract of this letter to Donald (in Jefferson's hand) which has the following caption: "Extract from the letter of Th:J. to A. Donald dated Paris Feb. 7. 1788. which was quoted to the Virginia convention." Patrick Henry referred to this letter in the Convention on 9 June (IV below). Both Monroe, on 12 July, and Madison, on 24 July, informed Jefferson that Henry had used his letter in the debates (Boyd, XIII, 352–53, 354n–55n, 412–14).

2. Jefferson had already outlined this procedure for ratification in letters to William Stephens Smith and James Madison on 2 and 6 February, respectively (Boyd, XII, 557–59, 568–70). An excerpt from the letter to Smith is printed in CC:Vol. 2, p. 500. For another letter, written at this time, that discussed the features the bill of rights should have, see Jefferson to C.W.F. Dumas, 12 February (Boyd, XII, 583–84).

### **James Monroe to James Madison Fredericksburg, 7 February (excerpt)<sup>1</sup>**

. . . This new constitution still engages the minds of people with some zeal among the partizans on either side. It is impossible to say which preponderates. The northern part of the State is more generally for it than the southern. In this county<sup>2</sup> (except in the town) they are agnst. it I believe universally. I have however this from report only, having not been from home. my late Colleague is decidedly so<sup>3</sup>—Mr. Page<sup>4</sup> is for it & forms an exception to the above. It is said here that Georgia has adopted it, N. H. also.<sup>5</sup> the object in the postponment of

the meeting of our Convention to so late a day was to furnish an evidence of the disposition of the other States to that body when it wd. be assembled. If they or many of them were agnst. it our State might mediate between contending parties & lead the way to an union more palitable to all. If all were for it let the knowledge of that circumstance have its weight in their deliberations. This I believe was the principle on wh. that measure was adopted, at least those whose sentiments I knew express'd it to be theirs. we expect you in soon & shall be happy to see you here.

1. RC, Madison Papers, DLC. Printed: Rutland, *Madison*, X, 480–81; and Hamilton, *Monroe*, I, 180–81.

2. Spotsylvania.

3. John Dawson and Monroe represented Spotsylvania in the recently adjourned session of the House of Delegates. Both men voted against ratification of the Constitution in the state Convention.

4. Probably Mann Page, Jr., also a resident of Spotsylvania County.

5. The *Virginia Gazette and Weekly Advertiser*, 31 January (above), mistakenly reported that New Hampshire had ratified the Constitution.

### George Washington to the Marquis de Lafayette Mount Vernon, 7 February (excerpt)<sup>1</sup>

... You appear to be, as might be expected from a real friend to this Country, anxiously concerned about its present political situation. So far as I am able I shall be happy in gratifying that friendly solicitude. As to my sentiments with respect to the merits of the new Constitution, I will disclose them without reserve (although by passing through the Post offices they should become known to all the world) for, in truth, I have nothing to conceal on that subject. It appears to me, then, little short of a miracle, that the Delegates from so many different States (which States you know are also different from each other in their manners, circumstances and prejudices) should unite in forming a system of national Government, so little liable to well founded objections. Nor am I yet such an enthusiastic, partial or indiscriminating admirer of it, as not to perceive it is tinctured with some real (though not radical) defects. The limits of a letter would not suffer me to go fully into an examination of them; nor would the discussion be entertaining or profitable, I therefore forbear to touch upon it. With regard to the two great points (the pivots on which the whole machine must move) my Creed is simply:—

1st.—That the general Government is not invested with more Powers than are indispensably necessary to perform the functions of a good Government; and, con[se]quently, that no objection ought to be made against the quantity of Power delegated to it:



2ly.—That these Powers (as the appointment of all Rulers will forever arise from, and, at short stated intervals, recur to the free suffrage of the People) are so distributed among the Legislative, Executive, and Judicial Branches, into which the general Government is arranged, that it can never be in danger of degenerating into a monarchy, an Oligarchy, an Aristocracy, or any other despotic or oppressive form; so long as there shall remain any virtue in the body of the People.—

I would not be understood my dear Marquis to speak of consequences which may be produced, in the revolution of ages, by corruption of morals, profligacy of manners, and listlessness for the preservation of the natural and unalienable rights of mankind; nor of the successful usurpations that may be established at such an unpropitious juncture, upon the ruins of liberty, however providently guarded and secured, as these are contingencies against which no human prudence can effectually provide. It will at least be a recommendation to the proposed Constitution that it is provided with more checks and barriers against the introduction of Tyranny, & those of a nature less liable to be surmounted, than any Government hitherto instituted among mortals, hath possessed. we are not to expect perfection in this world: but mankind, in modern times, have apparently made some progress in the science of Government.—Should that which is now offered to the People of America, be found on experiment less perfect than it can be made—a Constitutional door is left open for its amelioration [*sic*]. Some respectable characters have wished that the States, after having pointed out whatever alterations and amendments may be judged necessary, would appoint another federal Co[n]vention to modify it upon those documents. For myself I have wondered that sensible men should not see the impracticability of the scheme. The members would go fortified with such Instructions that nothing but discordant ideas could prevail. Had I but slightly suspected (at the time when the late Convention was in session) that another Convention would not be likely to agree upon a better form of Government, I should now be confirmed in the fixed belief that they would not be able to agree upon any System whatever:—So many, I may add, such contradictory, and, in my opinion, unfounded objections have been urged against the System in contemplation; many of which would operate equally against every efficient Government that might be proposed. I will only add, as a farther opinion founded on the maturest deliberation, that there is no alternative—no hope of alteration—no intermediate resting place—between the adoption of this and a recurrence to an unqualified state of Anarchy, with all its deplorable consequences. . . .

1. FC, Washington Papers, DLC. Printed: CC:509. In an omitted portion of the letter,

Washington listed the states that had ratified the Constitution; said that ratification in Massachusetts was believed to be "more doubtful" than when he last wrote Lafayette; and reported that emigration to the West was considerable. (Washington had last written Lafayette on 10 January, Fitzpatrick, XXIX, 373-77.)

### **Pennsylvania Herald, 7 February<sup>1</sup>**

Various letters from Virginia concur in declaring, that the example of the states which have already ratified the new constitution, has converted most of the disciples of mr. Mason, mr. Lee, mr. Gerry, &c.<sup>2</sup>

1. This item was reprinted in the *Virginia Independent Chronicle* on 27 February and once each in New Hampshire, Massachusetts, Pennsylvania, and Maryland by 29 February.

2. See Tench Coxe to James Madison, 23 January, note 3 (above). On 27 February a Philadelphia Antifederalist satirist noted that the rumor that Lee and Mason had become Federalists was a fabrication (*Philadelphia Independent Gazetteer*, CC:570).

### **The Reverend James Madison to James Madison Williamsburg, 9 February<sup>1</sup>**

I should, my dear Friend, have acknowledged ye Favr of your last,<sup>2</sup> long before this, had my Answer been as little delayed, as the Satisfaction reced. from it, was sincere: but as I always write to you, rather to get your Observations upon political Subjects, than for ye Sake of communicating my own, I have been unwilling to impose that Burthen too frequently upon you. Your Answer, tended greatly to satisfy some of my Doubts—whilst those valuable Papers (ye Federalist) wch. are generally attributed to you, have well nigh worked a Conversion.<sup>3</sup> Whoever may be ye Author of them, they are certainly well written, as far at least as I have seen them, & well calculated to promote ye great Object in View. They must be read with great much Pleasure & Advantage by every one who wishes to examine ye Subject with Candour.

But I fear, a Question of some Importance still remains, even admitting that ye Govt. proposed, would, if adopted & conformed to, be productive of ye Advantages expected.—~~or be ye best for ye Am[erica]n States~~ Is it, in reality practicable?—You will say, Nothing but Experience can solve such a Question; and that, if it be ye best, it should at all Events be tried—I agree with you—But we may still reflect upon ye Consequences which will probably attend the Adoption of it. It's Execution, or it's Operation requires Sacrifices, wch. I fear suspect our State Legislatures, & that of Virga. in particular, will never be willing to make. For when has ye Legislature of this State failed evincing, as

ye Oppy. presented itself, Principles directly the reverse of those wch. ye proposed Govt. requires. It's Conduct during ye last Session, with Respect to ye Treaty, (notwithstanding ye plain & sensible Address from Congress upon that Subject, & notwithstanding ye Impropriety of an Interference must occur, one wd think, to every Man of common Sense, I do not say to those ye least versed in the Laws of Nations)—too plainly shews a Degre of antifederal Spirit, wch. will not easily be assimilated to ye new Govt. Other Instances of ye same Nature might easily be given as Proofs of ye real Existence of this Spirit. The Love of Power is too great, ye supposed Importance of an independent Legislator is too flattering to most, to admit of ye least voluntary Diminution.—Nor is it improbable, but that ye same Spirit exists in most of ye other States, because it originates from Principles common to Am[erica]ns. Viz. ye highest Idea of ye independent Sovereignty of their own States—& at ye same Time, ye Desire of enjoying all the Advantages of Govt. at ye least possible Expencc to Natural Liberty.—Whether ye new Govt. can, in it's Operation, controul suffly. this Spirit, you are the best Judge. But that no Govt. can be durable wch. is not perfectly conformable to ye Genius of ye People, unless it be supported by Force, is plain, and whether this under Consideration will not meet with such Opposition from ye Reaction or Jealousy of ye State Legislatures, & from the Parties it will have to struggle with, in its very Infancy—as to render it impracticable, or of short Duration—is perhaps a Problem not unworthy of ~~solu~~ the Attention of a Philosopher. The Imperium in imperio will be the fruitful Source of a thousand jarring Principles, wch. will make ye new Machine, notwithstanding all ye Oil you can give it, to go heavily along.

Whether Virga. will adopt ye Plan, ~~unless~~ if she be not in some Measure compelled by ye previous Adoption of ye other States, is considered as questionable, especially unless there be tack'd to it, some Clause of Amendment. How ye Majority may be—is hard or impossible to determine. The opposite Parties however, greatly to their Credit, have hitherto observed ye Line of candid Discussion. None of those acrimonious Principles have yet appeared wch. generally agitate a People, when Questions of such Importance create Divisions.—It is hoped by all, that you will be in ye Convention.—The Atty Gen. will represent this Town.<sup>1</sup>

We did not receive ye Packet you were so kind as to forward till about a Fortnight past—but it came at last, safe thro' ye Hands of ye Govr.

1. RC, Madison Papers, DLC.

2. James Madison's letter, in which he responded to his cousin's undated letter (c. 1 October, above), has not been located.

3. See "The Republication of The Federalist in Virginia," 28 November 1787-9 January 1788 (above).

4. State Attorney General James Innes represented Williamsburg in the state Convention, where he voted to ratify the Constitution.

### **Edward Carrington to Henry Knox Manchester, 10 February**

For this letter, see Powhatan County Election (II below).

### **Edward Carrington to James Madison Manchester, 10 February<sup>1</sup>**

Since my last from Richmond I have made a circuit, through Cumberland, Powhatan & Chesterfield, and taking Petersburg in my way arrived here last evening—the state of the ice is such as renders the passage of the River unsafe<sup>2</sup>—a Canoe with difficulty makes its way through the Falls and by that means my letters from the post office have today got to me—amongst them I am favoured with yours of the 11th. 15th. & 25 Ult. inclosing sundry papers & letters for which be pleased to accept my most grateful thanks.<sup>3</sup>

My Route has been pretty much within the Neighbourhood of Mr. Henry, and I find his politics to have been so industriously propagated, that the people are much disposed to be his blind followers—as an evidence of it the demagogues in the opposition suppose that their popularity is increased in proportion to the loudness of their clamours, whilst the Friends to the constitution thinks it prudent to suppress their opinions, or at least to advance them with Caution. Without consulting the extent of my influence, or the dangers of facing the Torrent, I have thought it my duty to make an unequivocal declaration of my sentiments, and if my efforts can work a change in even a single man, you may rely upon that change being made—my drift will be principally to turn the elections upon Men of discernment and to bring about instructions upon the point of preserving the Union, which must, at a certain stage, separate the members from Mr. Henry—I can not find that he has even once specified the amendments he would have in the project, it is therefore fairly to be concluded, that his views are a dismemberment of the Union, & I do verily believe this to be the case. I have seen Mr. Ronald, his opinions are extremely mysterious, his objections are made in terms that would be taken for absolute in all events, yet he is alarmed at the probable extent of Mr. Henries views, & professes a determination to do nothing which may even

endanger the Union. Judge Fleming<sup>4</sup> is a candidate for Powhatan, and is earnestly for amendments, but assures me he thinks the Union ought in no degree to be hazarded—he is one of the Characters whom I am for trusting in the convention. the danger then, is from weak Men, whatever may be the professions of such, before they assemble, there is no accounting for the effects which Mr. Henries address and Rhetoric may have upon them afterwards—in Chesterfield Tucker & Baker<sup>5</sup> are Candidates, and both against the Constitution—the former is for going equal lengths with Mr. H—but with different views—he is unfortunately one of those who overrate the importance of Virga. and think she may dictate to the whole union. it happens that some of the most popular Men in the County are against both these Gentlemen in opinion & will oppose their election unless they alter their sentiments.<sup>6</sup> From the more southern Counties I have as yet received no satisfactory information. of this however I am pretty certain, that the doctrine of amendments has taken such strong ground, that the direct adoption of the Constitution cannot be well expected should less than Nine States have adopted when our Convention comes to sit—Ideas of the necessity of preserving the Union are however so prevalent, that I think Mr. H— will be able [to] draw but a small proportion of a discerning convention in opposition to that Number.

Your intelligence from Massachusetts is truly alarming because she is one of the Nine whose adoption can be counted upon by June—indeed she is so important that even against Nine she & Virga. would be able, if not to prevent the operation effects of the Government altogether, to hold it in suspense longer than the state of our affairs can well admit of. I am anxious to know the result in Massachusetts for on her every thing seems to depend—as to N. York her uniform opposition to every federal interest for several years,<sup>7</sup> gives us every reason to expect her dissent even to the calling a convention—the letter of her dissenting deputies is perfectly in conformity with the views of their Mission.<sup>8</sup> should reason and common sense have fair play in our convention the dissensions amongst the opponents in different quarters must operate as the strongest arguments that can be brought in support of the project which has received the unanimous vote of a large & respectable assembly.

I have lately seen a Gentleman who removed from my Neighbourhood to N. Carolina and is intelligent—He came directly from the Assembly—He says the postponement of the convention in that state by no means indicates a disposition to follow the politics of Virga.—on the contrary there is a decided opinion in favor of the Constitution—as an evidence of it, Willy Jones an opponent declines going into

the Convention seeing that his opposition will be unavailing, and Allan Jones who is of the contrary party is to be a Member—Davie—Williamson—& Johnson, all for the Constitution.<sup>9</sup>

I shall do myself the pleasure to communicate to you from time to time the intelligence which events shall afford, and will thank you for such as may arise in your quarter—be good enough to Present me in the most affectionate terms to the President and your other worthy Colleague<sup>10</sup>—also to Irvine & Reade,<sup>11</sup> & believe me to be with great sincerity

1. RC, Madison Papers, DLC. On the same day, Carrington also discussed Virginia in a letter to Henry Knox (CC:520).

2. Manchester, the town from which Carrington was writing, was in Chesterfield County right across the James River from Richmond.

3. These letters have not been located.

4. William Fleming (1736–1824), a judge of the General Court, was not elected to the state Convention.

5. Neither St. George Tucker nor lawyer Jerman Baker was elected to the state Convention.

6. The voters of Chesterfield County eventually elected Antifederalists David Patteson and Stephen Pankey, Jr. Both voted for previous amendments in the Convention, but Patteson changed his mind and voted for ratification.

7. In particular, Carrington refers to New York's failure to adopt the congressional Impost of 1783 on terms that were acceptable to Congress.

8. See the letter from Robert Yates and John Lansing, Jr., to Governor George Clinton, 21 December, published on 14 January in the *New York Daily Advertiser* and *New York Journal* (CC:447). It was reprinted in the *Norfolk and Portsmouth Journal* on 30 January.

9. Willie Jones voted against ratification of the Constitution in the first North Carolina Convention in August 1788, while his brother Allan, a supporter of the Constitution, was defeated for election to that body. Governor Samuel Johnston and William R. Davie voted to ratify the Constitution in both North Carolina conventions in August 1788 and November 1789. Hugh Williamson signed the Constitution in the Constitutional Convention and voted to ratify in the second Convention.

10. Carrington refers to Virginia's congressional delegates, Cyrus Griffin (the President of Congress) and John Brown.

11. William Irvine and James Randolph Reid represented Pennsylvania in Congress.

### **John Preston to John Brown Smithfield, Montgomery County, 10 February (excerpt)<sup>1</sup>**

That high & important office in which your countrymen have so justly placed you<sup>2</sup> & the distance to which the execution of it hath drawn you from this part of the Continent, renders it rather difficult to hold a correspondence with you; my desire to hear from you frequently is full as great as ever, or rather augmented, as your letters with their usual freindship will have the addition of much news of importance—the situation in which you act makes this very easy for you.—

The feederal constitution, to which we were both st[r]angers, when last together, is now the only subject in conversation among all kinds of persons, & various are the opinions with respect to it, dreadfull are some of their prophesies & fatal their denunciations;—How far it may be political to adopt it, I believe God only knows; This matter being of so much importance & the subject to me so great that I can justly term it incomprehensible—I tremble & fear—Yet in it, I think there may be perceived something that may render the people it is intended for, great & happy; this is my ardent wish for with pleasure could I behold our Union States giving laws like Rome, to all the world besides—And this constitution if properly received appears more like cementing us firmly & making us powerfull, than any thing that has hitherto appear[ed] among us; tho it must be acknowledged that like all other human institutions it is faulty & defective in some of its parts.—

It would give me satisfaction to hear how far Congress are willing to allow the people of Kentucky (& perhaps Cumberland) to erect themselves into a separate Government:<sup>3</sup> I wish to see a revolution in the Affairs of the western Country, as something may offer, that will give a person desirous to contribute to the good of his Country, an opportunity of doing so, & at the same time be no disadvantage to his private circumstances—This epocha is waited for with impatience. . . .

1. RC, Brown Papers, CtY. Preston (1764–1827), a planter and John Brown's cousin, represented Montgomery in the House of Delegates, 1783–84. Brown's mother, Margaret Preston Brown, and Preston's father, Colonel William Preston, were brother and sister. "Smithfield" was the family estate.

2. On 23 October the Virginia legislature appointed Brown a delegate to Congress.

3. On Kentucky statehood and Congress, see Brown to James Breckinridge, 28 January, note 2 (above). The Cumberland settlements were a number of communities situated in the area of present-day Nashville, Tenn.

### John Enys Journal

#### Mount Vernon, 13 February (excerpt)<sup>1</sup>

. . . We had no sooner alighted than the Immortal General came to receive us at the door and conducted us into his Parlour where we found Mrs. Washington, a Mrs. Stewart her daughter by a former husband,<sup>2</sup> and a Colonel Humfreys formerly one of his Aid de Camps. We were hardly seated before the mildness and affability of this great man had removed all restraint, and our conversation became general. It turned on the adoption of the New federal plan of government which he appears to be very much attached to. He said he had read

with attention every publication both for and against it, in order to see wither there could be any new objections, or that it could be placed in any other light than what it had been in the general convention, for which as well as I could hear him he said he had saught in vain. . . .

1. Printed: Elizabeth Cometti, ed., *The American Journals of Lt John Enys* (Syracuse, N.Y., 1976), 245-46. Lieutenant Enys (1757-1818), a British army officer who had completed a tour of duty in Canada the previous year, was traveling through the United States, having passed through Albany, New York, Princeton, Philadelphia, and Baltimore. He arrived in Alexandria on 7 February, and on the morning of the 13th he set out for Mount Vernon with William Hunter, Jr., Colonel John Fitzgerald, the Marquis de Chappedelaine, and one of the sons of Thomas Nelson, Jr.

2. Eleanor Calvert Custis Stuart, the widow of Washington's adopted son John Parke Custis, was married to Dr. David Stuart. Custis was Mrs. Washington's son by her first marriage.

## A Plain Dealer

### Virginia Independent Chronicle, 13 February

"A Plain Dealer," whose publication was announced on 6 February, answers Edmund Randolph's letter of 10 October to the Speaker of the Virginia House of Delegates that was published as a pamphlet around 27 December (above). On 17 February, four days after "A Plain Dealer" appeared, Joseph Jones wrote James Madison that "the *plain dealer* is suspected from the manuscript to come from essex R—ne" (below). On 29 February Randolph told Madison that "I suspect the author to be Mr. Spencer Roane, and the importunities of some to me in public and private are Designed to throw me unequivocally and without condition into the opposition" (below). When John Dawson sent a copy of the essay to Madison, he said that "There is scarce a doubt but Mr. Randolph will be elected in Henrico" (to Madison, 18 February, Orange County Election, II below). On 3 March Randolph was overwhelmingly elected a Convention delegate.

Spencer Roane (1762-1822), a lawyer-planter and a son-in-law of Patrick Henry, represented Essex in the House of Delegates, 1783-85. He was a member of the Council of State in 1785 and 1786, the state Senate in 1788-89, and in 1789 he was appointed to the state General Court.

MR. DAVIS, *As you have the character of being a very independent printer, and as the time is yet at hand when the liberty of the press, and the free discussion of public measures, are considered as the first data of free government, I doubt not you will publish the following observation in your useful paper.—To know the head which dictated them can be of no use to the public, and will add no weight to the publication; being written by an obscure citizen, but anxiously wishing for the prosperity of this country. The author judges, that when the majesty of office is laid aside, and its possessor enters the lists as a writer, a signal is thereby given for free animadversion; yet such as is decent and respectful, and with which the freedom of the press should ever be dignified.*

P.D.



*Mons parturiens et ecce nascitur mus.*<sup>1</sup>

After a long and general expectancy of some dissertation on the subject of the proposed Fœderal Constitution, worthy the first magistrate of the respectable state of Virginia, a letter of his Excellency Governor Randolph, of Oct. 10, 1787, is at length presented to the public. Previous to the appearance of this letter, various opinions were prevailing in different parts of this country, respecting that gentleman's *real* opinion on the subject of the said Constitution; and it became difficult, for many to conjecture how his Excellency would devise a middle course, so as to catch the spirit of all his countrymen, and to reconcile himself to all parties. It was not known to me, at least, that his Excellency felt an "unwillingness to disturb the harmony of the legislature" on this important subject; nor could I conceive that the sentiments of even the ablest man among us could "excite a contest unfavorable" to the fairest discussion of the question. On the other hand, I thought it right that the adversaries of the Constitution, as well as its favorers, should candidly avow their real sentiments, as early and decidedly as possible for the information of those who are to determine. It is true, his Excellency was prevented declaring his opinion sooner, "by motives of delicacy arising from two questions depending before the General Assembly, one respecting the Constitution, the other respecting himself:"<sup>2</sup> but I am of opinion that during the pendency of a question concerning the Constitution, every information on that subject, is most properly to be adduced; and I did not know that the being, or not being, Governor of Virginia, (an office in a great degree nominal) was sufficient to deter, a real patriot, from speaking the warning voice of opposition, in behalf of the liberties of his country.<sup>3</sup>

The letter above-mentioned can derive no aid from panegyric, as to the brilliancy and elegance of its stile; for, unlike the threadbare discourses of other statesmen on the dry subject of government, it amuses us with a number of fine words. But, how shall I express my dislike of the ultimatum of his Excellency's letter, wherein he declares "that if after our best efforts for amendments, they cannot be obtained, he will adopt the Constitution as it is." How is this declaration reconcileable to a former opinion of his Excellency's, expressed to the Hon. Richard H. Lee, and repeated by the latter gentleman in his letter, as printed in the public papers—"that either a monarchy or an aristocracy will be generated from the proposed Constitution."<sup>4</sup> Good God! how can the first Magistrate and Father of a free republican government, after a feeble parade of opposition, and before his desired plan of

amendments has been determined upon, declare that he will accept a Constitution which is to beget a monarchy or an aristocracy? How can such a determination be reconciled to the feelings of Virginia, and to the principles which prevailed in almost every legislature in the union, who looked no farther than the amendment of our present republican confederation? I have charity to believe that the respectable characters who signed this Constitution, did so, thinking that neither a monarchy nor an aristocracy would ensue, but that they should thereby preserve and meliorate the republic of America: but never until now, that his Excellency has let the cat out of the bag, did I suppose, that any member of the Convention, at least any from the republican state of Virginia, would accept a Constitution, whereby the republic of his Constituents is to be sacrificed in its infancy, and before it has had a fair trial. But his Excellency will adopt this Constitution, "BECAUSE HE WOULD REGULATE HIMSELF BY THE SPIRIT OF AMERICA:[]"—But is his Excellency a prophet as well as a politician? Can he foretel future events? How else can he at this time discover what the spirit of America is? But admitting his infallibility for a moment, how far will his principle carry him?—Why, that if the dominion of Shays, instead of that of the new Constitution, should be generally accepted, and become the spirit of America, his Excellency too, would turn Shayite!—and yet this question of the Constitution, is "ONE ON WHICH THE FATE OF THOUSANDS YET UNBORN DEPENDS." It is his Excellency's opinion, as expressed in the aforesaid letter, that the powers which are acknowledged necessary for supporting the Union, cannot safely be entrusted to our Congress as at present constituted; and his main objection is "that the representation of the states bears no proportion to their importance." This is literally true; but it is equally true of the senate of the proposed Constitution, which is to be an essential part of the legislature; and yet his Excellency will accept the latter, and not agree to invest the necessary powers in the former, although the above objection equally applies to both. Nay, I am inclined to believe that the injurious consequences of this unequal representation will operate more strongly under the new government—for under the present confederation the members of Congress are removable at the pleasure of their constituents;—whereas under the proposed Constitution, the only method of removing a wicked, unskillful, or treacherous senator, will be by impeachment before the senate itself, of which he is a member.

These, Mr. Printer, are some of the inconsistencies, which even a slight observation of the above letter, will suggest. It is not my purpose to oppose now, or investigate the merits of the Constitution. This I leave to abler pens, and to the common sense of my countrymen. The

science of government is *in itself* simple and plain; and if in the history of mankind, no perfect government be found, let it be attributed to the chicane perfidy and ambition of those who fabricate them; and who are more or less in common with all mankind infected with a lust of power. It is however certainly not consistent with sound sense to accept a Constitution, knowing it to be imperfect; and his Excellency acknowledges the proposed one to have radical objections. A Constitution ought to be like Cæsar's wife, not only good; but unsuspected, since it is the highest compact which men are capable of forming, and involves the dearest rights of life, liberty and property. I fear his Excellency has done no service to his favorite scheme of amendments (and he too seems to be of the same opinion) by his very candid declaration at the end of his letter. Subtlety and chicane in politics, are equally odious, and dishonorable; but when it is considered, that the present is not the golden age—the epoch of virtue, candor and integrity—that the views of ambitious and designing men are continually working to their own aggrandisement and to the overthrow of liberty, and that the discordant interests of thirteen different commonwealths are to be reconciled and promoted by one general government; common reason will teach us, that the utmost caution, secrecy, and political sagacity is requisite to secure to each the important blessings of good government.

I shall now take my leave of his Excellency and the above-mentioned letter; declaring my highest veneration for his character, and abilities. And it can be no impeachment of the talents of any man who has not served a regular apprenticeship to politics, to say, that his opinions on an intricate political question are erroneous: For if, as the celebrated Dr. Blackstone observes, "in every art, occupation, or science, commercial or mechanical, some method of instruction or apprenticeship is held necessary, how much more requisite will such apprenticeship be found to be, in the science of government, the noblest and most difficult of any!"<sup>5</sup>

1. "The mountains will labor and out will come a [shivering] mouse" (verse translation, Burton Raffle), or "Mountains will labor and the offspring will be a [ridiculous] mouse" (prose translation, James Hynd). See Horace, *The Art of Poetry* (Burton Raffle, trans., Albany, N.Y., 1974), line 139, pp. 14, 35, 49. "A Plain Dealer" left out the word in brackets.

2. On 15 October Randolph sent the Constitution to the legislature for its consideration. Eight days later he was reelected governor.

3. The phrases quoted in this paragraph are from Randolph's letter of 10 December to the four members of the House of Delegates who, on 2 December, had requested that he publish his reasons for not signing the Constitution (both, above). All other quoted material, unless otherwise indicated, is from Randolph's 10 October letter to the Speaker of the House of Delegates.

4. On 16 October Lee wrote to Randolph, replying, in part, to Randolph's letter of 17 September (not located). Lee stated: "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" (above).

5. Blackstone, *Commentaries*, Book I, section 1, page 9. Blackstone states: "Indeed it is really amazing, that there should be no other state of life, no other occupation, art, or science, in which some method of instruction is not looked upon as requisite, except only the science of legislation, the noblest and most difficult of any. Apprenticeships are held necessary to almost every art, commercial or mechanical: a long course of reading and study must form the divine, the physician, and the practical professor of the laws: but every man of superior fortune thinks himself *born* a legislator."

## A Virginian

### Virginia Independent Chronicle, 13 February<sup>1</sup>

*A hint to the people called QUAKERS in Virginia*

GENTLEMEN, Have you considered the plan of the new Constitution? If you have, I think you certainly disapprove it, especially in two points. 1st. As it admits of the importation of slaves to America for a limited time; for admitting slavery to be justifiable, it would be very impolitic to allow of any more of the poor Africans to be brought amongst us; instead whereof, I think it would better become us all as men and Christians, to endeavor to release those already under our care from the grievous burthens they are labouring under, than to permit any more to be subjected to the like sufferings. 2dly. I think by the plan in its present form, the governors which are thereby to be set up at Philadelphia, will have it in their power to make war on any terms they please: If so, no doubt but they may point out the part every man shall take therein, or be liable to such fines and penalties as they may think proper to impose; therefore gentlemen, as you are principled against war, in case we should be so unhappy as to be again involved therein, to whom will you apply for indulgence on account of your religious scruples? Not to the Assembly of Virginia, from whom, as I lately heard a respectable member of your society say, you have experienced many favors;<sup>2</sup> no, my friends, I apprehend our Assembly will not have the power of interfering in such matters, indeed, as I conceive, there will be but a mere shaddow of power left in the hands of our legislature in any respect.

There are divers other parts of the plan very exceptionable in my humble opinion, by which you will be liable in common with other people to be very much affected. Now, although you are a peaceable people, and do not incline to meddle with the affairs of government, yet, I don't see there can be any impropriety in your endeavoring to guard yourselves in time against such measures as may be likely at length to bring on you great impositions and cruel sufferings.

February 4, 1788.

1. For an answer to this item, see "One of the People Called Quakers in the State of Virginia," *Virginia Independent Chronicle*, 12 March (below).

2. Possibly a reference to a law passed in 1784 that exempted Quakers from attending private or general musters of the militia upon producing evidence that they were members of the Society of Friends, or if either they or the community paid a tax. These privileges were reaffirmed by a law passed the next year.

### Joseph Jones to James Madison

Richmond, 14 February (excerpt)<sup>1</sup>

... Should that State [Massachusetts] give it a negative and not proceed to offer some amendments and propose another convention, I fear it will produce disagreeable consequences, as it will not only confirm N. York in her opposition but will contribute greatly to strengthen the opposition in the States that are yet to consider the measure. If nine States assent before Virga. meets in convention her course I think will be to adopt the plan, protesting or de[c]laring her disapprobation of those parts she does not approve or if not agreed to by nine she will in that case propose amendments and another general Convention—H—y<sup>2</sup> will I think use all his influence to reject at all events, but am satisfied those who are for it as it stands, and those who wish some alterations in it before its adoption if circumstances authorise the attempt, will be greatly the majority—what change may be produced shod. Mass. reject cannot well be foreseen; I think however in that event Virga. will propose amendments, and another Convention, and I trust such will be the conduct of Mass. rather than hazard the loss of the System, and the mischevous consequences that may result from disagreement and delay. I congratulate my friend Griffin on his being placed in the Chair<sup>3</sup> to whom Be pleased to present my best wishes. R—d—h R. H. L. M—n. have been assailed in our papers. The inclosed will if you have not seen them exhibit some specimens, and serve to amuse you.<sup>4</sup>

1. RC, Madison Papers, DLC. Printed: Rutland, *Madison*, X, 509–10. A part of the letter not printed indicates that Madison was keeping Jones informed about Samuel Mason, Elbridge Gerry, and the prospects of ratification in Massachusetts.

2. Patrick Henry.

3. Cyrus Griffin was elected President of Congress on 22 January.

4. Jones might have sent four issues of the *Virginia Independent Chronicle* containing "Valerius" on Richard Henry Lee (23 January, above); "Civis Rusticus" on George Mason (30 January, above); "Philanthropos" (Tench Coxe) on Mason, Elbridge Gerry, and Edmund Randolph (6 February); and "A Plain Dealer" (Spencer Roane) on Randolph (13 February, above). "Philanthropos" was first printed in the *Pennsylvania Gazette* and the *Philadelphia Independent Gazetteer* on 16 January (CC:454).

**From George Nicholas  
Charlottesville, 16 February<sup>1</sup>**

The great importance of a proper decision on the subject of the new constitution as proposed to us by the federal convention renders it the duty of every good citizen to give to his countrymen all the information in his power. Under this impression we shall take the liberty of stating to you our ideas respecting some particular parts of the constitution which have been represented to the people as most faulty. ~~and to assure you that the other objections appear to me to be equally [void?] of foundation as those which I now observe on.~~

The first objection that is made is that by this constitution the Congress will have lodged in their hands an unlimited and absolute power.

This is by no means true, because as they will have no power unless that constitution is agreed to, so if it is adopted they can have no greater or other powers than what are expressly given to them in that constitution: thus you find that the constitution points out what particular acts of power they may exercise which would have been totally unnecessary if they had a general power to do whatever they pleased. Neither does that part of the constitution which says "this constitution and the laws of the united states which shall be made [in] pursuance thereof shall be the supreme law of the land" in any manner give them this unlimited power, because this only declares those laws binding which are made in pursuance of or in conformity to the particular powers given by the constitution and was only intended to prevent the different states from passing laws which ~~should~~ might defeat the measures of Congress in such things as they have an express power given to them to manage for the good of the whole.

The next objection is that this government will entirely destroy the state governments.

We have already shewn you that Congress will have no powers but what are expressly given to them, and it will follow as a natural consequence that all the powers which are now vested in the state legislatures will after the adoption of this government still belong to them, except such as are by that government specially given to Congress and such as the state legislatures are expressly forbid to exercise, such as the power to make ex post facto laws, to pass bills of attainder and tender laws and it must give every reflecting mind pleasure to find them prohibited from exercising those dreadful engines of iniquity and tyranny (in all other cases the authority of the state governments will be the same as at present).

The next objection is that by this new constitution there is to be a

standing army always kept up in America. The constitution says no such thing; it is only declared there that "the Congress shall have power to raise and support armies": this is a power which must be lodged somewhere in every government and could be lodged here no where so properly as in the *Congress our general head*: but it by no means follows that because they have a power to raise and support armies, that they shall always keep an army on foot. There will be less occasion to keep a standing army in America so long as the different states continue united than in any other country in the world; because she is so far removed from all other powers that there will be but little danger of her being attacked without having sufficient previous notice; but if the Congress had been altogether forbid to keep an army on foot except in case of actual invasion, then although they had the most certain information that an attack was intended on them they could not provide for their defence until the attack was actually made and then perhaps it might be too late. This proves that it was necessary to give them a discretionary power to raise troops when they judged it necessary: but that power is given under such checks that no danger is to be apprehended from it, because an army never can be kept together without money and Congress are forbid to vote any money for that use for a longer term than two years, and when you recollect that at that same period the people at large will be called upon to choose new representatives you will readily see that by changing the men they may always prevent an appropriation of money for that purpose from being renewed and then [the?] army will fall of course. But these same persons by another objection they make "that power to call on the militia is also given to Congress" must defeat their own argument. Because if Congress are neither to have power to raise troops or to call on the militia the natural consequence must be that America must be left totally defenceless, which I suppose is such a situation that no friend to his country would wish to see her placed in. By giving Congress a discretionary power to raise troops or call forth the militia the consequence will be that in times of peace and tranquillity neither will be employed; that on any sudden occasion the militia will be called forth and kept in the field until regular troops can be raised if the occasion continues long enough to make it necessary: and thus by giving them both these powers under the check contained in the constitution America will enjoy the safety which can be derived from a standing force without being burdened by the expence or running the hazard generally attendant on such establishments. Let it be remembered too that Congress now have power to raise armies witht. these checks.

The next objection is to the federal courts and the powers given to those courts.

That such courts were necessary must strike every man; in disputes between different independent states unless a tribunal had been established by the general government for the determining of such disputes they must have appealed to the sword for a decision; so in cases between citizens of different states, and between foreigners and citizens, if the decision had been left to the court of an individual state the jealousies which would have been caused by the decisions of these tribunals might ultimately have ended in the same things but where these disputes are determined by a court established by the general government and unconnected with any particular state there can be no room for jealousies or fraud on either side. Between citizens of the same state these courts have no jurisdiction but in one instance and that is "where they claim lands under grants of different states": and I assert to you in the most positive manner that this is the only instance where one citizen can carry another before any of the federal courts and in the cases of disputes between citizens of different states, and between foreigners and citizens the constitution directs that there shall be inferior tribunals established for the convenience of the people and that these suits shall never be carried before the supreme court but by way of appeal.

The next objection is that if this government is adopted the property that we have in slaves may be lost or injured So far is this from being true that we can venture to say that the new government will be the best security that we can have for retaining that property. Congress could pass no act which would injure that property but in one of three ways either

1st. by passing an act of emancipation: or

2dly. by permitting the other states to harbour the fugitives

or 3dly. by imposing such taxes on them as would oblige the owners to discharge them.

They could not pass an act for their emancipation because both Congress and the different state legislatures are forbid to pass *ex post facto* laws and therefore if the new government should take place neither Congress or a state legislature could pass an act to deprive any man or set of men of property which they hold under the general laws of the land. And therefore if this government had taken place prior to the last session of our assembly they could not have passed a law for the emancipation of Robt. Mooreman's Negroes.<sup>2</sup> Neither could Congress secondly injure you by permitting them to be harboured and protected in the other states for by an express clause in the constitution



all slaves escaping from one state into another shall be delivered up. Nor could they in the third instance injure you by the mode of imposing the taxes. A poll tax is the only tax they could impose which could affect our slaves and the constitution is so guarded in that respect that we can receive no injury by that means. It is expressly declared that no capitation or poll tax shall be imposed except in proportion to the enumeration therein directed which is that we should be charged with only three fifths of the number of our slaves. It never could be the interest therefore of the states which have no slaves to impose a poll tax. Because in case of a poll tax if Massachussets had one thousand white inhabitants, and Virginia also one thousand inhabitants but one half of them white and the other half black; Massachussets would be obliged to pay Congress for her whole number whereas Virginia would pay for only eight hundred. Thus by this constitution this part of our property is much better secured and the possessors of it less liable to oppressive taxes than even under our state government.

The next objection is to the power given them to levy direct taxes.

Here we refer you to the Governor's reasoning on that subject in the seventh and eighth pages of his letter<sup>3</sup> with these additional observations: that the taxes that are now imposed by the state are for the use of both the continent and the state and therefore if Congress have the power given them of imposing direct taxes the state taxes must be lessened as much as the continental taxes shall amount to. If you now pay six shillings tax to the sheriff, three shillings of it are applied to the use of the state and three to the use of Congress; if the new government takes place you would pay only six shillings in the whole, three shillings to the sheriff and three shillings to the continental collector. By the return made from the continental treasurer to the last assembly it appears that two states in the union have not [so far?] paid [the?] [— — —] one shilling, seven other states have paid very little, and the remainder has been paid by the remaining four states of which Virginia is one. If you wish then that the present unequal burden which is imposed on us should be divided amongst all the states you cannot object to giving Congress the power to levy direct taxes the [collection?] that by the impost Congress would probably raise as much money as would be necessary for the common purposes of government.<sup>4</sup>

The next objection is that the states and Congress both are prohibited from laying any higher duty on exports than will be sufficient to support the inspections.

This so far from being an objection is with us a strong argument in favor of the new government. The only export from this state which has ever been or can be taxed is tobacco; last year there was a tax of

sixteen shillings a hogshead paid on it six shillings has been taken off but there still remains a tax of ten shillings a hogshead which will be continued unless the new government shall take place. This tax of ten shillings after supporting the inspections will carry into the treasury about twenty thousand pounds a year which sum the tobacco makers in this state pay over and above what the other citizens pay for they pay the same taxes on their property that the others pay, and have this deduction made by the merchants from the purchase value of their tobacco.

The last objection that we shall take notice of (for the bounds of a letter will prevent me from going as far as I could wish) is that so much power is given to Congress by this new government that our liberties will be endangered.

If we supposed this true we should be amongst the last persons in America who would advocate this measure; but we can truly say that we are well convinced there is no such [danger?]. Will you believe after all that you have heard on this subject that if the new government takes place Congress and the legislature of this state will together have no greater power and will be entrusted with no greater authority than Congress and the legislature now have; and that the only difference will be that of the powers which are now vested in them if the new government takes place. Congress will have a greater share and the legislature of the state less than they now respectively enjoy and yet you may rely on it this [is] a true state of the case. Do you not see then that it is no more than a dispute about who shall have the power that we have already parted with, and that as no greater powers are asked for from the bulk of the people it is to their interest to divide what they have already given in a way that will be more to their advantage than it stands at present. The bulk of the people will be as free as they are now, and may expect much greater advantages than they at present enjoy for the sacrifice they make to obtain a government; and I know no person who will be injured but the great men in each of the states. We also assert to you as a fact that if the new government shall take place the bulk of the people of Virginia will part with no more power than they have done already, and that Congress and the legislature of the state will together have no greater power or authority than the present Congress and the legislature of the state now possess: and the only difference will be that of the powers already parted with by the people, under the new government Congress will have a greater share and the legislature of the state less than they now respectively enjoy. Thus the bulk of the people will be greatly benefited because without their parting with any greater share of their

natural rights and privileges they will live under a government which will be much better calculated to secure their welfare and prosperity than the one under which they now live. and you may find that it is only a dispute about who shall have the power already given away by the people and that the great men in the different states will be the only sufferers by the change.

But suppose there are some imperfections in the government that is offered are we never to have one until such as is perfect can be obtained. All human works are imperfect and we may reasonably suppose that one in which the interests of thirteen states were to be considered may be so too; but the way to know that certainly is to put it to the proof; if it contains errors it also has in itself the seeds of reformation by which those errors may be rectified For the constitution expressly declares that whenever the legislatures of two thirds of the several states shall make application to Congress for that purpose they shall call a convention for proposing amendments which when ratified by three fourths of the states shall become part of this constitution. We are convinced that we can get no better government at this time and that we must adopt the one now offered or submit to see America disunited and a prey to foreign and domestic tyranny. It confirms us in this opinion when we find that the man upon earth whose judgment as well as integrity we have the greatest deference for entertains the same sentiments; Genl. Washington in a letter to Mr Charles Carter speaks thus upon this subject:

here insert his letter.<sup>5</sup>

We have thus delivered you our opinion very freely on the necessity of adopting the government now offered, and of [the] weakness of the objections that are made to it; in both these [we] may be mistaken but if we are they are the errors of the head and not of the heart.

If you consider these observations as worthy of notice you will oblige us by communicating them to your neighbours.

With the most fervent prayers that the ~~divine-giver~~ supreme dispenser of every good and perfect gift may inspire our countrymen with a knowledge of what will best tend to promote their lasting welfare and happiness.

We are Sir, Yr. friends and hum: servts.

1. FC, Reuben T. Durrett Collection, George Nicholas, Department of Special Collections, University of Chicago Library. This manuscript, in the handwriting of George Nicholas, appears to be a draft of a letter that went through at least one revision. It is addressed to "Sir" and the closing in the first draft reads "I am Sir, Yr. friend and hum: servt." In revising the draft, Nicholas changed all of the pronouns "I" to "we" and the closing to "We are Sir, Yr. friends and hum: servts." Thus, this manuscript became, at least outwardly, the product of multiple authorship.

A second possibility is that the manuscript is a draft of a speech to be delivered on 13 March at the Albemarle County election for delegates to the state Convention. Nicholas and his brother Wilson Cary Nicholas were elected to represent Albemarle in the state Convention, where both voted to ratify the Constitution. A third possibility is that the manuscript was intended for publication in a newspaper. This is suggested by the next to the last paragraph in the essay: "If you consider these observations as worthy of notice you will oblige us by communicating them to your neighbours." Parts of this manuscript are similar to sections of "The State Soldier" IV, *Virginia Independent Chronicle*, 19 March (below).

2. In his last will and testament, dated 2 September 1778, Charles Moorman, a Louisa County Quaker and planter, provided for the emancipation of his slaves. Moorman died soon after and his will was proved on 12 October 1778. In 1782 the legislature passed a manumission law allowing slaveholders to free their slaves. Since a question arose as to the legality of Moorman's action, the legislature adopted, in December 1787, an act confirming "the freedom of certain negroes late the property of Charles Moorman, deceased" (Hening, XI, 39-40; XII, 613-16).

3. See "The Publication of Edmund Randolph's Reasons for Not Signing the Constitution," 27 December (above).

4. At this point in the text, one line of an addition in the margin is illegible.

5. See "George Washington on the Constitution," 27 December 1787-20 February 1788 (above).

## Republicus

### Kentucky Gazette, 16 February<sup>1</sup>

MR. BRADFORD. Please to publish the anexed hints, perhaps they may have a tendency to rouse the attention of some judicious person to discuss the subject more at large.

—*pierce my vein,*

*Take of the crimson stream meandering there,*

*And chatechize it well. Apply your glass.*

*Search now and probe it, if it be not blood*

*Congenial with thine own.—*

COWPER.<sup>2</sup>

So soon after the close of a bloody and distressing war, which we have sustained in defence of the liberties and indefeasible rights of mankind; during which those rights have been investigated with the utmost precision: it may, to some, seem a little extraordinary to resume so trite a subject: but as there is a prospect of an æra near approaching, big with events highly, very highly interesting to these western districts; and as it seems, that some, even of our leading characters, have been too much hurried to have given those subjects so much of their attention as they seem to have merited; or may have forgotten some of the features peculiar to the picture of liberty; I beg leave to hold up to public view, some of the outlines of the charming portrait, in order to attach my fellow citizens to the original form from whence they are taken: and add a few very plain observations on civil government. In

this I shall confine myself to civil liberty, and that natural liberty or freedom of mankind, in an unconnected state, (or as some say, in a state of nature) from whence it arises: and shall first enquire what this natural freedom is, it is obvious at first sight, that this is neither more nor less than a power of self government, a performance of all our actions agreeable to our own will; or in plainer terms, it is a doing as we please; under the direction of reason, the great, primary, and never-ceasing law of nature. As long as any man does so he has a right to enjoy his person, life, and property, free from all molestation whatsoever; and were he able, even to repel the combined power of the world, in any attempt to deprive him of either; and on this is founded a *right of equality*: for as one mans right is limited to the enjoyment, and defence of his own property; so every other mans right extends to the same limits, but no further: for it is inconceivable that an individual can of right, enjoy any possible possession, or happiness any part of which another person or even community of men can have a right to deprive him of: or that any two or more individuals, can at the same time justly claim or possess an exclusive right to any thing whatsoever! for what I wholly and rightfully claim or enjoy, every other man is wholly and rightfully excluded of claiming, or enjoying by this great and primary law of nature, and this it is which establishes a perfect natural equality among mankind, and excludes all right of one man to govern or controul the rightful actions, or property of another in any case whatsoever; and an universal, and unerring observation of, and obedience to this law, is what we call rectitude, or moral virtue: which, where it prevails, necessarily precludes all civil government: which is only substituted in the room of the aforesaid natural law, where its principles are not duly attended to, or its sanctions appear too distant, or fe[e]ble. It is evident that all men act according to, or depart from this law of nature; in proportion as, on the one hand their reason, or on the other their passions and appetites, preponderate: but as universal observation assures us, that mankind are more generally actuated by their passions and appetites, than by their reason; something is necessary to restrain, controul, or at least to counteract those passions: hence the necessity of civil government; and on that necessity it originates: the lust of power, or of property, would stimulate the strong, or the artful, to [seize?] the persons, or properties of the weak, or the simple, and appropriate them to their own use, in contempt of the sacred law of nature. Hence mankind found it necessary to enter into solemn compacts of mutual defence, and security, and in those compacts, to establish certain rules, founded upon, or at least agreeable to, the universal reason of mankind, (the common

law of nature) to which they should all be equally subject; as their [they] rightfully, and originally were in their unconnected state, to that original law; and this only to secure to themselves that liberty, and those rights to which they as said above are all naturally, equally, and unalienably entitled. Thus it appears how civil government becomes a substitute for moral virtue: and that instead of infringing the rightful liberties of mankind, it tends to secure them: and by this criterion may every government be tried: that government which tends not to secure the lives, liberties and properties of every individual of the community, as far as the law of reason would have done, is unjust and iniquitous and merits not the name of civil government. I said above that civil government originates in necessity: I now add it originates with the people under that necessity. They form the compact, they prescribe the rules and they also enact them or delegate others to do it for them; who are indiscriminately, and in the proper sense of the word *their servants* and accountable to them and to them only how they execute those trusts: as really so as the man whom I employ for daily wages is accountable to me and to me only how he performs my business; and are therefore to be chosen by them, and that in a way perfectly consistent with the equality of their right; because if they have an equal natural right to legislative and executive power in all their different branches, which takes in all the powers that can exist in a state: none can have a right to exercise any of those powers, but by appointment or delegation: consequently those who are thus chose by them to the executive department are as really their representatives, as those similarly chosen to the legislative: This I think an observation of some consequence; all this power they are justly authorized to exercise and that in their own joint and equal right: for if at the time of entering into such compact, a compleat equality in point of right subsists; it ever ought to subsist as there can be no legitimate superior, or even co ordinate power, to destroy or diminish that equality. But it is not only necessary that government should be formed on principles of equal right; but also that those principles should be precisely delineated and guarantied by the most solemn sanctions. This if you please we will call a constitution. There should also be woven into the very texture of that constitution certain antidotes or preservatives against corruption or degeneracy, and care should be taken by every member of the community, that those antidotes be duly administred. Otherwise tho they may begin their career on a very fair plain, yet, it may at last terminate in a precipice, which they may never discover till it be too late to retract.

And first the constitution should provide for a fair and equal rep-

resentation. That is that every member of the union have a freedom of suffrage and that every equal number of people have an equal number of representatives; for if the preceding sentiments are just, no man deprived of suffrage, ought (unless he voluntarily adopt it at least implicitly) to be under the controul or direction of such constitution, or any law made in consequence of it; it is no law to him[,] he is in respect of it, still in a state of nature: and without equality of numbers it would be unjust: for it is incontestible that if every man has an equal natural right to governing power, he has an equal right to every thing that represents it; and if we suppose for instance one district to contain one hundred inhabitants, and another a thousand: each entitled to send two representatives if we suppose the former to be only duly represented, then there will be nine hundred in the latter not represented at all; But this is so plain a case that it is only strange that it should ever have been controverted.

But again it should provide against their holding those trusts for long terms. This would call into public service a greater variety of estimable characters; would beget an emulation who should serve their country the most essentially; and make it perhaps as fashionable a virtue to serve the interest of the public, as it has been formerly a vice to serve the private interest of some favorite family or worthless dependent. Besides, this is a security which the people owe to themselves, for the fidelity of their servants; and perhaps the only good security they can have: add to this temporary intervals of ineligibility, that they may in a private capacity feel all the good and evil effects resulting from their administration; and be prevented from acquiring any influence, dangerous to the liberty of the community. Whoever doubts the utility of this provisional measure let him just recur to the state of the British government under the triennial and septennial parliaments: and he will soon be satisfied.

But it should also provide for its own stability and permanency: and that no law may ever come into existence the foundation of which is not found in those primary principles: as the constitution comes immediately from the people; so ought the laws to flow immediately from the constitution; it should like a circle circumscribe all legislative power as the legislat[i]ve ought to circumscribe the executive, and both take their form from the people as the great centre of all: it should with all the authority becoming the majesty of a free people from whence it proceeds command; hetherto shalt thou come but no further; for if it suffers itself to be broken in one instance, why not in a thousand; it becomes like a bubble, its existence is no more and the issue may be fatal.

But lastly, and above all it should provide that no man or set of men whatsoever from within or without, should even possess a power of controul, suspension, or negation, either permanent, or temporary, on or over any resolves, acts, proceedings, or laws made by the people themselves, or their representatives: duly chosen as above: for whenever this happens, their liberty expires, they are under the direction of a will different from, and superior to their own: and though they may still have the privilege of nominating those who possess that power, it is only the poor and degrading privilege of pointing out, among many tyrannical masters, whose lash they will cho[o]se to feel. In short they are slaves[.]

It has been disputed whether one house, or rather power of legislature, be more eligible, or rather to be chosen than two. I shall hazard a few random thoughts on that subject. And first, if an institution answers all the ends designed by the institutors, as well as any other institution, or plan could have done, or can do, there remains no possibility of its doing more; it is therefore perfect, if any thing is added it becomes a redundancy, consequently an imperfection. I hope it will not be denied, that a single legislative body, is capable of making laws, the perfection of those laws depend on the wisdom, virtue, and integrity of the legislature, but does it appear, that more wisdom, virtue, and integrity, will, or can possibly be found in two houses than in one, provided they consist of the same number, but more particularly of the same identical persons? No man will affirm this. But it may be said that a second house or senate, being generally fewer in number, do, by their separation acquire an influence which would have been lost, had the whole been incorporated in one house. I answer, perhaps it might not have been lost; it would no doubt sometimes so happen, that they, in conjunction with the minority in the other house would be able to set aside some bills, which for want of their assistance there, [would] have passed, this would have been a shorter, and easier way; and attended besides, with much less expence of time and money; and excepting in some such instances, all such influence ought to be lost: for in no instance ought the minority to govern the majority. Again, it is more simple: and it is a well known maxim that the simpler a machine is, it is the more perfect; the reason on which it is grounded is obvious; viz. because it is the less liable to disorder, the disorder more easily discovered; and when discovered, more easily repaired and in no instance is this maxim more applicable than in the great machine of government. But say they there ought to be two houses, because there are two separate interests. I answer by denying that any community can possibly have any but one common public interest, that is,



the greatest good of the whole and of every individual as a part of that whole; but if it be private interest that is meant, I confess that there are not only two, but twenty and it may be more private interests in every government, and the same argument would prove that there ought to be twenty or indeed five hundred houses of legislature in each government: and by proving too much falls to the ground. But the grand argument of all, is that by being separate they have a power of checking some bills which would otherwise pass into laws and might be detrimental to society.

Had not this argument been produced on the other side, I should certainly have produced it in favour of one house: however I ask is a minority in one house, properly entitled to over rule a majority in the other? Are they not as likely to check a good bill as a bad one? and has it not in fact often happened? Is it not as probable that the second house would lay some of their checks on a good bill which perhaps they had little considered as that the first, should pass a bad one, where it had originated and been thoroughly canvassed? But let us turn the argument over and take a view of the other side of it. The inconsistencies that attend the idea of two houses are innumerable. Take one, supposing them both our represe[n]tatives (tho' it will be hard to prove them so) it makes their constituents to say in many instances by their representatives in one house, 'this shall be a law', by their representatives in the other with respect to the same bill; 'This shall not be a law'. It impowers one body of men to enact statutes; and another to forbid their being carried into execution. It resembles a man putting forth his right hand to do some important business and then stretching forth his left hand to prevent it; but supposing them not our representatives at all, they have no business there, and all their mighty power of checking, is a mere farce.

I am now come down to that period, which I proposed at my setting out; and ought not, it may be trouble the public any farther; however as I consider myself a free agent, and would have every other man not only to believe so of himse[lf] but also to use every means to be and continue really so for ever; I intend in some future paper<sup>3</sup> (if I continue in the same humour I am now in) to make some transient observations, on the constitution held out to the united states, by the continental convention, which I sincerely wish might in the mean time be done by some better hand.

In the above hints, I have spoken my sentiments but their authority comes from their being the sentiments of a Locke a Sidney and of all the great and good names who have favoured the world with observations on this important subject: but what gives them the highest

possible dignity with me; I believe them to be the sentiments of reason itself: and which I remain under the conviction should a government arise, flowing from any other source and running in another channel; though I shall always submit to the laws of my country, with as much cheerfulness as I can; yet the voice of the united world shall never persuade me to say it is right.

1. An attribution, in an unknown handwriting, to "W Ward" appears at the end of this essay in the issue of the *Kentucky Gazette* located at the Public Library of Lexington. In 1787 and 1788 William Ward signed petitions to the Virginia legislature that suggest that he was a Fayette County tobacco planter. In the same years, he also served in two of Kentucky's statehood conventions.

2. William Cowper, *The Task, A Poem, In Six Books* (London, 1785), Book III, "The Garden," 101.

3. See "Republicus," *Kentucky Gazette*, 1 March (below).

### Joseph Jones to James Madison Richmond, 17 February (excerpt)<sup>1</sup>

... We anxiously wait for the decision of the Masstts: convention—turn as it may the deliberations of the States yet to meet will be greatly affected by what shall be determined by that Body. Davis's next paper will I expect contain another publication under the signature of Cassius agt. R. H. L.<sup>2</sup> You shall have it if printed. The *plain dealer* is suspected from the manuscript to come from essex R—ne.<sup>3</sup> pray do not fail to keep me informed from time to time of the proceedings of the States in the important business of the new government as they shall come to your knowledge.

P.S. I am well informed Col. Pendleton and Col. James Taylor will come from Caroline.<sup>4</sup> H—y<sup>5</sup> is preaching to the people in some of the Southern Counties.

1. RC, Madison Papers, DLC. Printed: Rutland, *Madison*, X, 516–17.

2. "Cassius," a criticism of Richard Henry Lee's letter of 16 October to Governor Randolph (above), appeared in the *Virginia Independent Chronicle* on 2, 9, and 23 April (III below).

3. See "A Plain Dealer," *Virginia Independent Chronicle*, 13 February (above), who was believed to be Spencer Roane of Essex County.

4. On 13 March Edmund Pendleton and James Taylor were elected to represent Caroline County in the state Convention, where they voted to ratify the Constitution.

5. Patrick Henry.

### David Stuart to George Washington Abingdon, Fairfax County, 17 February

For this letter, see Fairfax County Election (II below).

**Cyrus Griffin to Thomas FitzSimons**  
**New York, 18 February (excerpt)<sup>1</sup>**

... Colonel R.H. Lee and mr. John Page, men of Influence in Virginia, are relinquishing their opposition;<sup>2</sup> but what to us is very extraordinary and unexpected, we are told that mr. George Mason has declared himself so great an enemy to the constitution that he will heartily join mr. Henry and others in promoting a southern Confederacy—alas! how inconstant is the mind of man. . . .

1. RC, Gratz Collection, PHi. Printed: CC:537 (a longer excerpt). In an omitted portion of the letter, Griffin speculated about the prospects of ratification in several states. Griffin (1748–1810), a lawyer, represented Lancaster in the House of Delegates, 1777–78, 1786–87. He was a delegate to Congress, 1778–80, 1787–88 (president, 1788), and a member of the Continental Court of Appeals in Cases of Capture, 1780–87. FitzSimons (1741–1811), a Philadelphia merchant and a member of the Pennsylvania Assembly, signed the Constitution in the Constitutional Convention.

2. James Madison, Griffin's fellow Virginia delegate to Congress, probably supplied him with this information about Lee and Page. (See letters to Madison from George Washington, 10 January; Archibald Stuart, 14 January; and Tench Coxe, 23 January, all above.)

**Collin McGregor to Neil Jamieson**  
**New York, 18 February (excerpts)<sup>1</sup>**

... The New Constitution as framed by the late Convention is now adopted & Ratified by Six States. . . . the only fear we now have of serious opposition is from the State of Virginia, where there are many respectable & powerful Men strenuously against the Constitution.—Genl Washington however with a Strong party are clear for its adoption, and all his influence will be exerted to bring it about. . . .

1. FC, Collin McGregor Letterbook, 1787–1788, NN. The name of the addressee does not appear but it was apparently Neil Jamieson. Because McGregor did not have time to copy this letter, he kept it until he sent it to Jamieson as an enclosure in a letter dated 4 March (CC:590). On 2 April McGregor forwarded duplicates of his 18 February and 4 March letters to Jamieson. McGregor, a native of Scotland who came to America in 1781, was a New York City merchant who also served as Jamieson's American business agent. Jamieson, also a native of Scotland, came to America in 1760 and settled in Norfolk, where he became a wealthy merchant. A Loyalist, he fled to New York in 1776 and remained there until 1785. In 1788 he was a London merchant.

**John Dawson to James Madison**  
**Fredericksburg, 18 February**

For this letter, see Orange County Election (II below).

**William Fleming to Thomas Madison  
Belmont, Botetourt County, 19 February<sup>1</sup>**

Your favour of Jan<sup>y</sup> 2d<sup>2</sup> is before me. A trip to G. Jones & diffrent affairs, since prevented me from acknowleging the receipt sooner—In this County, we have few Polititians, nor do the People seem to concern themselves much about the New fœderal Constitution. on the day of Election I suppose they will choose those of the Candidates, they can best confide in. Who will offer I know not. should the Voters choose me for one,<sup>3</sup> I will serve them as I look on it to be my duty, and the last [years?] service I can render my Country, should I be rejected, it will give me no umbrage, it will be a pleasure to see members of superior abilities, and equal willingness, ready to serve the County—You desire me to write you my thoughts on the Constitution, and hint that I am against it. On my receiving a Copy of the Plan when first published to that before I had seen any thing pro or Con, on the Subject, I declared that poor Democracy was at the last gasp, Aristocracy was establishing, which I feard would end in Tyrannical Regality. this declaration has unjustly, perhaps stamp'd me with many, an Ante Confœdralist, I most heartily agree with you that the Union of the American states ought to be consolidated, and this force, power & energy of the Confederation be brought to point. this would give us weight with foreign Nations, and make us respectable in the political Scale of Europe, on the Contrary an independant Sovereignty in each state, will directly & immediatly produce sciens of blood amongst ourselves, & make us an easy prey to the first powerfull foreign invader, but can not the last inconvenience & the former advantage be obtained without depriving the Citizens of their priveleges? I think it may.—let me say it without the imputation of vanity, that I was pleased the letter from Mr Lee<sup>4</sup> contained many of my private objections before I had seen it. I therefore refer you to that and at present shall only remove one objection you make in yours. Viz the Influence the President may have in Council the Members of his own choosing. May not this be obviated by the Members of the Privy Council being chosen by the Legislators of the diffrent States, from the above you will, see that I am for the Constitution with such amendments as will secure the liberty of the Subject, for of all Governments an Oligarchy is the worst, and power once parted with can never be reclaimed without bloodshed—I am in the same situation with respect to having the public prints that you are, I have not seen a paper since I came up from the River, and even in the small circle of Botetourt, the communication is interrupted from the Inhabitants at the Courthouse innoculating for the

small pox. Your Unckle Lewis and Jones,<sup>5</sup> are strongly for the Confœderation as new modeled. Mr Lewis I believe will offer for Rockingham, I have received a letter from the General<sup>6</sup> on this subject which I will answer by this conveyance (which I expect will be by Mr G Nelson), and as The Tomahawk is burried between you, & the Tree of Peace planted, and in a fair way to flourish Green & Strong, You will see it—What occasion for an excuse for the length of Your letter? the longer the better, it supplies a tete a tete conversation. I am well pleased to hear, you have got a sufficiency of good water, for the making of Salt, and likely to shorten the process.—In your old habitation which looks like a deserted place, I found a small decanter with Sixteen ounces of Quicksilver as it was standing open to every one and would certainly be lost, last week I took it home for which I am accountable to you.—

1. RC, Draper Manuscripts, Virginia Papers, State Historical Society of Wisconsin. "Belmont" was Fleming's plantation. The letter was addressed to "Thomas Madison—Esqr./Saltworks/Washington Cty." In the left corner of the address page, Fleming wrote "*Recommended to/Mr Waltons care/to forward & Favoured/Mr Tanhersly.*"

2. Not found.

3. On 11 March Fleming was elected to represent Botetourt in the state Convention, where he voted to ratify the Constitution.

4. See "Richard Henry Lee and the Constitution," 16 October (above).

5. Thomas Lewis was a Rockingham County planter. Lewis and his brother-in-law Gabriel Jones represented Rockingham in the state Convention, where both voted to ratify the Constitution.

6. Probably a reference to William Russell's letter of 25 January (above).

### **James Madison to Thomas Jefferson New York, 19 February (excerpt)<sup>1</sup>**

... The temper of Virginia, as far as I can learn, has undergone but little change of late. At first there was an enthusiasm for the Constitution. The tide next took a sudden and strong turn in the opposite direction. The influence and exertions of Mr. Henry, and Col. Mason and some others will account for this. Subsequent information again represented the Constitution as regaining in some degree its lost ground. The people at large have been uniformly said to be more friendly to the Constitution than the Assembly. But it is probable that the dispersion of the latter will have a considerable influence on the opinions of the former. The previous adoption of nine States will have must have a very persuasive effect on the minds of the opposition, though I am told that a very bold language is held by Mr. H—y and some of his partizans. Great stress is laid on the self-sufficiency of that State, and the prospect of external props is alluded to.<sup>2</sup>...

1. RC, Madison Papers, DLC. Printed: Rutland, *Madison*, X, 518–21; Boyd, XII, 607–10; and CC:541 (a longer excerpt). In an omitted portion of the letter, Madison listed the states that ratified the Constitution; explained why the Massachusetts Convention ratified the Constitution; discussed the behavior of the minorities in some of the states that ratified; and speculated on the prospects of ratification in New Hampshire, Maryland, South Carolina, New York, and North Carolina.

2. On 20 February, one day later, St. Jean de Crevecoeur also wrote about the opposition to the Constitution in Virginia: "Mr. P. Henry is in my eyes a very guilty man, for I abhor all Antifederalists & cannot help considering them as people who want to sacrifice the glory, the Prosperity of this Country to their selfish, or rather hellish views; such is I believe Messrs. Lee, Henry & Co.—not so the good Mr. Randolph; his Letter against the Constitution is the best thing that has appeared in favor of it" (to William Short, CC:544).

**John Armstrong, Sr., to George Washington  
Carlisle, Pa., 20 February (excerpt)<sup>1</sup>**

... we are Sorry that yr. State has postponed their decision to so late a day—the Suspence of that large State, keeps our Opposition in countenance—some of whom, (men of some note too) have lately declared that if Virginia, do not adopt, they entertain no doubt, but that the Maelcontents of the two States, will prevent the Execution of the proposed Federal plan! this is very rediculouse, yet very disagreeable, nor much to be doubted, but that some of the Western people talk together in this stile. . . .

1. RC, Washington Papers, DLC. Printed: CC:543. In a part of the letter not printed here, Armstrong encouraged Washington to accept the presidency in the new government under the Constitution and described the opposition to the Constitution in Pennsylvania. During the Revolution, Armstrong (1717–1795) was a brigadier general in the Continental Army and a major general and commander of the Pennsylvania militia. He served in Congress in 1779 and 1780. At the time he wrote this letter, he was living in retirement in Carlisle, Pa.

**Harry Innes to John Brown  
Danville, Ky., 20 February<sup>1</sup>**

I returned late last evening from Fayette & found Mr. Lacasagne<sup>2</sup> here on his way to Philadelphia. I have snatched up my pen to let you know that I am not altogether thoughtless of you; this letter should be more full but the bearer sets out early this morning & I am obliged to curtail it. I wrote you via Richmond very fully on the subject of your business & what I thought the Court would probably do at the March Term. I have nothing to add on that head but to assure you that everything in my power shall be done for the benefit of yours and your clients interest.

The subject of the Federal Constitution begins to engross the at-

tion of the people & I am endeavoring to bring about a convention on that important subject big with the fate of Kentucky & the Western Country.<sup>3</sup> The objections which have been generally made to the eastward are of a general nature and appear to affect the general interest of United America; they are of too much importance to be looked over. I need not repeat them here as they have often appeared in the Public Print, but my Dr. Sir. the adoption of that Constitution would be the destruction of our young & flourishing country which I shall endeavor to point out concisely to you, viz: All commercial regulations "are to be vested in the General Congress". Our interests and the interests of the Eastern states are so diametrically opposite to each other that there cannot be a ray of hope left to the Western Country to suppose that when once that interest clashes we shall have justice done us. There is no such idea as justice in a Political society when the interests of 59/60 are to be injured thereby and that this will be the case as soon as we have the liberty of exportation, is self evident. Is there an article that the Eastern States can export except Fish oil & rice that we shall not abound in. I say not one. So long therefore as Congress hath this sole power & a majority have the right of deciding on those grand questions we cannot expect to enjoy the navigation of the Mississippi, but another evil equally great will arise from the same point. If ever we are a great and happy people, it must arise from our industry and attention to manufactories. This desirable end can never be brought about so long as the state Legislatures have the power of prohibiting imports, can we suppose that Congress will indulge us with a partial import when we must otherwise procure all our resources from the Eastward, the consequence of which is that we will be impoverished and the Eastern States will draw all our wealth and emigration will totally cease.

The most particular objection is the power of the Judiciary if our separation takes place, there will probably arise disputes between the Citizens of New Jersey, Pennsylvania, Delaware, Maryland, Virginia, & North Carolina and the Citizens of Kentucky; it is hardly to be supposed that each of the Citizens of these States as may have disputes with the Citizens of Kentucky will sue in Kentucky we shall be drawn away to the Federal Court and the Citizens from Kentucky away from their local habitations will nine times out of ten fall a sacrifice to their contests.

there are with me three insurmountable objections to the New Constitution. I wish to see a convention of the people on the subject & to remonstrate against it through the convention of Virginia & if that cannot be done, at least to address. Our local situation must justify

any measures which may be adopted upon this occasion, certain that if the Constitution is adopted by us that we shall be the mere vassals of the Congress and the consequences to me are horrible and dreadful.

I would write more, but am obliged to conclude but before I lay down my pen must observe that the Indians continue hostile. 25 horses were taken in the latter end of January when the earth was covered 5 inches of snow. Will Congress do anything for us. Let us hear from you as soon as possible. Mr. Lacasagne will stay some time in Philadelphia & hath promised me to inform you of his lodgings, & to undertake to forward any letter you may send to his care. Mr. Al Parker of Lexington<sup>4</sup> will leave Philadelphia the beginning of April. We have had a most severe winter, which is not ended. I know of no changes among your acquaintances here. We are all well.

1. Typescript, Innes Papers, DLC.

2. Michael Lacasagne, a native of France and a Louisville merchant, represented Jefferson County in the January 1787 Kentucky statehood convention.

3. See "Circular Letter to the Fayette County Court," 29 February (below).

4. Alexander Parker was a partner of the Lexington, Ky., mercantile firm of Alexander and James Parker, and a member of the "Kentucky Society for Promoting Useful Knowledge."

### **The Impartial Examiner I** **Virginia Independent Chronicle, 20 February<sup>1</sup>**

*To the free people of VIRGINIA.*

*Countrymen and Fellow-Citizens,* That the subject, which has given rise to the following observations, is of the highest consequence to this country, requires not the aid of logical proof; that it merits the most serious attention of every member of this community, is a fact not to be controverted. Will not a bare mention of the new Fœderal Constitution justify this remark? To foreigners or such, whose local connections form no permanent interest in America, this may be totally indifferent; and to them it may afford mere matter of speculation and private amusement. When such advert to the high and distinguished characters, who have drawn up, and proposed a set of articles to the people of an extensive continent as a form of their future government, an emotion of curiosity may induce them to examine the contents of those articles: and they may, perhaps, from having contemplated on a former situation of those people—that they had struggled against a potent enemy—that they had by their virtuous and patriotic exertions rescued themselves from impending danger—that they had used the like endeavors to establish for themselves a system of government upon free and liberal principles—that they had in pursuance of those en-



deavors chosen a system, as conducive to the great ends of human happiness, the preservation of their *natural rights* and *liberties*—that this system has prevailed but a few years; and now already a change, a fundamental change therein is meditated:—strangers, I say, having contemplated on these circumstances, may be led to consider this nation, as a restless and dissatisfied people, whose fickle inconsistent minds suffer them not to abide long in the same situation; who perpetually seeking after new things throw away one blessing in pursuit of another: and while they are thus indulging their caprice—lose all, ere any can ripen into maturity. If the unconcerned part of those among us entertain themselves in this manner, can any good American be content to deserve such reflections? Will not all rather feel an honest indignation, if they once perceive their country stamped with a character like this? And yet, may we not justify such conceptions, if we thus precipitate ourselves into a new government before we have sufficiently tried the virtues of the old? So incident is error to the human mind, that it is not to be wondered at indeed, if our present Constitution is incomplete. The best regulated governments have their defects, and might perhaps admit of improvement: but the great difficulty consists in clearly discovering the most exceptionable parts and judiciously applying the amendments. A wise nation will, therefore, attempt innovations of this kind with much circumspection. They will view the political fabric, which they have once reared, as the sacred *palladium* of their happiness;—they will touch it, as a man of tender sensibility toucheth the apple of his eye,—they will touch it with a light, with a trembling—with a cautious hand,—lest they injure the whole structure in endeavoring to reform any of its parts. In small and trivial points alterations may be attempted with less danger; but—where the very nature, the essence of the thing is to be changed: when the foundation itself is to be transformed, and the whole plan entirely new modelled;—should you not hesitate, O Americans? Should you not pause—and reflect a while on the important step, you are about to take? Does it not behove you to examine well into the nature and tendency of the Constitution now proposed for your adoption? And by comparing it with your present mode of government, endeavor to distinguish which of the two is most eligible? Whether *this* or *that* is best calculated for promoting your happiness? for obtaining and securing those benefits, which are the great object of civil society? Will it be consistent with the duty, which you owe to yourselves, as a nation, or with the affection, which you ought to bear for your posterity, if you rashly or inconsiderately adopt a measure, which is to influence the fate of this country for ages yet to come? How will it accord with your dignity and rep-

utation, as an independent people, if either through an over-weaning fondness for novelty you are suddenly transported on the wings of imagination, and too hastily make up your thoughts on this great subject; or by sinking into a listless inactivity of mind, view it as an indifferent matter unworthy of any deliberate consideration? Will any respect? Will any honor? Will any veneration be due to the memory of yourselves, as ancestors, if millions of beings, who have not yet received their birth, when you are all mouldered into dust, should find themselves fixed in a miserable condition by one injudicious determination of your's at this period? If you see no impropriety in these questions, the suggestions contained in them will not appear altogether unworthy of attention. One moment's reflection, it is humbly presumed, will render it obvious that on this occasion they are not impertinently propounded.

In pursuing this address I beg leave to premise that the only true point of distinction between arbitrary and free governments seems to be, that in the former the governors are invested with powers of acting according to their own wills, without any other limits than what they themselves may understand to be necessary for the general good; whereas in the latter they are intrusted with no such unlimited authority, but are restrained in their operations to conform to certain fundamental principles, the preservation whereof is expressly stipulated for in the *civil compact*: and whatever is not so stipulated for is virtually and impliedly given up. Societies so constituted invest their supreme governors with ample powers of exerting themselves according to their own judgment in every thing not inconsistent with or derogatory to those principles; and so long as they adhere to such restrictions, their deeds ought not to be rescinded or controuled by any other power whatsoever. Those principles are certain inherent rights pertaining to all mankind in a state of natural liberty, which through the weakness, imperfection, and depravity of human nature cannot be secured in that state. Men, therefore, agree to enter into society, that by the united force of *many* the rights of *each* individual may be protected and secured. These are in all just governments laid down as a foundation to the *civil compact*, which contains a *covenant* between *each* with *all*, that they shall enter into one society to be governed by the same powers; establishes for that purpose the *frame* of government; and consequently creates a *Convention* between *every* member, binding those, who shall at any time be intrusted with power, to a faithful administration of their trust according to the form of the *civil policy*, which they have so constituted, and obliging all to a due obedience therein. There can be no other just origin of civil power,

but some such mutual contract of all the people: and although their great object in forming society is an intention to secure their natural rights; yet the relations arising from this *political union* create certain duties and obligations to the state, which require a sacrifice of some portion of those rights and of that exuberance of liberty, which obtains in a state of nature.—This, however, being compensated by certain other adventitious rights and privileges, which are acquired by the social connection; it follows that the advantages derived from a government are to be estimated by the *strength* of the *security*, which is attended at once with the *least sacrifice* and the *greatest acquired benefits*. That government, therefore, which is best adapted for promoting these three *great ends*, must certainly be the best constituted scheme of *civil policy*. Here, then, it may not be improper to remark that persons forming a social community cannot take too much precaution when they are about to establish the plan of their government. They ought to construct it in such a manner as to procure the best possible security for their rights;—in doing this they ought to give up no greater share than what is understood to be absolutely necessary:—and they should endeavor so to organise, arrange and connect it's several branches, that when duly exercised it may tend to promote the *common good* of all, and contribute as many advantages, as the civil institution is capable of. It has been before observed that the only just origin of civil power is a contract entered into by all the people for that purpose.—If this position be true (and, I dare presume, it is not controverted, at least in this country) right reason will always suggest the expediency of adhering to the essential requisites in forming that contract upon true principles. A cautious people will consider all the inducements to enter into the *social state*, from the most important object down to the minutest prospect of advantage. Every motive with them will have its due weight. They will not pay a curious attention to trifles and overlook matters of great consequence:—and in pursuing these steps they will provide for the attainment of *each* point in view with a care—with an earnestness proportionate to its dignity, and according as it involves a *greater* or a *lesser* interest. It is evident, therefore that they should attend most diligently to those sacred rights, which they have received with their birth, and which can neither be retained to themselves, nor transmitted to their posterity, unless they are *expressly reserved*: for it is a maxim, I dare say, universally acknowledged, that when men establish a system of government, in granting the powers therein they are always understood to surrender whatever they do not so expressly reserve. This is obvious from the very design of the civil institution, which is adopted in lieu of the state of natural liberty, wherein each

individual, being equally intitled to the enjoyment of all natural rights, and having equally a just authority to exercise full powers of acting, with relation to other individuals, in any manner not injurious to their rights, must, when he enters into society, be presumed to give up all those powers into the hands of the state by submitting his whole conduct to the direction thereof. This being done by every member, it follows, as a regular conclusion, that all such powers, whereof the whole were possessed, so far as they related to each other individually, are of course given up by the mere act of union. If this surrender be made without any reservation, the conclusion is equally plain and regular, that *each* and *all* have given up not only those powers, which relate to others, but likewise every claim, which pertained to themselves, as individuals. For the universality of the grant in this case must necessarily include every *power* of acting, and every *claim* of possessing or obtaining any thing—except according to the regulations of the state. Now a right being properly defined, “a power or claim established by law, to act, or to possess, or to obtain something from others,” every natural right is such *power* or *claim* established by the law of nature. Thus, it is manifest, that in a society constituted after this manner, every right whatsoever will be under the power and controul of the civil jurisdiction. This is the leading characteristic of an arbitrary government, and whenever any people establish a system like this, they subject themselves to one, which has not a single property of a free constitution. Hence results the necessity of an *express stipulation* for all such rights as are intended to be exempted from the civil authority.

Permit me now, my country men, to make a few observations on the proposed Fœderal Constitution. In this attempt the subject, as it is arduous and difficult, naturally impresses the modest mind with diffidence: yet being of the last importance, as involving in it the highest interest, that freemen can have—all that is dear and valuable to the citizens of these United States; a consciousness of the strong claim, which this subject has, to a free and general discussion, has prevailed over that discouraging idea so far as to produce the present address to you. This is done with a reliance on that benevolence and liberality of sentiment, with which you have hitherto been actuated. From these benign qualities, it is hoped, the most favorable indulgence will be granted, and that the zeal, with which this is written, will be allowed in some measure an excuse for its defects. However imperfect, therefore this may be, however inadequate to your own ideas, or to the wishes of him, who offers it to your consideration; you are hereby intreated to let the perusal, with which you may think proper to favor

it, be serious, candid, dispassionate—as it relates to a common cause, in which all are alike concerned.

Suffer me, then, in the first place to advert to a part of the sixth article in this constitution. It may, perhaps, appear somewhat irregular, to begin with this article, since it is almost the last proposed: yet, if it be considered that this at once defines the extent of Congressional authority, and indisputably fixes its supremacy, every idea of impropriety on this head will probably vanish. The clause alluded to contains the following words, “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.” If this constitution should be adopted, here the sovereignty of America is ascertained and fixed in the fœderal body at the same time that it abolishes the present independent sovereignty of each state. Because this government being general, and not confined to any particular part of the continent; but pervading every state and establishing its authority equally in all, its superiority will consequently be recognized in each; and all other powers can operate only in a secondary subordinate degree. For the idea of two sovereignties existing within the same community is a perfect solecism. If they be supposed equal, their operation must be commensurate, and like two mechanical powers of equal *momenta* counteracting each other;—here the force of the one will be destroyed by the force of the other: and so there will be no efficiency in either. If one be greater than the other, they will be similar to two unequal bodies in motion with a given degree of velocity, and impinging each other from opposite points;—the motion of the lesser in this case will necessarily be destroyed by that of the greater: and so there will be efficiency only in the greater. But what need is there for a mathematical deduction to shew the impropriety of two such distinct co-existing sovereignties? The natural understanding of all mankind perceives the apparent absurdity arising from such a supposition: since, if the word means any thing at all, it must mean that *supreme power*, which must reside somewhere instate; or, in other terms, it is the united powers of each individual member of the state collected and consolidated into *one body*. This collection, this union, this supremacy of power can, therefore, exist only in one body. This is obvious to every man: and it has been very properly suggested that under the proposed constitution each state will dwindle into “the insignificance of a town corporate.” This certainly will be their utmost consequence; and, as such, they will have

no authority to make laws, even for their own private government any farther than the permissive indulgence of Congress may grant them leave. This, Virginians, will be your mighty, your enviable situation after all your struggles for independence! and, if you will take the trouble to examine, you will find that the great, the supereminent authority, with which this instrument of union proposes to invest the fœderal body, is to be created without a single check—without a single article of covenant for the preservation of those inestimable rights, which have in all ages been the glory of freemen. It is true, “the United States shall guarantee to every state in this union a republican form of government:” yet they do not guarantee to the different states their present forms of government, or the bill of rights thereto annexed, or any of them; and the expressions are too vague, too indefinite to create such a compact by implication. It is possible that a “republican form” of government may be built upon as absolute principles of despotism as any oriental monarchy ever yet possessed. I presume that the liberty of a nation depends, not on planning the frame of government, which consists merely in fixing and delineating the powers thereof; but on prescribing due limits to those powers, and establishing them upon just principles.

It has been held in a northern state by a zealous advocate for this constitution that there is no necessity for “a bill of rights” in the fœderal government; although at the same time he acknowledges such necessity to have existed when the constitutions of the separate governments were established. He confesses that in these instances the people “invested the[i]r representatives with every power and authority, which they did not in explicit terms reserve:” but “in delegating fœderal powers,” says he, “every thing, which is not given, is reserved.”<sup>2</sup> Here is a distinction, I humbly conceive, without a difference, at least in the present enquiry. How far such a discrimination might prevail with respect to the present system of union, it is immaterial to examine; and had the observation been restrained to that alone, perhaps it might be acknowledged to contain some degree of propriety. For under the confederation it is well known that the authority of Congress cannot extend so far as to interfere with, or exercise any kind of coercion on, the powers of legislation in the different states; but the internal police of each is left free, sovereign and independent: so that the liberties of the people being secured as well as the nature of their constitution will admit; and the declaration of rights, which they have laid down as the *basis* of government, having their full force and energy, any farther stipulation on that head might be unnecessary. But, surely, when this doctrine comes to be applied to the *proposed*

fœderal constitution, which is framed with such large and extensive powers, as to transfer the individual sovereignty from each state to the *aggregate body*,—a constitution, which delegates to Congress an authority to interfere with, and restrain the legislatures of every state—invests them with supreme powers of legislation throughout all the states—annihilates the separate independency of each; and, in short—swallows up and involves in the plenitude of its jurisdiction all other powers whatsoever:—I shall not be taxed with arrogance in declaring such an argument to be fallacious; and insisting on the necessity of a positive unequivocal declaration in favor of the rights of freemen in this case even more strongly than in the case of their separate governments. For it seems to me that when any civil establishment is formed, the more general its influence, the more extensive the powers, with which it is invested, the greater reason there is to take the necessary precaution for securing a due administration, and guarding against unwarrantable abuses.

(*To be continued.*)

1. On 23 January the printer of the *Virginia Independent Chronicle* announced that "Impartial Examiner" had been received. "The Impartial Examiner" published two essays—the first in three installments on 20, 27 February (below) and 5 March (below), and the second on 28 May (III below). Each of the three parts of the first number is headed "*The impartial EXAMINER*," but the third part is signed "P. P."

2. "The Impartial Examiner" refers to James Wilson's 6 October speech before a public meeting in Philadelphia (CC:134).

## An Old Planter

### Virginia Independent Chronicle, 20 February<sup>1</sup>

*To the PLANTERS and FARMERS of Virginia.*

The moment fast approaches when we must determine the fate of this state, perhaps of the continent of America, by the election of delegates for the convention. Our avocations as planters and farmers, and a scanty education, disables many of us from judging soundly of abstract principles of government; and unhappily there are some amongst us deeply interested in deceiving us—these are zealous and active, whilst good men generally content themselves with regulating their own conduct, and are backward in exposing their tranquility for our benefit, because they see we are too indifferent, or too easily misled in what concerns our welfare as a people.

I am led to these reflections, because I daily hear objections made to the new constitution, by those who certainly either do not understand it themselves, or are wicked enough to seek to mislead others.

That the present government of the United States is fundamentally

vicious, seems agreed by every body. A new one has been proposed, by the united voice of the wisest and most virtuous men on the continent—These men were chosen by our different Assemblies,—they have agreed in sentiments with an unanimity almost unknown in the history of mankind: in that whole body there were but three dissenting voices to the constitution now offered to us. This my friends forms a strong presumption that it is good. But when I look at the objections of these three dissenters, as judiciously collected in a late paper<sup>2</sup>—I find they hardly agree amongst themselves in any one of them, so that if they had been the sole persons employed to frame a constitution, some two of them, would have rejected almost every objection, stated by the third—this forms another strong presumption that the government now proposed to us is good.

But without following the false and trivial objections that are daily made, as they all turn upon the supposition that too much power will be lodged with the new government, let us examine this proposition, if it prove false all the objections founded upon it fall at once to the ground.

It is clear that wherever we give or delegate a trust to do any one act, we must lodge authority sufficient to insure the execution of that act.

When we choose an assembly to make laws and regulate the government of this state, what would an assembly avail, if they had not power to enforce every act necessary for our government?

The object of the constitution, is the government of the United States in all their general and common interests; the delegation intrusted with this authority, must therefore have power to enforce every act necessary for that end.

Upon this a simple question occurs, Has the constitution of the United States vested any powers in the delegation to be chosen for the general government, beyond what the constitution of Virginia does and necessarily must vest in our assembly, for our particular government? Every man who can read or think must answer to this question, it has not.

The only point that then remains to be considered, is, whether the general interest of the whole continent of America will not be as safe in the hands of 10 representatives chosen by ourselves and by proportional numbers chosen by the other states, as our local interest is in the hands of 160 representatives chosen by our different counties: To this question every candid man must answer affirmatively.

We have but two ways of judging in any difficult matter, viz by reason or by experience. Is it not reasonable to suppose that we shall more



easily find 10 men of virtue and abilities to represent us in Congress, than 160 of which our assembly consists? Is it not reasonable to suppose that Massachusetts, Pennsylvania, &c. will find eight wise men, and so on, with the other states, and it must be noticed, that they can do no act but what will equally affect all the states. General reasoning however is only to be admitted, where experience is wanting; let us therefore examine the fact. At present our representation in Congress is only equal to that of Rhode-Island, the most insignificant of all the states;<sup>3</sup> yet let the wisdom and virtue of the laws and regulations of Congress, be compared with those of our assembly, is there a man who can hesitate in preferring the first? Let us look over our proceedings every session, and we will find three-fourths of the time, is employed, in undoing, altering, and amending the proceedings of the last—no particular reflection is meant against our legislature, this, nor no country so thinly peopled, or with the habits we possess, will afford 160 men equal to the business of legislation.

Let us look around amongst the other states, would any wise or virtuous representation ever have proposed, far less issued (in a time of full peace and tranquility) paper money as a legal tender? Would there have been in any of the states opposition to laws for the furtherance of justice, the sole end and object of all government? Would there ever have been such an insult offered to the probity and understanding of men; as to suggest with impunity, the breach of public contracts, and the defrauding of the public creditors? Where such things are heard without censure, we may safely pronounce the governments defective—let us therefore conclude, that the general interest of this and all the United States, will be at least as safe, I think safer, in the hands of the general delegation, than our particular interests are in the hands of our assemblies.

This view of the subject will readily strike men accustomed to general reasoning; but will be less apt to affect many of us, than the palpable clear advantages we will derive from the constitution. These can be brought home to every man's feelings.

At present our negroes are taxed by the poll, by the constitution they can only be taxed at three-fifths of the polls.—

Our lands are now taxed by their value, but by the constitution they can only be taxed by the poll, or number of our people, so that an acre of land in Virginia will not pay a sixth of what an acre of equal land will pay in Pennsylvania or Massachusetts. Our stock of horses, cattle, &c. can only be taxed in the same proportion, so that a horse or an ox will pay three times the tax in the northern states that we shall pay in Virginia.

Our tobacco, our corn, our grain, and all the productions of the earth, are forever exempted from all taxes or all duties on exportation; and whilst we are thus relieved from so great a proportion of the taxes, our representation, which is at present only equal to that of Rhode-Island, will be ten times greater in the new Congress, and a fourth greater than that of any state in the union<sup>4</sup>—It is these advantages that alarm some of the inhabitants of the northern states, and induces them to oppose the constitution, and with these advantages shall we hesitate my friends in adopting it, or in voting for such as will support so beneficial a government.

1. On 30 January the printer of the *Chronicle* announced: "The STATE SOLDIER, No. 2. and the piece signed a PLANTER, are received, and will be published in their turn." Since the *Chronicle* printed no article signed "A Planter," presumably the printer meant "An Old Planter."

2. "An Old Planter" refers to "Philanthropos" (Tench Coxe), which was first printed in the *Pennsylvania Gazette* and *Philadelphia Independent Gazetteer* on 16 January (CC:454), and reprinted in the *Virginia Independent Chronicle* on 6 February.

3. Under Article V of the Articles of Confederation, each state could be represented by between two and seven delegates, but each state had only one vote (CDR, 87).

4. Under the Constitution, Massachusetts and Pennsylvania were each given eight representatives.

### Editors' Note

#### Marcus

#### Norfolk and Portsmouth Journal, 20 February–19 March

This essay, written by James Iredell, an Edenton, N.C., lawyer, was a point-by-point response to George Mason's objections to the Constitution. On 13 and 15 February John M'Lean, the printer of the *Norfolk and Portsmouth Journal*, received Iredell's manuscript and a subsidy of four dollars to print it. M'Lean, however, hoped that Iredell would make further payments to compensate him for "the Attention and pecuniary disadvantages" of publication. M'Lean, whose newspaper circulated in North Carolina, published "Marcus" in five unnumbered installments on 20, 27 February, 5, 12, and 19 March. The essay is printed in Volume 4 of *Commentaries on the Constitution* (CC:548, 571, 596, 616, 630).

For a full discussion of the authorship, circulation, and impact of "Marcus," see CC:548.

#### Francis Corbin to Edmund Randolph

#### Buckingham Lodge, Middlesex County, 21 February (excerpt)<sup>1</sup>

... The Constitution thrives—it has been Extremely sick of prejudice and misrepresentation, but it is daily growing better and better—I administer a few Pills now and then—gentle but purgative—

1. RC, Executive Papers, Vi. Printed: William P. Palmer et al., eds., *Calendar of Virginia State Papers* . . . (11 vols., Richmond, 1875-1893), IV, 404. "Buckingham Lodge" was Corbin's plantation.

**James Madison to Edmund Pendleton**  
**New York, 21 February (excerpts)<sup>1</sup>**

The receipt of your favor of the 29th Ult.<sup>2</sup> which did not come to hand till a few days ago was rendered particularly agreeable to me by the prospect it gives of a thorough reestablishment of your health. I indulge the reflection and the hope that it denotes a remaining energy in the Constitution, which will long defend it against the gradual waste of time.

Your representation of the politics of the State coincides with the information from every other quarter. Great fluctuations and divisions of opinion, naturally result in Virginia from the causes which you describe; but they are not the less ominous on that account. I have for some time been persuaded that the question on which the proposed Constitution must turn, is the simple one whether the Union shall or shall not be continued. There is in my opinion no middle ground to be taken. The opposition with some has disunion assuredly for its object; and with all for its real tendency. Events have demonstrated that no coalition can ever take place in favor of a new plan among the adversaries to the proposed one. The grounds of objection among the non-signing members of the Convention are by no means the same. The disapproving members who were absent but who have since published their objections differ irreconcilably from each of them.<sup>3</sup> The writers against the Constitution are as little agreed with one another; and the principles which have been disclosed by the several minorities where the Constitution has not been unanimously adopted, are as heterogeneous as can be imagined. That of Massachusetts, as far as I can learn was averse to any Government that deserved the name, and it is certain looked no farther than to reject the Constitution in toto and return home in triumph. Out of the vast number which composed it there was scarce a man of respectability, and not a single one capable of leading the formidable band. The men of abilities, of property, of character, with every judge, lawyer of eminence, and the Clergy of all Sects, were with scarce an exception deserving notice, as unanimous in that State as the same description of characters are divided and opposed to one another in Virginia. This contrast does not arise from circumstances of local interest, but from causes which will in my opinion produce much regret hereafter in the Opponents in Virginia, if they should succeed in their opposition. . . .

A *British* packet brings a picture of affairs in France which indicates some approaching events in that Kingdom which may almost amount to a revolution in the form of its Government. The authority is in itself suspicious; but it coincides with a variety of proofs that the spirit of liberty has made a progress which must lead to some remarkable conclusion of the scene. The Dutch patriots seem to have been the victims partly of their own folly, and partly of something amiss in their friends. The present state of that Confederacy is or ought to be a very emphatic lesson to the U. States. The want of Union and an capable Government is the source of all their calamities; and particularly of that dependence on foreign powers, which is as dishonorable to their character as it is destructive of their tranquility.

1. RC, Madison Papers, DLC. Printed: CC:549. In an omitted portion of the letter, Madison outlined the prospects for ratification of the Constitution in several states.

2. This letter has not been located. A list of letters, probably kept by Peter Force and found in the Madison Miscellany in the Library of Congress, reveals that on 29 January Pendleton wrote a two-page letter to Madison from his Caroline County estate of "Edmundsbury." A summary of the letter, probably made by or for Peter Force, reads: "The reception of the proposed Constitution by the Virginia Assembly. The feeling among the middle and lower classes. Mr. Pendleton favors it, but is open to conviction after hearing all that can be said. The importance of Mr. Madisons presence. The feeling in other southern States. Taxes lessened. The District Court Bill" (Rutland, *Madison*, X, 444n).

3. Madison probably refers to Luther Martin of Maryland who published his *Genuine Information* on the proceedings of the Constitutional Convention in twelve installments in the Baltimore *Maryland Gazette*, between 28 December 1787 and 8 February 1788 (CC:389), and to Robert Yates and John Lansing, Jr., of New York, whose letter of 21 December to New York Governor George Clinton explaining why they had left the Convention early was printed in the New York *Daily Advertiser* and *New York Journal* on 14 January (CC:447). The Yates-Lansing letter was reprinted in the *Norfolk and Portsmouth Journal* on 30 January, and parts of Luther Martin's *Genuine Information* appeared in the Petersburg *Virginia Gazette* on 28 February and 13 March. (The *Gazette* reprinted other parts of Martin's essay in the no longer extant issues of 21 February and 6 March.)

### The New Litany Virginia Herald, 21 February<sup>1</sup>

*Spare us, good Lord.*

From all evil and mischievous members of the state legislature, from the sin of ingratitude, from the power of ex post facto laws, and from everlasting damnation.

*Good Lord, deliver us.*

From such laws as do discriminate in favour of sheriffs and others who are in arrears for taxes; from all pompous and inaccurate statements of the public debt, and from such statements as may tend to sooth and flatter the people into a willingness to remain in their present state, rather than to adopt the new government,

*Good Lord deliver us.*

From state chicanery, government speculation, and from all the un-charitableness concomitant therewith.

*Good Lord deliver us.*

From intestine war; from the assemblies of such clubs as are gathered to oppose the new constitution; and from the rage of those who burn with cholera, as knowing their consequence will be lessened by the adoption thereof:

*We beseech thee to hear us, good Lord.*

That it may please thee to keep and strengthen in the true knowledge of thy ways, thy servants WASHINGTON, RANDOLPH, and MADISON, and all that are put in authority under them, and to enable them to be instrumental in promoting such wise government as may best tend to the peace and happiness of all thy people,

*We beseech thee to hear us, good Lord.*

That it may please thee to incline the hearts of thy people to adopt the new Fœderal Constitution; to endow the president thereof, the vice-president, senators and house of representatives, with grace, wisdom and understanding, to make and execute such laws as will best tend to secure to thy people the blessings of liberty, peace and concord, in those states, and that they may so far retrieve their lost credit, that they no longer be a reproach and hissing amongst the nations of the earth.

*We beseech thee to hear us, good Lord.*

That it may please thee to shield us from the rage of malicious and disappointed men, and to strengthen us in the principles of the Fœderal Constitution, so as to enable us to triumph over all the enemies thereof, that so hereafter we may attain to a government which will have such energy and stability as well be adequate to the exigencies of the union.

*We beseech thee to hear us, good Lord.*

That it may please thee to save from anarchy all thy people.

1. "The New Litany" was probably printed in one of three non-extant issues of the *Virginia Herald* that appeared on 7, 14, and 21 February. On 1 March, the *Pennsylvania Journal* reprinted this item under the heading—"From the VIRGINIA HERALD." The poem is placed under 21 February because the *Pennsylvania Journal*, in its issue of 1 March, printed an item from Richmond, dated 19 February. The text of "The New Litany" has been transcribed from the *Journal*, the first newspaper to reprint it.

"The New Litany" was reprinted in the Winchester *Virginia Gazette*, 7 March, and the *Virginia Independent Chronicle*, 19 March. Both attributed it to the *Virginia Herald*. "The New Litany" was also reprinted in the no longer extant issue of 3 May of the Richmond *Virginia Gazette and Independent Chronicle*. This is evident from the fact that the Charleston *Columbian Herald*, 5 June, and the *Georgia State Gazette*, 19 July, reprinted "The New Litany" under a Richmond dateline of 3 May. The *Virginia Gazette and Independent Chronicle* was the only Richmond newspaper printed on that day. "The New

Litany" was reprinted seventeen times by 19 July: Vt. (2), N.H. (1), Mass. (2), Conn. (2), N.Y. (1), Pa. (2), Va. (3), N.C. (1), S.C. (2), Ga. (1).

### Alexander White

#### Winchester Virginia Gazette, 22 February

The Pennsylvania Convention adjourned on 15 December, and three days later twenty-one of the twenty-three delegates who had voted against ratification of the Constitution published their reasons of dissent in the *Pennsylvania Packet*. This lengthy document reviewed the many arguments against adopting the Constitution, attacked the Constitutional Convention for its secrecy, and accused the delegates of violating their instructions by adopting a new constitution. The "Dissent" criticized Pennsylvania Federalists for the precipitate, threatening, and highhanded manner in which they had obtained the ratification of the Constitution. And it included a list of fourteen amendments to the Constitution that the Federalist majority in the Pennsylvania Convention had not permitted to be entered on the journals. On 4 January Augustine Davis reprinted the "Dissent" in Richmond as a twenty-four-page pamphlet (Evans 20621), and between 1 February and 14 March, the Winchester *Virginia Gazette* reprinted it in six installments (excluding the issue of 29 February). It is also possible that some of the "many thousand copies" of broadsides and pamphlets distributed by Pennsylvania Antifederalists reached Virginia. (For the text, authorship, circulation, and impact of the "Dissent," see CC:353.)

On 8 and 15 February the Winchester *Virginia Gazette* announced: "Preparing for the Press, and will shortly be published, Strictures on the Address and Reasons of Dissent of the Minority of the Convention of the State of Pennsylvania, to their Constituents; in which their gross misrepresentations of Facts, their fallacious Reasoning, and opprobrious Language will be exposed by ALEXANDER WHITE." On the 15th "Dares" criticized White for his lack of modesty in announcing the publication of his essay which "Dares" believed "promises vastly to enrich the vocabulary of Billingsgate" at the expense of "a most respectable Minority." "Dares" also suggested: "Perhaps Mr. White looks forward for his reward on the Continental Bench, or does he take this way to revenging himself on the public, for not attending his weighty arguments at the Winchester town meeting?" (Mfm:Va. For the meeting in Winchester, see "Frederick County Meeting," 22 October, above.)

The Winchester *Virginia Gazette* printed White's essay in two parts on 22 and 29 February. The second part was printed to the exclusion of the "Dissent of the Minority of the Pennsylvania Convention," as well as "several domestic occurrences, advertisements &c.," so that the essay would appear "previous to the ensuing election" of Frederick County's state Convention delegates on 4 March (Winchester *Virginia Gazette*, 29 February). In the issue of the 29th the *Gazette* also carried "Dion's" attack on White. "Dion" accused White of not having fought for his country during the War for Independence. He was surprised that White, a man of "notorious *timidity*," had written such an attack. "Dion" recommended to the printer that after he completed the publication of White's essay

that he "reserve a place" in his paper for "a short 'essay on *patriotism*, with the superior advantages of professing it, in times of *profound peace*; to which will be annexed, intrepidity, or the art of attacking respectable characters, at the *secure* distance of 200 miles'" (Mfm:Va.).

Lastly, on the 29th the *Gazette* printed White's response to "Dares" (dated 18 February) in which he dismissed "Dares's" criticisms. White was also distressed that the upcoming election of state Convention delegates in Frederick County might not be "conducted with candour," as he had been assured it would be (Mfm:Va).

The "Dissent of the Minority of the Pennsylvania Convention" appears to have helped Antifederalists. A writer declared in the Winchester *Virginia Gazette* on 19 March that "It is the opinion of the most observing politicians, that the Minority of Pennsylvania, by their vague 'Reasons of Dissent,' and the consequent inflammatory publications, have done more real injury to the proposed Federal Constitution, than the whole combined force of anti-federals, throughout the United States."

Alexander White (1738-1804), a lawyer, was educated at the University of Edinburgh and at Inner Temple and Gray's Inn (two of the four Inns of Court in London), and owned an estate called "Woodville" in Frederick County. He represented Hampshire in the House of Burgesses in 1772 and Frederick in the House of Delegates, 1782-86, 1788-89, and in the state Convention, where he voted to ratify the Constitution.

#### *To the CITIZENS of VIRGINIA.*

*Friends and Countrymen*, I some time since addressed you, and in conformity with general custom, under an assumed name; I then inadvertently on objections to the proposed plan of federal government, said to be made by two citizens of this commonwealth.—I shall now take notice of 'the Address and Reasons of Dissent of the Minority of the Convention of the State of Pennsylvania to their Constituents,' and sign my real name, that those gentlemen may not complain of being attacked by an anonymous writer.—I have lived long enough to be convinced that great and good men often differ in opinion on the most important points, and doubt not but there may be SOME who oppose the adoption of the federal constitution, in its present form, from the purest motives, but must confess I cannot extend those favorable sentiments to the Pennsylvania Dissentients.—Their performance appears to be the mere ebullition of embittered minds, intended to mislead your judgments, inflame your passions, and stifle in your bosoms the noblest of all human faculties, reason. It has been made a question, whether in the discussion of a general subject, the characters or private views of the promoters and opposers of the measure ought to be considered? It lies not with me to determine that question, but as those dissentients have given full scope to that kind of argument, I shall take the liberty to follow them so far at least as to rescue respectable characters from obloquy and to hold up the Dissentients and

their friends in the assembly to public view in the colours with which their own state of facts hath clothed them; for this purpose, previous to entering into a discussion of their objections, I shall point out several facts willfully mistated, which although they have no immediate connection with each other, I shall place in one view, that you may be able to judge what credit is to be placed in their other assertions unsupported by testimony.—They set out with asserting that the present confederation carried us successfully through the war, when it is notorious that it did not receive the sanction of the states till after the decisive blow was struck in the field, and the treaty of alliance concluded with France;<sup>2</sup> before this time Congress exercised unlimited powers, and their resolutions were carried into effect by the spirit of the people.

They assert that no defect was discovered in the confederation till after the conclusion of the war.—Yet they themselves inform you that Congress so early as February, 1781 required the additional power of imposing a duty of five per centum on goods imported, and that 12 states complied with the requisition.<sup>3</sup> If no defect had been discovered, why was the requisition made, or so far complied with?<sup>2</sup>—They state that on the 28th day of September last a resolution passed the house of assembly for calling a convention to be elected within ten days.—This was not the fact, the election was appointed on the 1st Tuesday in November, 39 days after passing the resolution.<sup>4</sup> Is it possible they can be ignorant of this? Some of them appear to have been members of that assembly,<sup>5</sup> and their account of the transactions published on that occasion, justifies me in what I have said, and contradicts themselves.

They assert, that in appeals from courts proceeding according to the rules of the civil law, the facts as well as the law will be re-examined, and even new facts brought forward in the court of appeals. These gentlemen, perhaps it may be said, are not civilians,<sup>6</sup> and may have been mistaken, but they seem to have read Blackstone, and from him they must have learned “that it is a practice unknown to our law, when a superior court is reviewing the sentence of an inferior, to examine the justice of the former decree, by evidence that was never produced below,”<sup>7</sup> that these misrepresentations were not made through inattention, but designedly to deceive, is evident, because in the course of their discussion, they have drawn inferences from each fact so mistated.

The dissentients have stated many other things with regard to the assembly and convention of Pennsylvania, which are differently stated in the public prints of that state, but which I shall pass over, because



it is not my present business to examine into the proceedings of those bodies. I shall only observe, that the minority of the assembly by leaving the house to prevent the completion of an act to which a majority had agreed, have shewn themselves possessed of principles incompatible with a free government. Were such practices encouraged, a few men of the worst principles and weakest judgments might govern the state contrary to the sense of the majority, which would be establishing a real tyranny, and of the worst species, or cause a total dissolution of government. They tell you some of the members so absenting were forcibly dragged to the house by a mob and there detained till the business was completed.—I am not fond of mob rule, but if no greater force was used than was necessary to compel those gentlemen to attend their duty, they had no reason to complain.—To what tribunal could the people appeal, when they had themselves put an end to regular government. I shall now leave with you to judge what degree of respect is to be paid to the assertions and opinions of the minority of the convention of the State of Pennsylvania and return to their performance; expunge from it the opprob[r]ious epithets so liberally bestowed on all who differ from them, such as secret conclave womb of suspicious secrecy—instruments and tools of despotism—supremacy of despotism, &c. &c. &c.—Substitute the proper names of men and measures.—Read it over again and you will find it a simple tale indeed.—There are notwithstanding some things in the address which may deserve consideration; these I shall endeavour to answer in the manner best calculated to cast light on the whole subject, without regard to the order in which they occur. There are other things so clearly out of the power of Congress, that the bare recital of them is sufficient, I mean the “rights of conscience, or religious liberty—the rights of bearing arms for defence, or for killing game—the liberty of fowling, hunting and fishing—the right of altering the laws of descents and distribution of the effects of deceased persons and titles of lands and goods, and the regulation of contracts in the individual States.” These things seem to have been inserted among their objections, merely to induce the ignorant to believe that Congress would have a power over such objects and to infer from their being refused a place in the Constitution, their intention to exercise that power to the oppression of the people. But if they had been admitted as reservations out of the powers granted to Congress, it would have opened a large field indeed for legal construction: I know not an object of legislation which by a parity of reason, might not be fairly determined within the jurisdiction of Congress.

The freedom of speech and of the press, are likewise out of the

jurisdiction of Congress.—But, if by an abuse of that freedom I attempt to excite sedition in the Commonwealth, I may be punished—should I be unjustly accused of such an offence, the trial by a jury of my countrymen is my security—if what I have said or wrote corresponds with their general sense of the subject, I shall be acquitted. The extraordinary supposition of the dissentients, that a prosecution for a libel may be construed an action of debt, only shews how far they are willing to degrade themselves, in order to inflame the minds of the people. They attempt to alarm you by a direful train of evils which Congress MAY do. They MAY command the whole or any part of your property by taxes and imposts; they MAY monopolize every source of revenue, and thus demolish the State Governments; they MAY prolong their existance in office for life, by postponing the times of elections and appointments, and having gained that point, may fill up vacancies themselves, and MAY depute some body in the respective States to fill up vacancies of Senators, until they can venture to assume it themselves, and finally complete the system of despotism by continuing themselves and their children in the government. How are they to accomplish these things? Will they possess a magical power? if they proceed according to the course of human affairs, they must commence their operations by levying taxes, for without these, armies can neither be raised nor maintained. Now we find that the State Governments, formed by the unanimous consent of the people, their acts supported by the sanction of Congress and the influence of a numerous representation, have scarcely vigor to collect the taxes imposed by them, although those taxes have never been sufficient for the support of the peace establishment, How much more difficult will it be for Congress, by their officers to levy taxes, to make good the deficiencies already incurred by the delinquencies of the States, and at the same time to raise a military force sufficient to enslave you? should they attempt a change of government without such force, their acts would be disregarded, the constitution itself having pointed out the mode by which alone a change may be made. Should they contrary to all probability, by any regulations of theirs, prevent elections taking place in due time, the federal body would dissolve with the expiration of the time for which the members then in being were elected—Congress would become a *felo de se* and the States remain supreme and independent. I may be told that such things have been done in other nations; but those nations were very differently circumstanced; in those nations were supreme legislatures, which possessed, or were supposed to possess, powers adequate to the purpose; and no other bodies of men possessing legislation and executive powers capable of collecting the

force of the people to oppose such arbitrary measures. Revolutions unfavourable to liberty, though sanctioned by the name of legislative acts, have generally been brought about by coercion. A moderate force in the hands of a prince, a commander in chief, or a president, may be sufficient, where the supreme power is collected in one place, but this is not the case in America. Congress has no pretensions to such a power; any act of theirs for changing the government, however obtained, would be considered as void. All the States must be acted upon at the same time, and no exigence of affairs can ever afford a plausible pretext for supporting an army adequate to that purpose; hence our great security, and hence the advantage of a federal, over a consolidated government. But can you seriously believe, that a Congress, chosen by yourselves from among yourselves, without distinction of birth or fortune, and who at stated times must return to the body of the people, would really wish to enslave you, themselves, and millions yet unborn. The supposition has no foundation in the nature of things. On the contrary, where the people have had the choice of their rulers, although that choice has been confined to a particular order of men, they have not only preserved their liberties, but improved them. I will illustrate this from the constitution and history of Rome. The Roman commonwealth consisted of two orders of men patricians or nobles and plebeians or commons; the number of patricians at the time of the dissolution of kingly government was [300?]; their wealth was so great that in the assemblies of the people held by centuries, their unanimous vote made a majority of the whole nation; they were believed to be descended from the gods; they alone were intitled to hold all offices sacred, civil and military; of them was the senate composed, and marriages with the plebeians were prohibited by law.—The legislative power was vested in the assemblies of the people, consisting of both orders. Where the executive power was vested and how distributed, I will give you in language better than mine. “While the consuls resided at Rome, they had the administration of all public affairs. All other magistrates, except the tribunes of the people, were subject to them, and obliged to obey them. Upon them turned whatever related to the deliberations of the senate. They admitted ambassadors into it; proposed the public affairs, and reduced its resolutions to form, in writing—They carried them to the people; called assemblies for that purpose in which they were to deliberate on the common affairs of the public; laid before them the decrees of the senate for their examination, and according to the importance of the subject, after a deliberation, attended with many other formalities, concluded by a majority of voices—They presided in the creation of the magistrates

of the republic, and for this reason were so frequently recalled from the army, and were not ordinarily allowed to be both absent from Italy. As to war and military expeditions, the consuls had almost sovereign power; had the care of raising armies; of settling the number of troops which the allies were separately to furnish, and of nominating the principal officers to serve under them. When they were in the field, they had the right of condemning and punishing without appeal. They disposed of the public money at their pleasure and applied it as they judged convenient, the questor constantly attending them, and supplying them with such sums as they required, out of the funds assigned them for the service.

“The senate almost absolutely disposed of the finances and public treasure; they took account of all the revenues and expences of the state, and the questor could not deliver out any sum except to the consuls, without a decree of the senate. The case was the same with reference to all the expences the censors were obliged to be at for the support and repairs of the public buildings.

*“The senate nominated commissioners to take cognizance of all the extraordinary crimes which were committed at Rome and in Italy, and demanded the attention of the public authority, such as treason, conspiracy, poisoning and murder, and to pass sentence upon them. The affairs and causes of private men, or cities which had any relation to the State, were also judged by the senate. It was the senate which sent ambassadors, declared war against the enemies of the State, granted audience and gave answer to the deputies and ambassadors of foreign people and princes. It was the senate likewise which sent commissioners abroad to hear the complaints of the allies, to regulate the limits and the frontiers, to see good order observed in the provinces, and to decide the pretensions of States and Kingdoms.”*<sup>8</sup>

*The senate moreover, had the power of creating a dictator, before whom all other magistrates bowed their heads. From this sketch of the Roman government, you may observe how much more effectually our liberties are secured than the liberties of the Roman people, yet the Roman people not only maintained their liberties, but encreased them by repeated concessions from the nobles for upwards of 400 years, and this without bloodshed. I cannot present to you the history of the world but I refer to it and call upon the opposers of the Federal Constitution to mention the people whose liberties were as effectually secured as the liberties of America are by that constitution, and who have lost them by the tyranny of their rulers; they cannot do it; then be not led away by clamour and defamation.*

(To be continued.)

1. White possibly refers to the two-part essay by “An Independent Freeholder,” which

answered the objections to the Constitution of Richard Henry Lee and George Mason (Winchester *Virginia Gazette*, 18, 25 January, above).

2. A reference to the Battle of Saratoga in October 1777 and the Treaty of Alliance with France which was ratified by Congress in May 1778. The Articles of Confederation were ratified on 1 March 1781.

3. Rhode Island rejected the Impost of 1781 in November 1782, while Virginia and New York rescinded their ratifications, in December 1782 and March 1783, respectively. For the Impost, see CDR, 140–41.

4. On 28 September Congress transmitted the Constitution to the states. On the morning of that day, the Pennsylvania Assembly considered a series of resolutions providing for the calling of a state convention to consider the Constitution. Before the morning session adjourned, the Assembly adopted a resolution calling a convention, but it did not vote on the resolutions providing for the election of delegates on 9 October in the city of Philadelphia and the state's twelve eastern counties and on 23 October in the state's five westernmost counties. The Assembly reconvened in the afternoon, but nineteen delegates, most of them Antifederalists, had absented themselves, thus denying the Assembly the necessary two-thirds needed for a quorum. The next day two of the seceding assemblymen were forcibly returned by a mob, and the Assembly adopted a resolution that provided for the election of convention delegates throughout the state on 6 November (RCS:Pa., 54–126; and CC:125).

5. Four dissentients—William Findley, Joseph Hiester, Joseph Powell, and Robert Whitehill—had sat in the Assembly in September.

6. "Civilians" is used to designate those who studied the civil law.

7. Based upon a passage in a chapter entitled "Of Proceedings, in the Nature of Appeals." The passage deals with the writ of error which was one of the three kinds of appeals in the King's courts of law. It reads: "A writ of error lies for some supposed mistake in the proceedings of a court of record; for, to amend errors in a base court, not of record, a writ of *false judgment* lies. The writ of error only lies upon matter of law arising upon the face of the proceedings; so that no evidence is required to substantiate or support it: and there is no method of reversing an error in the determination of facts, but by an attainr, or a new trial, to correct the mistakes of the former verdict" (*Commentaries*, Book III, chapter XXV, 405–6).

8. *The Histories of Polybius* (F. Hultsch, Evelyn S. Schuckburgh, and F.W. Walbank, trans. and eds., 2 vols., Bloomington, Indiana, 1962), I, Book VI, chapters 12–13, pp. 469–70.

### **The Political Club of Danville, Kentucky Debates over the Constitution, 23 February–17 May**

On 27 December 1786 Samuel McDowell, Harry Innes, John Brown, Thomas Todd, Robert Craddock, Christopher Greenup, and John Bell met at McDowell's home in Danville, Mercer County, Ky., and formed themselves into a society called "The Political Club." They invited others to join. Three days later the club met again, with eleven men in attendance. The members elected Thomas Speed secretary and Harry Innes president for that meeting, and they adopted a constitution, which called for weekly meetings on Saturday evenings. Unless excused, members could be fined if they failed to attend meetings. A subject, agreed to at the previous meeting, was to be debated. The club also adopted a set of rules to govern the debates.

"The Political Club" existed until 1790, and during that time thirty individuals, primarily from the Danville area, were members at one time

or another. Many were lawyers, justices of the peace, and judges; most were young, well-to-do, and well-educated; an overwhelming majority were born in Virginia; and many were related through blood or marriage. Half of the club's members also belonged to the "Kentucky Society for the Promotion of Useful Knowledge," an organization formed in the fall of 1787.

In particular, "The Political Club" advocated separate statehood for Kentucky and a substantial proportion of its members sat in the Kentucky statehood conventions. Danville, the capital of the District of Kentucky, was the site of nine of these conventions and the site of Kentucky's District Court. In fact, in May 1787 the club resolved to meet in the courthouse. Before that time, it had met in the homes of some of its members or at Benjamin Grayson's Tavern. (For the history of "The Political Club" and the background of its members, see Thomas Speed, *The Political Club, Danville, Kentucky, 1786-1790* . . . [Louisville, 1894]; and Ann Price Combs, "Notes on the Political Club of Danville and Its Members," *The Filson Club History Quarterly*, XXXV [1961], 333-52.)

"The Political Club's" extant attendance records reveal that from 28 January to 28 July 1787, the members generally met weekly on Saturday. Beginning in August 1787, the regular schedule of meetings broke down. In the next few months, the club convened only twice in August, once in October, and twice in December. Beginning on 29 December 1787, however, the club met every second Saturday until 14 June 1788. On 26 January 1788 the members scheduled consideration of the Constitution for the next meeting, but at the 9 February gathering they postponed the consideration of Article I. The club debated the Constitution from 23 February to 17 May. Except for 19 April, when only five members were present, eight to twelve members attended these meetings. (At this time, the club had about twenty members.) The club debated and amended Article I on 23 February, 8, 22 March, and 5 April; Articles II and III were considered on 3 and 17 May, when a committee was appointed to revise the resolutions the club had adopted concerning the Constitution. On 31 May the committee was given "farther time to make report," and on 14 June the "Business" of the evening, probably the committee's report, was postponed. The club did not meet again until 7 February 1789, when the minutes state: "Subject of the foederal Constitution postponed till the 1st. day Jany. next." The final committee report is probably the eighteen-page, hand-written document entitled "The Constitution of the United States of America as amended and approved by The Political Club." It is docketed "Christo Greenup," a member who had been appointed secretary pro tempore during the debates.

The documents printed below are found in the Records of The Political Club at the Filson Club of Louisville. The Records contain minutes and debates. The minutes are complete for the period from 23 February to 17 May, and each of the sessions is dated, including the session of 19 April when there was no quorum. The debates have an entry for each of the sessions for which there was a quorum, although only the meetings of 8 and 22 March and 17 May are dated. Excerpts from these records are printed below under the headings: "Minutes" and "Debates."

Another group of documents has a wrapper labeled "Resolutions concerning the Foederal Constitution." These resolutions, labeled from A to

K (C, G, and J are missing) are revisions of or additions to the Constitution that were incorporated into the club's amended constitution. Since these resolutions (except for the 23 February entry) duplicate the entries under "Danville Constitution" (see below), they are not printed here.

The club's records also contain a three-page broadside of the report of the Constitutional Convention printed by George Richards and Company, publishers of the *Alexandria Virginia Journal*. The broadside includes the Constitution, the resolutions of 17 September, and the letter of the same date from the President of the Convention to the President of Congress (Evans 20820). The third page is docketed "F.C." [Federal Constitution]. The club's members used this broadside during their debates. Marginal notes appear next to various sections and clauses indicating what action had been taken: "agreed," "amended," "disagreed to," "rejected," "expunged," and "to be struck out." To facilitate the debates, in some instances, the clauses were also numbered. Beginning with Article III, section 2, clause 2, there are no longer any words and phrases in the margins, leading one to surmise that either the club ended its debates at that point, or that it agreed to the remaining sections and clauses. The club's revised and amended Constitution contains no significant changes after Article III, section 2.

The entries below under the heading, "Danville Constitution," illustrate how the club altered and expanded the Constitution. The conflated text for these entries was constructed by comparing the Richards broadside against the club's final reported manuscript constitution. Only those sections and clauses of the Richards broadside in which significant changes were made have been printed. The text is set as follows: (1) the parts of the Richards broadside that were retained are set in roman type; (2) the parts of the Richards broadside that were deleted are set in lined-out type; and (3) the new matter added by the club is set in italic type. The dates affixed to the headings for sections or clauses of the Danville constitution indicate when the club considered those sections or clauses—not when the final "Danville Constitution" was written.

*Minutes, 26 January*

Resolved that the Fœderal & [be debated at the next meeting].

*Minutes, 9 February*

Question viz. I Article postponed.

*Minutes, 23 February*

On Mot[ion] of Mr. Muter resolved

That it is the opinion of this Club.

That the Fœderal Constitution ought to be preceed[ed] by a Declaration of Rights.<sup>1</sup>

Mr. Muter Sec. 2. Clause 3, proposed to reduce the No. of Representatives to One for every 20,000 instead of 30,000. Objected to

Resolved. &c B.<sup>2</sup>  
Question Postponed

*Loose Papers, 23 February*

[Resolution A] Resolved. That it is the opinion of this Club.

That the Federal Constitution ought to be preceded by a Declaration of Rights. In which, it should be clearly expressed, That, the Congress of the United States, shall not have power, by Law, to alter, repeal or change any part of the constitution; and, that, all laws, contrary to the true spirit, intent and meaning of the same, shall be void.

*Debates, 23 February*

Federal Constitution  
Article I.

Section 1.

Mr. Greenup. Objected to two Branches in the Governmt. there being but one Interest in a Republican Governmt. & mov'd agt. it<sup>3</sup>

Mr. Todd seconded the same

Mr. McDowell In favor of a senate

Mr. Muter.—Men since the Creation of the World have been prone to Domination & ever will be—hence a necessity for a Check

Mr. Innes 99 men out of 100 possessed of Power will abuse it.—Without a senate, one state will have a power of imposing on another, one having a greater No. of representatives—A senat in this Case would be a very proper Check—

Mr. Speed One set of Men having power have always abused it.—even God almighty's own Men viz. the Clergy abuse the power given them—a Check necessarily—

Mr. Greenup. Does the name *Senator* make a man virtuous? Why fear Corruption & thirst of power from the H. Representatives only. Find a senate of superior virtue, admitted

Art. 1st. adopted.—

*Danville Constitution, 23 February*

Sect. 3. The Senate of the United States shall be composed of two senators from each State, chosen by the legislature thereof, for six three years; and each senator shall have one vote.

Immediately after they shall be assembled in consequence of the first election, they shall be divided as equally as may be into three classes. The seats of the senators of the first class shall to be vacated at the



~~expiration of the second~~ *end of one year, of the second class at the expiration end of the fourth second year, and of the third class at the expiration end of the sixth third year, and no Member of the senate to be again eligible for three years after the vacation of his Seat; so that one-third may be chosen every second year, and if vacancies happen by resignation, or otherwise, during the recess of the Legislature of any State, the Executive thereof may make temporary appointments until the next meeting of the Legislature, which shall then fill such vacancies.*

*Minutes, 8 March*

Resolved. D.<sup>4</sup>

Resolved No. E.<sup>5</sup>

Resolved. F.<sup>6</sup>

Further consideration of the F. C: postponed.

*Debates, 8 March*

Mr. Muter objected agt. the Vice President of the United States being President of the Senate

*Danville Constitution, 8 March*

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

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

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

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

[Section 7, Clause 2] Every bill which shall have passed the House of Representatives and the Senate (*money Bills excepted*) shall, before it becomes a law, *shall* be presented to the President of the United States; ~~if he approve he shall sign it, but if not he shall return it, and by him laid before the Executive Counsel and Judges of the supreme Court for their opinion on the same; to be by him with the advice and consent of the Counsel~~

*& Judges signed when it shall become a Law, or returned with his their objections to that house in which it shall have originated, And that every order, or Resolution (except in Cases of appropriation of money and on a Question of adjournment) shall be proceeded on in the same manner, which House are to who shall enter the their objections at large on their journals, and proceed to reconsider it them. If after such reconsideration two thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and if approved by two-thirds of that house, it shall become a law. But in all such cases the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journal of each house respectively. If any bill shall not be returned by the President within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he it had been signed it, as before directed unless the Congress by their adjournment prevent its return, in which case it shall not be a law.*

~~Every order, resolution, or vote to which the concurrence of the Senate and House of Representatives may be necessary (except on a question of adjournment) shall be presented to the President of the United States; and before the same shall take effect, shall be approved by him, or, being disapproved by him, shall be repassed by two-thirds of the Senate and House of Representatives, according to the rules and limitations prescribed in the case of a bill.~~

*Minutes, 22 March*

Art. 1. Sect 8th<sup>7</sup>

1. 2. 3. 4. 5. 6. 7. 8 9 Clauses agreed to
- 10 Clause disagreed to in Toto
11. 12 Agreed to
13. Amended by adding the words "one Year" instead of "two year"
14. 15. Agreed to
16. Amended. after the Word "to" insert "enforce obedience to" and strike out the word "execute"
- 17 Agreed to in Toto
- 18 disagreed to in Toto
- 19 Agreed to

*Debates, 22 March*

10 Clause

Mr. Innes moved that the Clause be struck out seconded by Mr Muter. passed

16. Mr Innes The Militia of Kentucky to suppress insurrections in Massachusetts

Mr Muter That Militia may be called to enforce the execution of a Writ &c. and therefore wanted the sentence "executed the Laws &c.[""] be struck out

Seconded by Mr Speed

On Question Over ruled—

Mr Innes Moved an Amendmt. by inserting to enforce &c. instead of Execute

Seconded by Mr McDowell first Division equal—Secy P.T.<sup>8</sup> gave casting Vote in favour of the amendment

In Debate Mr. Muter opposed the amendmt. observing his fears in calling in a Military force that the Civil power by Posse Com[itatus] is sufficient that Militia when embodied are under Military Govt: and therefore dangerous to Freedom, that the case is unprecedented etc seconded by Mr Speed

Mr Innes etc contended that the P. Com. is to all intents a Military Force & such force necessary to enforce the Collection of Taxes in- stanced Massachusetts Governmt.<sup>9</sup>

*Danville Constitution, 22 March*

~~To constitute tribunals inferior to the supreme court;~~

To raise and support armies, but no appropriation of money to that use shall be for a longer term than ~~two~~ years; *one year*

To provide for calling forth the militia to ~~execute~~ *enforce obedience* to the laws of the Union, suppress insurrections and repel invasions;

~~To exercise exclusive legislation in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular States, and the acceptance of Congress, become the seat of the government of the United States, and to exercise like authority over all places purchased by the consent of the Legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings;—And~~

*Minutes, 5 April*

Art. 1. Sect. 9.

[Clause] 1. Expunged

2. 3. 4. agreed to

5. nothing done

6. 7. 8 agreed to—

Comtee aþtd to revise the proceedings of the Club as far [as] relates

of the Fœderal Constitution & make report Mr. Muter, Mr. Innes, Mr. Greenup, Mr. Dougherty, Mr. W. McDowell, Mr. Todd, Mr. Overton. Committee

*Debates, 5 April*

several parts of the first Article amended some disagreed to in toto

*Danville Constitution, 5 April*

Section. 9. ~~The migration or importation of such persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the year one thousand eight hundred and eight, but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.~~

*Minutes, 19 April*

[Club lacked a quorum; only five members attended.]

*Minutes, 3 May*

Art 2. Sect. 1. Cl. 1. amended G

Clause 6th. amended. H.

Further consideration of this Constitution postponed.

*Debates, 3 May*

Mr. Innes Wished that there might be a clause in the 2nd. Art. which should make the President of the United States ineligible for a certain Term of Years

Mr. Greenup seconded the Motion (carried)

*Danville Constitution, 3 May*

Sect. 1. The executive power shall be vested in a President of the United States of America. He shall hold his office during the term of four years, ~~and, together with the Vice-President, chosen for the same term, be elected as follows after which period he shall be ineligible for the four succeeding years, and shall be elected as follows.~~

[Clause 3] The electors shall meet in their respective States, and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same State with themselves. And they shall make a list of all the persons voted for, and of the number of votes for each; which list they shall sign and certify, and transmit sealed to the seat

of the government of the United States, directed to the President of the Senate. The *President Speaker* of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the President, if such number be a majority of the whole number of electors appointed; and if there be more than one who have such majority, and have an equal number of votes, then the House of Representatives shall immediately chuse by ballot one of them for President; and if no person have a majority, then from the five highest on the list the said house shall in like manner chuse the President. But in chusing the President, the votes shall be taken by States, the representation from each State having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the States, and a majority of all the States shall be necessary to a choice. In every case, after the choice of the President, the person having the greatest number of votes of the electors shall be the Vice-President. But if there should remain two or more who have equal votes, the Senate shall chuse from them by ballot the Vice-President.

[Clause 6] In case of the removal of the President from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the *eldest Counselor present who shall act as Vice-President*, and the Congress may by law provide for the case of removal, death, resignation or inability, both of the President and Vice-President, declaring what officer shall then act as President, and such officer shall act accordingly, until the disability be removed, or a President shall be elected.

*Minutes, 17 May*

Art III Sect. 1st amended. I

Sect. 2nd.—8th. line strike out “between Citizens of different States”

Constitution finished

Comttee to revise the resolutions of the Club relating Fœderal Constitution to report at next Club Night which

*Danville Constitution, 17 May*

Sect. 1. The judicial power of the United States, shall be vested in one supreme court, and in such inferior courts as the Congress may from time to time ordain and establish. *at least one inferior Court in each State.* The Judges, both of the supreme and inferior courts, shall hold their offices during good behaviour, and shall, at stated times,

receive for their services a compensation, which shall not be diminished during their continuance in office.

Sect. 2. The judicial power shall extend to all cases, in law and equity, arising under this constitution, the laws of the United States, and treaties made, or which shall be made, under their authority; to all cases affecting Ambassadors, other public Ministers and Consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more States, between a State and citizens of another State, ~~between citizens of different States~~, between citizens of the same State claiming lands under grants of different States, and between a State, or the citizens thereof, and foreign States, citizens or subjects.

1. The Preamble to the Constitution does not appear in the club's "amended and approved" constitution. The minutes contain no action concerning the Preamble, nor is anything recorded on the Richards broadside of the Constitution. No declaration of rights has been found. See Loose Papers, 23 February.

2. Resolution "B" amended Article I, section 3. See "Danville Constitution," 23 February.

3. This debate was not the club's first one concerning a two-house legislature. The minutes for 29 December 1787 and some loose papers reveal that the club, when debating the best form for a state constitution, believed that a legislature should consist of two houses and that the second branch should be a "Check" upon the first. Because the second branch was "a wiser Body," it had to be chosen differently from the first branch, the election of which by the people was "by no means adapted to choos the best men." Therefore, the club "Resolved yt it would be most conducive to the safety of a Republick that the second branch of the Legislative should be elected by Representatives chosen wth. Powers for that purpose."

4. Resolution "D" amended Article I, section 3, clauses 4, 5, and 6. See "Danville Constitution," 8 March.

5. Resolution "E" amended Article I, section 4. See "Danville Constitution," 8 March.

6. Resolution "F" amended Article I, section 7, clauses 2 and 3. See "Danville Constitution," 8 March.

7. Article I, section 8, of the Constitution has eighteen clauses, but, because the Richards broadside, following the example of the Philadelphia Dunlap and Claypoole broadside, printed the first clause as two clauses, the club counted nineteen clauses. Consequently, each of the club's numbered clauses is one off from the standard delineation.

8. "Secy P.T." refers to Christopher Greenup who was appointed Secretary Pro Tempore on this day.

9. Probably a reference to the raising of troops to quell Shays's Rebellion in 1786 and 1787.

### **Richard Henry Lee to James Gordon, Jr. Chantilly, 26 February<sup>1</sup>**

Captain Merry delivered me the letter that you were pleased to write me, on the 11th instant,<sup>2</sup> in which I find you propose the following questions, relative to the new constitution, proposed by the late general convention, and request my answer to them:

First. Whether the United States had not better receive than reject the said constitution?

Secondly. Whether it would not injure our credit in the European world, if we were to dissent therefrom; and whether our country would not thereby be endangered, as there are large demands in Europe against us?

Thirdly. Whether every objection to the plan may not, by instructions from the different states, be made as soon as the said Congress may be assembled?

Fourthly. Whether ruin would await us, unless we are consolidated in one general plan of government?

To the first question, namely, "Whether the United States," &c. I answer, that this question implies a *necessity* of either adopting or rejecting. But I know of no power on earth that has, or ever had, a right to propose such a question of extremity to the people, or any part of the people, of the United States. The happiness or misery of mankind depends so essentially upon government, that, when this is to be established by the people for themselves and their posterity, the right of the people cannot be questioned, of so acting with plans proposed, as to adopt them, reject them, or propose amendments to them.

To the second query, "Whether it would not injure," &c. I reply, that this second question is much founded on the first; and, so far as it is, may receive the same answer. It is divisible into two parts; the first, shall our credit be injured in Europe by *dissenting* from the proposed plan? It is presumable, that credit abroad depends much upon union and happiness at home, as it must always greatly do upon that industry and real strength which grows out of the possession of civil liberty. Those, therefore, who contend for the new plan, by propounding such a question, should prove, in the first place, that the adoption of this constitution will secure union and happiness at home, and those valuable consequences that flow from the possession of civil liberty; and this is the more necessary, as there are such numbers who think that the proffered plan, if admitted without amendments, will empower the administrators of the new government to destroy civil liberty. The second part of this question is, ["]whether our country will not be endangered by a *dissent*, as there are large demands against us in Europe." I presume that foreigners have no business with the nature of our government. Payment of their debts they are entitled to, but no possible reason can be assigned, why these debts may not as well be paid if the proposed constitution was to be so amended, as to secure the just rights and liberties of the people from violation, by a proper

bill of rights; to retain the trial by jury in all cases, civil as well as criminal, as directed by the common law; to secure the rights of conscience, and freedom of the press. Will France, Holland, or Spain, be disturbed at our retaining these valuable privileges? or, will they quarrel with us for so amending this new plan, as to put it out of the power of the new rulers to carry every citizen of the state, by way of appeal, to be tried for every suit for debt, brought by all others than our own state citizens, in the supreme federal court, where distance and expense may ruin multitudes? Have foreigners any thing to do with our amending the proposed constitution, so as to put it out of the power of the rulers under it, to garble elections, by ordering all the elections of any state to be held at any place they shall choose—at Cape Henry,<sup>3</sup> for instance, if they so please at any time. See section fourth, article first, where they have power over time, place, and manner of holding elections for choosing representatives, without restraint or limitation.

To the third query, "Whether every objection," &c. I answer, that the constitution containing these objections, is made by the people of the United States; "and the removal of them by the Congress, would only be a common act of legislation, which may be revoked and repealed by every subsequent meeting of the Congress.[''] So that the power of oppressing will be founded on the strong and lasting ground of a constitution made by the people of the United States, and the remedies (if the new rulers should ever please to declare any,) will rest on feeble and changeable acts of a common legislature. Can it be safe or prudent to suffer this? As for instructions, it is to be remarked, that the senators are chosen by the legislature of the states, and the representatives by all the freeholders—to instruct one, and not both branches of the new legislature, would be doing nothing; and to render instructions of use, the general assembly, and the freeholders of the community, must unite. The almost impossibility of procuring such a union from the majority of the United States, is too obvious, not to show the very little dependence that should be put on such instructions. And, after all, the result could only be a legislative and mutable act against a fixed constitution. But how absurd would it be for the people to agree to a constitutional evil to-day and to-morrow call for a legislative redress of that evil!

The fourth and last question, "Whether ruin would await us," &c. I am clearly of opinion, that our greater strength, safety, and happiness, depends on our union; but I am as clear that this union had infinitely better be on principles that give security to the just rights and liberties of mankind, than on such principles as permit rulers to



destroy them. Thus, sir, I hope that I have fully, and to your satisfaction, answered your several questions: so that you may think yourself warranted, if not bound to be a friend to amendments that should be constitutional. To trust to future events for remedy of evils that we have ourselves once created, is like choosing to be sick, because a doctor may possibly cure us! A very capital defect in this new project is, that the executive and legislative powers are so blended and united, as to remove all chance for responsibility; and to possess man with very great powers, without making him easily answerable for an abuse of these powers, is, in my opinion, neither safe nor wise. I am glad to hear that Colonel Barbour<sup>4</sup> stands for the convention. It is many years ago since I saw his conduct in the legislature, and observed it to be both sensible and honest. I have been obliged to write in haste, so that you may be sure this letter is not intended for the press.

1. Printed: Richard H. Lee, *Memoir of the Life of Richard Henry Lee and His Correspondence* . . . (2 vols., Philadelphia, 1825), II, 84–86. Gordon (1759–1799), an Orange County planter, represented Richmond County in the House of Delegates, 1782–84, and Orange, 1788–89. He also represented Orange in the state Convention, where he voted to ratify the Constitution.

2. Not located.

3. Cape Henry, in Princess Anne County, is at the mouth of Chesapeake Bay.

4. Antifederalist Thomas Barbour (see Orange County Election, II below).

### The Impartial Examiner I

Virginia Independent Chronicle, 27 February<sup>1</sup>

(Continued from our last.)

Section 8th of the first article gives the Congress a power “to lay and collect, taxes, duties, imposts and excises.” If it be a true maxim that those, who are entrusted with the exercise of the higher powers of government, ought to observe two essential rules; first in having no other view than the general good of all without any regard to private interest; and secondly, to take equal care of the whole body of the community, so as not to favor one part more than another: it is apparent that under the proposed constitution, this general confederated society, made up of thirteen different states, will have very little security for obtaining an observance, either of the one, or of the other, rule. For being different societies, though blended together in legislation, and having as different interests; to uniform rule for the whole seems to be practicable: and hence, it is to be feared, that the general good may be lost in a mutual attention to private views. From the same causes we may lament the probability of losing the advantage of the second rule; for it may be expected, in like manner, that the general

care of the whole will be lost by the separate endeavors of different legislators to favor their own states. So long as mankind continues to be influenced by interest, the surest means of effecting an union of counsels in any assembly is by an union of interests. Now, if it be considered that it is this concert, that it is this union in promoting the *general good*, which alone can preserve concord in this great republic, and secure it success and glory,—unhappy will be the situation of America, if she once precludes the beneficial effects of such a good understanding. Yet, I apprehend that these evils may result in a great measure from an exercise of that branch of legislative authority, which respects internal direct taxation. For in this, it is scarcely probable that the interest, ease or convenience of the several states can be so well consulted in the fœderal assembly, as in their own respective legislatures. So different are many species of property, so various the productions, so unequal the profits arising, even from the same species of property, in different states, that no general mode of contribution can well be adopted in such a manner as at once to affect all in an equitable degree. Hence may arise disagreeable objects of contention. A diversity of interests will produce a diversity of schemes. Thus each state, as it is natural will endeavor to raise a revenue by such means, as may appear least injurious to its own interest: a source of dissention manifestly detrimental to that harmony, which is necessary to support the confederation. I cannot conceive it impracticable to reform the fœderal system in such a manner as to ensure a compliance with the necessary requisitions of Congress from the different state legislatures. Then all the several states being left to raise their own share of the revenue, and being the only proper judges of the mode most convenient to themselves, it is highly probable that this important branch of government would be carried on more generally to the satisfaction of each state; and would tend to promote a spirit of concord between all the parts of this great community. Because *each* being thus accommodated, and participating [in] the advantages of the union,—*none* subjected to any inconvenience thereby,—*all* would consequently concur in nourishing an affection for the government, which so cemented them.

I believe, it is acknowledged that the establishment of excises has been one of the greatest grievances, under which the English nation has labored for almost a century and an half. Although this may seem an œconomical tax, as arising out of manufactures, from which the *industrious* may derive advantages; and whereof the *wealthy* by consuming the greatest share, will of course contribute the largest proportion of the tax: yet the nature of it being such, as requires severe laws for

its execution, it has justly become an object of general detestation. This has induced Judge Blackstone to declare that "the rigour and arbitrary proceedings of excise laws seem hardly compatible with the temper of a free nation."<sup>2</sup> While, therefore, you are freemen—while you are unused to feel any other power, but such as can be exercised within the bounds of moderation and decency, it, doubtless, behoves you to consider whether it is an eligible step to subject yourselves to a new species of authority, which may warrant the most flagrant violations of the sacred rights of habitation. If this branch of revenue takes place, all the consequent rigour of excise laws will necessarily be introduced in order to enforce a due collection. On any charges of offence in this instance you will see yourselves deprived of your boasted trial by jury. The much admired common law process will give way to some quick and summary mode, by which the unhappy defendant will find himself reduced, perhaps to ruin, in less time than a charge could be exhibited against him in the usual course.

It has ever been held that standing armies in times of peace are dangerous to a free country; and no observation seems to contain more reason in it. Besides being useless, as having no object of employment, they are inconvenient and expensive. The soldiery, who are generally composed of the dregs of the people, when disbanded, or unfit for military service, being equally unfit for any other employment, become extremely burthensome. As they are a body of men exempt from the common occupations of social life, having an interest different from the rest of the community, they [are] wanton in the lap of ease and indolence, without feeling the duties, which arise from the political connection, though drawing their subsistence from the bosom of the state. The severity of discipline necessary to be observed reduces them to a degree of slavery; the unconditional submission to the commands of their superiors, to which they are bound, renders them the fit instruments of tyranny and oppression.—Hence they have in all ages afforded striking examples of contributing, more or less, to enslave mankind;—and whoever will take the trouble to examine, will find that by far the greater part of the different nations, who have fallen from the glorious state of liberty, owe their ruin to standing armies. It has been urged that they are necessary to provide against sudden attacks. Would not a well regulated militia, duly trained to discipline, afford ample security? Such, I conceive, to be the best, the surest means of protection, which a free people can have when not actually engaged in war. This kind of defence is attended with two advantages superior to any others; first, when it is necessary to embody an army, they at once form a band of soldiers, whose interests are uniformly the same

with those of the whole community, and in whose safety they see involved every thing that is dear to themselves: secondly, if one army is cut off, another may be immediately raised already trained for military service. By a policy, somewhat similar to this, the Roman empire rose to the highest pitch of grandeur and magnificence.

The supreme court is another branch of foederal authority, which wears the aspect of imperial jurisdiction, clad in dread array, and spreading its wide domain into all parts of the continent. This is to be co-extensive with the legislature, and, like that, is to swallow up all other courts of judicature.—For what is that judicial power which “shall extend to all cases in law and equity” in some having “original,” in all others “appellate jurisdiction,” but an establishment universal in its operation? And what is that “appellate jurisdiction both as to law and fact,” but an establishment, which may in effect operate as original jurisdiction?—Or what is an appeal to enquire into facts after a solemn adjudication in any court below, but a trial *de novo*? And do not such trials clearly imply an incompetency in the inferior courts to exercise any kind of judicial authority with rectitude? Hence, will not this eventually annihilate their whole jurisdiction? Here is a system of jurisprudence to be erected, no less surprising than it is new and unusual. Here is an innovation, which bears no kind of analogy to any thing, that Englishmen, or Americans, the descendants of Englishmen, have ever yet experienced. Add to all, that this high prerogative court establishes no fundamental rule of proceeding, except that the trial by jury is allowed in some criminal cases. All other cases are left open—and subject “to such regulations as the Congress shall make.”—Under these circumstances I beseech you all, as citizens of Virginia, to consider seriously whether you will not endanger the solemn trial by jury, which you have long revered, as a sacred barrier against injustice—which has been established by your ancestors many centuries ago, and transmitted to you, as one of the greatest bulwarks of civil liberty—which you have to this day maintained inviolate:—I beseech you, I say, as members of this commonwealth, to consider whether you will not be in danger of losing this inestimable mode of trial in all those cases, wherein the constitution does not provide for its security. Nay, does not that very provision, which is made, by being confined to a few particular cases, almost imply a total exclusion of the rest? Let it, then, be a reflection deeply impressed on your minds—that if this noble privilege, which by long experience has been found the most exquisite method of determining controversies according to the scale of equal liberty, should once be taken away, it is unknown what new species of trial may be substituted in its room. Perhaps you may be surprised

with some strange piece of judicial polity,—some arbitrary method, perhaps confining all trials to the entire decision of the magistracy, and totally excluding the great body of the people from any share in the administration of public justice.

*(To be continued)*

1. This essay was started on 20 February (above) and completed on 5 March (below).
2. Blackstone, *Commentaries*, Book I, chapter VIII, 308.

**Joseph Spencer to James Madison**  
**Orange County, 28 February<sup>1</sup>**

The Federal Constitution, has it Enimyes in Orange as well as in other parts, Col. Thos. Barber offers as a Candedit for our March Election, he is as grate an Enimy to it as he posably can be, & if not as grate as any it has, as grate as his abilitays will allow him to be, which if our County men admired his Politickes no more than I do, the Constitution would have but Little to fear from that Quarter, but his unward Labours riding his Carquits & the Instrements he makes use of to Obtain his Election, misrepresents things in such Horred carrecters that the weker clas of the people are much predegessed agains it. by which meens he has many which as yet, appears grately in favour of him, amoungs his Friends appears, in a General way the Baptus's, the Prechers of that Society are much alarm'd fearing relegious liberty is not Sufficiently secur'd thay pretend to other objections but that I think is the principle objection,<sup>2</sup> could that be removed by sum one Caperable of the Task. I think thay would become friends to it, that body of people has become very formible in pint of Elections, as I can think of no Gentln. of my Acquaintance so Suitible to the Task as your Self. I have taken the liberty to Request it of you, several of your Conections in Orange Joines me in oppinion, thinking it would answer a Valuable purpus for I am Cartain that pople relye much on your integrity & Candure, Mr. Leeland & Mr. Bledsoe and Sanders<sup>3</sup> are the most publick men of that Society in Orange, therefore as Mr. Leeland Lyes in your Way home from Fredricksburg to Orange would advise you'l call on him & spend a few Howers in his Company,<sup>4</sup> in Clos'd youl receive his objections, which was Sent by me to, Barber, a Coppy I tooke, this copy was first Design'd for Capt Walker,<sup>5</sup> but as I hoped youl be in this state in a few days thought proper to Send it to you, by which meens youl be made Acquainted with their objections [& have] time to Consider them should you think it an Object worth yr Attention, my fears are that Except you & yr friends do Exerte yr Selves Very much youl not obtain yr Election in Orange Such are

the predegeses of the people for in short there is nothing so Vile, but what the Constitution is Charged with, hope to See you in Orange in a few days

[John Leland's Objections to the Constitution]<sup>6</sup>

According, to your request, I here send you my objections to the *Fæderal Constitution*, which are as follows,

1st. There is no Bill Rights, whenever Number of men enter into a State of Society, a Number of individual Rights must be given up to Society, but there should always be a memorial of those not surrendered, otherwise every natural & domestic Right becomes alianable, which raises Tyranny at once, & this is as necessary in one Form of Government as in another—

2nd. There is a Contradiction in the Constitution, we are first inform'd that all Legislative Powers therein granted shall be Vested in a Congress, composed of *two houses*, & yet afterwards all the power that lies between a Majority two thirds, which is one Sixth part, is taken from these *two Houses*, and given to one man, who is not only chosen two removes from the people, but also the head of the executive Department—

3rd. The House of Representatives is the only free, direct Representation of the body of the people, & yet in Treaties which are to be some of the Supreme Laws of the Land, this House has no Voice—

4th. The time place & Manner of chusing the Members of the Lower house is intirely at the Mercy of Congress, if they Appoint Pepin or Japan, or their ten Miles Square for the place, no man can help it.—how can Congress guarantee to each state a republican form of Government, when every principle of Republicanism is Sapped—

5th. The Senators are chosen for Six years, & when they are once Chosen, they are impeachable to nun but themselves, No Counterpoize is left in the hands of the People, or even in Legislative Bodys to check them, Vote as they will, there they sit, paying themselves at Pleasure—

6th I utterly oppose any Division in Legislative Body, the more Houses, the more parties,—the more they are Divided; the more the Wisdom is Scattered, sometimes one house may prevent the Error of another & the same stands true of twenty Houses But the Question is, whether they do more good then harm the Business is certainly thereby retarded & the Expençe inhansed

7th. We are not informed whether Votes in all cases in the lower house are to be by Members or by States,—I Question wheather a man could find out the Riddle by plowing with Sampsons Heifer,<sup>7</sup> if each Member is not to have a Vote why are they to be chosen according to the Numbers of Inhabitants, & why should Virginia be at ten-times

the Expence of Delaware for the same power, if the Votes are always to be by States, why is it not Expressed as in the choise of a President, in certain Cases, If each member is to have a Vote, Why is it Expressed concerning Senators, & not Concerning Representatives, this Blank appears to me, to be designed, to encourage the Small States with hops of Equality, & the Large States with Hopes of Superiority—

8ly. We have no assurance that the liberty of the press will be allowed under this Constitution—

9ly. We have been always taught that it was dangerous Mixing the Legislative & Executive powers together in the same body of People but in this Constitution, we are taught better, or worse—

10ly. What is dearest of all—*Religious Liberty*, is not Sufficiently Secured, No religious test is required as a Qualification to fill any office under the United States, but if a Majority of Congress with the precedent favour one System more then another, they may oblige all others to pay to the Support of their System as Much as they please, & if Oppression dose not ensue, it will be owing to the Mildness of Administration & not to any Constitutional defense, & if the Manners of People are so far Corrupted, that they cannot live by republican principles, it is Very Dangerous leaving religious Liberty at their Marcy—

1. RC, Madison Papers, DLC. Spencer wrote the date “Feby. 26th 1788” under his signature, and Madison endorsed the letter “Joseph Spencer/Feby. 26. 1788.” Nevertheless, the letter is placed under 28 February, the date appearing at the top of the letter. Spencer addressed the letter to the care of Fontaine Maury, a Fredericksburg merchant, expecting that Madison would take the stage to Fredericksburg on his way home to Orange County from Congress in New York City.

Spencer was possibly the Joseph Spencer (d. 1829) who served as a captain in the Continental Army, 1776–77, and represented Orange in the House of Delegates, 1780–81. He was perhaps the same Joseph Spencer who was imprisoned in Orange County in 1773 for preaching and teaching as a Baptist without a license.

2. On 7 March the Virginia Baptist General Committee met in Goochland County and among the subjects discussed was: “Whether the new Federal Constitution, which had now lately made its appearance in public, made sufficient provision for the secure enjoyment of religious liberty; on which, it was agreed unanimously that, in the opinion of the General Committee, it did not” (Robert B. Semple, *A History of the Rise and Progress of the Baptists in Virginia* [rev. ed., Richmond, 1894], 102). Francis Taylor of Orange County wrote in his diary on 26 February that, while attending the county court, there was “Much talk amongst the people about the Constitution, the Baptists and ignorat part of them against it” (MS Diary, Vi).

3. The Rev. Aaron Bledsoe was pastor of a church at “North Fork of Pamunkey,” located some eight miles southeast of Orange Courthouse. The Rev. Nathaniel Saunders preached at the Mount Poney church. The church’s meetinghouse was located at the foot of Mount Poney, on the road from Culpeper Courthouse to Stevensburg. In 1773 Saunders was imprisoned for preaching and teaching contrary to the laws of Great Britain. He was one of three ministers who officiated at the ordination of the Rev. John Leland in 1786.

4. The Rev. John Leland, a native of Massachusetts, obtained a Baptist preacher’s

license in 1775 and moved to Virginia in 1776. The next year he took over the Mount Poney church in Culpeper County, from which he was dismissed in 1778. That same year Leland moved to Orange County. From this time until he returned to Massachusetts in 1791, Leland was one of Virginia's leading supporters of religious liberty and the separation of church and state.

According to tradition, James Madison, who had passed through Mount Vernon on his way home from New York City, met Leland somewhere between Fredericksburg and his home in Orange County just before the state Convention election of 24 March in Orange County and convinced him to support Federalist candidates. Madison might also have won over the Rev. Aaron Bledsoe. On 1 July Madison, writing from Richmond shortly after the state Convention had ratified the Constitution, sent his father "2 Copies of the Federalist, one for Mr. Leland—the other for Mr. Bledsoe" (Rutland, *Madison*, XI, 185).

5. James Walker, a Culpeper County planter and an officer during the French and Indian War, represented Orange in House of Burgesses, 1761–71, and was a member of the Senate, 1777–79.

6. The enclosure is in Spencer's handwriting. At the end of these objections, Spencer wrote: "Rev. John Leeland's Objections to the Federal Constitution Sent to Col. Thos. Barber by his Request, a Copy taken by Jos. Spencer, entended for the Consideration of Capt Jas. Walker Culpeper."

7. Judges 14:18.

### **George Washington to Caleb Gibbs Mount Vernon, 28 February<sup>1</sup>**

I have received your letter of the 9th. inst. accompanied by the papers which you was so polite as to send me.<sup>2</sup>—I must beg you to accept my thanks for your attention in forwarding to me the pleasing decision of your convention upon the proposed Government.—(The candid and conciliating behav[i]our of the minority places them in a more favourable point of view than the debates of the Convention gave room to expect, and sufficiently shews the good effects of the full and fair discussion which the subject met with.—

The adoption of the Constitution in Massachusetts will, I presume, be greatly influential in obtaining a favourable determination upon it in those States where the question is yet to be agitated.—

No person can, at this moment pretend to say what *will* be its fate here), and I am perhaps less qualified to give an opinion upon it, from my own observation, than almost any one, as I very seldom ride off my farms, and am indebted to Gentlemen who call upon me for any information which I have of the disposition of the people towards it, (but from what I can collect, I have no doubt of its being accepted) here.<sup>3</sup>—

1. FC, Washington Papers, DLC. Major Caleb Gibbs (1748–1818), of Boston, commanded Washington's bodyguard during the American Revolution. On 9 February Gibbs, who apparently had not corresponded with Washington since 1785, informed Washington that Massachusetts had ratified the Constitution on 6 February; he also enclosed newspapers of "almost all" of the Convention's debates (Washington Papers, DLC).



The text in angle brackets was printed, with minor variations, in the *Massachusetts Centinel* on 22 March under the heading: "Extract of a letter from his Excellency Gen. WASHINGTON, to a gentleman in this town, dated Mount Vernon, Feb., 29, 1788." The *Centinel* also included a preface praising Washington. The extract, without the preface, was reprinted in the *Virginia Independent Chronicle* and *Winchester Virginia Gazette*, 16 April; and *Richmond Virginia Gazette and Weekly Advertiser*, 17 April. Outside Virginia, it was reprinted forty-six times by 10 May: Vt. (2), N.H. (3), Mass. (7), R.I. (3), Conn. (9), N.Y. (6), N.J. (2), Pa. (10), Md. (1), S.C. (1), Ga. (2). For background on the publication of this extract, see CC:638. Washington wrote similar letters to Benjamin Lincoln, 28 February; Rufus King, 29 February; and Thomas Cushing, 10 March (Fitzpatrick, XXIX, 426-27, 428, 442-43. See notes 2 and 3, below, for some significant additions from these letters.).

2. On 10 March Washington wrote Thomas Cushing that "the publication of the debates will serve to remove objections in the minds of unprejudiced persons in other States who seek for information.—

It is not in the power of the best informed among us to say, at present, how it will terminate in this State; at the end of this month some Judgement may be formed, as we shall then have a return of the delegates from the several Counties who are to compose the convention" (Fitzpatrick, XXIX, 442-43).

3. On 29 February Washington told Rufus King that the Constitution would be adopted in Virginia, "notwithstanding the *indefatigable* pains which some very influential characters take to oppose it" (*ibid.*, 428).

## An Impartial Citizen V

### Petersburg Virginia Gazette, 28 February<sup>1</sup>

#### On the Federal Constitution.

It is objected, that the President has the power of pardoning offences against the United States, and Mr. Mason *discovers* that the President *may* prevent a discovery and punishment of his own crimes by this power;<sup>2</sup> by forgiving those whom he had secretly instigated to the commission of crimes—The most of the other antifederalists enumerate this as one of the defects *they pretend* to discover in this system. Governor Randolph seems only to extend this objection to the President's power of pardoning before conviction.<sup>3</sup> Mr. Mason, as in his other objections, reasons in the most unfair, and least scientific way imaginable, viz. Arguing against a measure from a remote possibility of its being abused. Human sagacity cannot devise any law, but what, in its operations, may in some instances bear hard. It is impossible by any general law, to prevent punishments from being in some unforeseen cases, inadequate to offences—To obviate this inconvenience, a power of pardoning ought to be vested some where in a State. All civilized nations have accordingly adopted this measure; and there is hardly a respectable writer who has not inculcated the expediency of pardons. Demosthenes, Seneca, Cicero, Diodorus Siculus, and a vast multiplicity of other ancient and modern authors are quoted by Grotius on this subject, in the 20th chap. of his second book *de jure belli ac pacis*, who

are all as well as he himself, advocates for the remission of punishments in some cases.<sup>4</sup> The Marquis de Beccaria, 'tis true, thinks that pardons ought to be excluded in a perfect Legislation, where punishments are mild but certain<sup>5</sup>—But indeed, to make this maxim maintainable, punishments ought to be very mild—And the learned Blackstone, in his admirable Commentaries, has clearly shewn the propriety of pardoning.<sup>6</sup> It has been reckoned one of the principal defects of Democracy, that this power could not subsist in it, as from the nature of things, such a power could not with propriety be vested in many, and it can be delegated to one Supreme Executive Head with infinitely more propriety than to a multitude, or even in a few. In the American States it has been found, contrary to the opinion of theorists, that this power could exist in a Democracy, without impairing its republican spirit. The Executive in each State on the Continent, is vested with the power of pardoning offences, under different restrictions and modifications. In Virginia, the Governor, with the advice of the Council of State, hath this power, except in cases of impeachment<sup>7</sup>—Thus do they at once enjoy the advantages of Democracy and Monarchy.—Montesquieu and all other writers on the law of nations and government, urge, that the delegation of this power to one man, is highly expedient.<sup>8</sup> Common sense tells us so without going further—for, if a popular Assembly were to possess this power, it would be impossible that they would not abuse it. The agency of their passions and prejudices would frequently prevent the extension of mercy to some deserving, and rescue from justice some incorrigible criminals. The President of the United States (when the Supreme Court, or other inferior Federal Courts, have judged according to the letter of the law, which may be rigorous) mitigates the sentence according to the true spirit of all laws, which teaches “never to sacrifice a man but in evident necessity”—But lest he should abuse this trust, he is not empowered to pardon in cases of impeachments. Where the conduct of an officer entrusted with the administration of some public affairs is such, that the Representatives, in order to ensure justice to the public, accuse him before the Senate, the President cannot interpose his pardon. The history of mankind, from the most remote antiquity, will inform us, that Officers of State or those entrusted with public administration of affairs, have ever been the most forward in plots and conspiracies against their country. In case such officers in the United States should conspire against their country, they cannot flatter themselves with the hopes of extorting from the President a remission of their punishment. The certainty of this will render conspiracies less certain and less frequent. And should the President pardon in common cases *before* conviction, or *afterwards*

forgive notorious villains, or persons who should be unfit objects of mercy, this would be such a misfeasance of his office, as would subject himself to be personally impeached. He is as responsible for transgressions in one part of his office as another—for pardoning impro [a line of type is missing] He is ultimately am[several words are missing]ople like wise. His personal responsibility clearly demonstrates Mr. Mason's assertion to be a most puerile insinuation. The power of the Governor of Virginia in pardoning, is not reprobated;—yet his power is very similar to that of the President:—the difference is, that the Governor cannot pardon without the advice of the Council of State: on the other h[e]ad he has less amenability annexed to his character, than the President, for he is only liable to impeachment, and not amenable to the people;—besides, in case of maladministration by the Governor, as he is advised by the Council of State, it would be uncertain who transgressed, he or his Counsellors. If the President recedes from the line of his duty, there can be no doubt—he himself will be the only object of justice. In England, the constitutional concession of absolute perfection to the Chief Magistrate, may render a Constitution with Counsellors concerning the propriety of exerting the power of pardoning, necessary; but with us this necessity is excluded, because the President will be liable to be punished in person:—I therefore trust, that every judicious intelligent man must clearly see the futility of this charge.

Before I proceed further, I mean to obviate any unfair conclusions that may be made from my frequent mention of Montesquieu, Grotius, and other writers on government and the law of nations. My frequent recurrence to these authors may savour to some illiberal persons, of pedantry, and perhaps of arrogance; yet every person of any acquired knowledge must know, that on speculative subjects, the best theories as well as experience must be recurred to. The authors I have already, and hereafter intend to mention, are the most celebrated writers known to the world: their systems of jurisprudence, and their opinions are known and respected by all nations—Their decisions are therefore, more entitled to respect than the incoherent objections and groundless assertions of the enemies of the Constitution:—For though the Hon. Mr. Lee, in his arrogant and inflammatory epistle, has alleged that there are capital defects in the system produced by Montesquieu;<sup>9</sup> yet I believe it will not be hard to prove, that there are more egregious errors and gross misrepresentations in that *single epistle* of his to the Governor, than in the thirty one books which Montesquieu wrote on the spirit of laws—For the verity of my assertion, I appeal to those who have seen and read those books, and that epistle.—

It is also objected by Mr. Mason, that under their own construction of the general clause, at the end of the enumerated powers, the Congress may grant monopolies in trade, constitute new crimes, inflict unusual punishments, and in short, do whatever they please. Nothing can be more groundless and ridiculous than this. The words of this clause so much dreaded by Mr. Mason, are, "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." Now, I insist that Mr. Mason's construction on this clause is absolutely puerile, and by no means warranted by the words, which are chosen with peculiar propriety. When a power is vested any where, from the nature of things it must be understood to be attended by such other incidental powers as are necessary to give it efficacy; for to say, that a power is given, without the power of enforcing it, is a solecism in language. In this case, the laws which Congress can make, for carrying into execution the conceded powers, must not only be *necessary*, but *proper*—So that if those powers cannot be executed without the aid of a law, granting commercial monopolies, inflicting unusual punishments, creating new crimes, or commanding any unconstitutional act; yet, as such a law would be manifestly *not proper*, it would not be warranted by this clause, without absolutely departing from the usual acceptation of words. No part of the Constitution is more reprobated than the submission of commerce to a mere majority in the Legislature. Mr. Mason and Mr. Lee strongly insist, that by this provision the northern States can create a most oppressive monopoly on the southern States—That without being responsible to the southern States, the northern ones can effectually ruin them; but that requiring two-thirds to pass commercial laws, would produce moderation in the government, and secure the interest of the southern States. This objection discovers at once, a decided preference to foreigners over the northern States—an absolute ignorance of the circumstances of those States, and a bare-faced attempt to catch the prejudices and prepossessions of the people at large. 1st, This monopoly can only be created by preventing the importation of such articles as the northern States can furnish us with, either by imposing heavy duties, or by express prohibition, and thereby compel the southern States to manufacture themselves, or pay their own price to the northern States. Before this can be effected, the northern States must all be manufacturing people, and must all join in this combination against the southern people. If they be all manufacturers, there will be rivalry among them in their sales; and this rivalry will reduce the price of their commodities: This

will put them in the same relative situation as to us that foreigners are in now. The concurrent emulation of the different States of the north, will produce the same cheapness of articles that the rivalry of foreign nations produces, or is supposed by this objection to produce at present. Admitting, therefore, a certainty of a combination by a majority of the northern States, this objection clearly prefers dealing with other nations, rather than with our own American brethren, even on the same terms. And this preference to foreigners is highly impolitic and antifederal: For, can any American deny the superior policy of laying out our money in America, to paying it to Europeans? But, 2dly, This objection betrays an ignorance of the circumstances of the northern people: It supposes them all manufacturers and ship-builders. Yet this is clearly otherwise. The States of Jersey, Delaware, and New-Hampshire manufacture little or nothing to spare for other States, are obliged to purchase for their own supply from foreigners and their sister-States; and have not near shipping enough for their own use. These States have therefore no interest to enter into this combination. If the other States do, in this case, there will be a majority of thirty-seven votes to twenty-eight against them.<sup>10</sup> But even New-York has not shipping more than sufficient for herself. That State does not manufacture the third of its own necessary supply, and has large tracts of uncultivated forests. There are but three manufacturing States; Massachusetts's, Connecticut, and Pennsylvania: Yet even these States have but few articles to spare, and yearly import from Europe vast quantities of goods for their own consumption. Virginia manufactures for their own use every year, more than several northern States. From this representation, *which I am, and always will be, ready to prove*, no danger is to be apprehended from the northern States on the grounds of this objection. The melioration suggested as necessary, will be effected by the revision of the President; for he will most infallibly object to any partial or oppressive law, unless he be actuated by the same narrow views: which, from the mode of his election, cannot be supposed. To attempt to create a belief in the inhabitants of Virginia, [several words are illegible] the north could and would injure their commerce, was certainly endeavouring to catch their prejudices. Virginia is in as good a situation for manufacturing as several of the northern States: Her materials for shipping superior—at all events equal. Choice may lead us to become our own carriers and manufacturers, but the situation of the northern States precludes the possibility of their *compelling* us to it. As in the nature of things unanimity cannot be obtained in the decisions of popular assemblies, almost all nations among whom resolutions are formed by suffrages, have fixed upon a majority of voices

as the most obvious, easy, and natural criterion of determination. The causes urged by the antifederalists, for a departure from this rule, do not exist: The very idea of it tends to consider the northern States as a totally distinct people from us; whose interest militates against ours; and who would naturally combine against us. This idea is not founded in truth—It tends to dissolve *that union that ought to be indissoluble*—It ought therefore to be detested by every true American.

POSTSCRIPT.

Whereas doubts have arisen, concerning the construction of my assertions in my third number,<sup>11</sup> of the mode of electing the Senators; to elucidate the matter, and to obviate any unfair or illiberal conclusions, I now remind the public, that the periodical departure of old Senators, and accession of others in their stead, is permanent; but that the continuance in the Senate of one third for but four years, and of another third but two years, is only applicable to the first election.<sup>12</sup>

1. For a brief discussion of the publication of at least six essays by "An Impartial Citizen" in the Petersburg *Virginia Gazette*, see "An Impartial Citizen," 10 January, note 1 (above).

2. See "George Mason: Objections to the Constitution," 7 October (above).

3. See "The Publication of Edmund Randolph's Reasons for Not Signing the Constitution," 27 December (above).

4. William Whewell, ed. and trans., *Hugonis Grotii, De Jure Belli et Pacis* . . . (3 vols., Cambridge, Eng., 1853), Book II, chapter XX, sections XVIII–XXVIII, 281–91. *The Law of War and Peace* was first published in Paris in 1625.

5. Cesare Bonesana, Marchese di Beccaria, *An Essay on Crimes and Punishments* . . . (3rd ed., London, 1770), chapter XLVI, 175. This work was first published in Livorno (Leghorn) in 1764.

6. Book IV, chapter XXXI, 389–95.

7. For the pardoning power in Virginia and the other states, see the Virginia constitution (Appendix I, below) and "Marcus" III, *Norfolk and Portsmouth Journal*, 5 March, note 5 (CC:596).

8. *Spirit of Laws*, I, Book VI, chapters V, XVI, and XXI, 111–15, 130–32, 135–36.

9. See "Richard Henry Lee and the Constitution," 16 October (above).

10. Under the Constitution, the first House of Representatives would consist of sixty-five members: thirty-six representing the states from New Hampshire to Delaware and twenty-nine representing the states from Maryland to Georgia. New Hampshire, New Jersey, and Delaware had eight representatives, thus giving "An Impartial Citizen" his totals of 37 for the non-shipping states and 28 for the shippers.

11. The issue of the Petersburg *Virginia Gazette* that contains "An Impartial Citizen" III is not extant.

12. A reference to Article I, section 3, clause 2 of the Constitution which calls for the Senators in the first federal Congress to draw lots immediately to determine who would have two-, four-, or six-year terms. This drawing of lots established the staggered election of one-third of the Senators every two years.

### Circular Letter to the Fayette County Court Danville, Ky., 29 February<sup>1</sup>

The eight signers of this letter, sent to the Fayette County court scheduled to meet on 11 March, were members of Kentucky's "court party," a group that included the attorney general, the judges of the District

Court, and the most prominent lawyers. These men were bound by ties of marriage, the religion, and education; and they were connected with James Wilkinson and his scheme to bring Kentucky under Spanish control. The "court party" supported Kentucky statehood and opposed the new Constitution, believing that the central government was made too powerful. In particular, the "court party" insisted that the state courts try all land disputes between residents and nonresidents, and it wanted the state legislature to have the right to tax imports as a means of encouraging local manufactures. The "court party" also thought that the seaboard states would not support America's right to the free navigation of the Mississippi River. (See Patricia Watlington, *The Partisan Spirit: Kentucky Politics, 1779-1792* [Chapel Hill, N.C., 1972], 83-89, 139-51.) With one possible exception, each signer of the petition served in at least one of the nine Kentucky statehood conventions held between 1784 and 1790, and with the exceptions of Benjamin Logan, Benjamin Sebastian, and Caleb Wallace, each belonged to "The Political Club" of Danville at this time.

Samuel McDowell of Mercer County and his son-in-law Caleb Wallace of Fayette County were justices of the District Court of Kentucky; George Muter (d. 1811) of Mercer County was chief justice; and Christopher Greenup (1750-1818) of Mercer County was clerk. Harry Innes of Mercer County was attorney general of the District of Kentucky. Benjamin Sebastian (c. 1745-1834) of Jefferson County was an Anglican minister and a lawyer; while Benjamin Logan (1743-1802), a brigadier general of militia, represented Lincoln County in the House of Delegates, 1781-82, 1785-87. Thomas Allin (1757-1833), a clerk of the Mercer County court, was the only one of the eight signers to serve in the Virginia Convention, where he voted against ratification of the Constitution.

The letter printed here was one of several apparently sent to each of Kentucky's seven county courts. A copy addressed to the Mercer County court, scheduled to meet on 25 March, is in the Harry Innes Papers at the Library of Congress, in the form of a clipping from a nineteenth- or twentieth-century newspaper. It was signed by nine members of the "court party," including the men below (except Thomas Allin) and William McDowell and William McClung. McDowell (1762-1821), a lawyer and a son of Samuel McDowell, represented Mercer County in the House of Delegates, 1787-88. McClung (1758-1811), a Nelson County lawyer, voted against separation from Virginia in the Kentucky statehood convention of 1787. Both men were members of "The Political Club" of Danville.

In all general questions which affect a community at large it is Usual for them in some Manner to Signify their dislike, or approbation to it, and wherever it hath proved inconvenient for the whole Society to convene together, it hath heretofore been Judged expedient for them to elect representatives to declare their sentiments upon the Occasion. There Never was and we may Venture to declare there Never will be a greater call to the inhabitants of the Western Country than at the present Moment to consider coolly and dispassionately the effects which will insue to them and their posterity by the Adoption or rejection of the proposed Fœdral Constitution.

There are many Objections thrown Out against it which are of a general Nature and affect the interests of the States at large, but there are Others of a local Nature which in Our Opinion Strike immediately at the happiness & greatness of the Western Country. These local Objections arise by the Vesting in Congress the power To regulate commerce with foreign Nations.

To lay duties & imposts which shall be uniform thro'out the United states.

The Power Over the Militia.

The prohibition of a Tax or a duty on Articles exported from any State. And the power of the Fœdral Court

By the power to regulate commerce, we loose the Navigation of the Mississippi;<sup>2</sup> population will cease, and Our lands become of little Value. By Uniform duties and imposts, and the prohibition of a tax or duty on Articles exported from any State, we Never shall be able to encourage Manufactaries and our wealth be carried to the Eastern & Southern States. The power Over the Militia, may leave us in a defenceless State and subject us to the ravages of the Merciless Savages; And Upon Our Separation being established, a Number of our Citizens will be draged by the power of the Fœdral Court Six or eight hundred Miles to contest their Legal Claims.

These are Objects Worthy the attention of the western Settlers, and require a Minute investigation. We have therefore Ventured thro' your Body to recommend it to the Good people of your Country to elect three representatives at your ensuing March Court, to meet Other representatives from the several Counties of this district at Danville on the first Monday in April,<sup>3</sup> to consider the proposed Fœdral Constitution, &c if Necessary to instruct our delegates to the State Convention, & address that Body Upon the Occasion.

That the people may have an Opportunity of Making a Judicious Choice of representatives upon this Occasion, we recommend that the Election be kept Open each day during the sitting of the Court, & that this letter be read each day preceeding the Opning of the poles.

We asure the Court of Fayette, that the only Motive which hath induced us to address you at this time, is from a desire of promoting our general interest and We hope that we shall Stand acquitted from any idea of arrogance & presumption in recommending this Measure which we Most ardently wish to See adopted.

We are Gent. your mo. ob Servts

Saml. McDowell  
Caleb Wallace  
George Muter  
Harry Innes

Ben Sebastian  
Benjamin Logan  
Christo. Greenup  
Tho. Allin



1. DS, Draper Manuscripts, George Rogers Clark, State Historical Society of Wisconsin. The letter was attested by Levi Todd, clerk of the county court: "The Court recommend that the Sheriff\* read this letter as is therein requested & notify the People that an Election as is therein directed will be held from Day to day until Saturday Evening & proceed to hold the Same immediately after the Election for Delegates is over & hold the Poll in some convenient place not to interrupt the Court Business." The asterisk was inserted after "Sheriff" in the mid-nineteenth century by Lyman C. Draper, of the State Historical Society of Wisconsin, who indicated that the sheriff was Colonel Robert Patterson, among whose papers he found this document.

2. On 29 March 1787, Muter, Innes, Sebastian, and John Brown, after meeting with other members of the "court party," had sent a circular letter "to the different Courts in the Western Country," expressing alarm at Congress' proposed cession of America's right to navigate the Mississippi River for twenty-five or thirty years in exchange for commercial concessions from Spain. They recommended that the counties in the District of Kentucky send delegates to a convention in Danville on 7 May to prepare a petition to Congress protesting such a cession. In turn, this convention would appoint delegates to a convention of "the several districts on the Western Waters" since "all the inhabitants residing on the Western Waters are equally affected by this partial conduct of Congress." The letter was printed in the *Maryland Journal* on 3 July and reprinted in the *Virginia Independent Chronicle* on 11 July. There is no evidence that either convention took place.

3. This convention was not held.

## Edmund Randolph to James Madison

Richmond, 29 February<sup>1</sup>

My dear friend

The decision of Massts., had it been adverse to the constn, wd. have damned it here. But as it is, it fixes the event, if N. York, N. Hamp. and Maryland should follow the example. This must be understood with this restriction; that altho' 9 states will *force* Va. by their assent to come in, there is reason to believe that no intelligence of that sort can reach us before our convention meets; as So. Carolina will sit on the 12th. of may only. I received a letter last night from Mr. P. H—y, mentioning his having resumed the practice of the law, and his determination to oppose the constn. even if only ½ a state should oppose.<sup>2</sup> The baptist interest and the Counties on the So. Side of Jas. river from Isle of Wight, upwards, are highly incensed by H—y's opinions, and public speeches, whensoever occasion has presented. As to the temper on the North side, I cannot clearly discern it. But upon a review made by Mr. Marshall of their comparative strength, he seems to think, that the question will be very nice. The election of Henrico commences on Monday. The persons proposed are Dr Foushee,<sup>3</sup> Marshall and myself. Nothing but a small degree of favor, acquired by me, independently of the constitution, could send me; my politicks not being sufficiently strenuous against the constn. Marshall is in danger;

but F. is not popular enough on other scores to be elected, altho he is perfectly a Henryite.

But to return to Massts—What a paltry snare? Some of the am[en]dmen[ts]. are inadmissible, others pointed against the Negro states, and others milk & water. The first is among the rocks on which the old confn. has split; the 2d. is aimed against the So. Ss—the 3d. provides v̄s no real danger; the first part of the 4th. is as the 3d. and moreover destroys an essential idea of a national govt. the 5th. tho' a new and juster theory now prevails, ought to be left to the occasional wisdom of congress; the 6th. sounds an unnecessary alarm; the 7th. strikes not at all the most exceptionable points of the jurisdiction; the 8th. I conceive is not true in supposing even at common law a trial of fact to be best *on all occasions* by a jury; and the 9th. can have been designed only to make out a number of amts. equal to the no. of states, who may give birth to the govt. In short H—k. proposes them not in the form of objections, but *to remove fears*,<sup>4</sup> and I do not conceive that Massts. may be yet said to be fairly inlisted; altho' to me it is satisfactory, since the men of talents and property are in its favor v̄s the Shayites, and the gentlemen of bad fame with whom we recusants<sup>5</sup> have been classed.

A writer, calling himself Plain dealer,<sup>6</sup> who is bitter in principle v̄s the constn. has attacked me in the paper. I suspect the author to be Mr. Spencer Roane, and the importunities of some to me in public and private are Designed to throw me unequivocally and without condition into the opposition.

But pray answer me, what is to become of our debit for the old contl. money? Shall we not be obliged to compensate the Indiana company for our legislative violence?<sup>7</sup> Does not the exception as to a religious test imply, that the congress by the general words had power over religion?—I expect a coalition between the high and low foederalists[.] Nothing less can save the foederal govt.

1. RC, Madison Papers, DLC.

2. Not located.

3. William Foushee was a Richmond physician.

4. The Massachusetts Convention's recommendatory amendments were first printed in the *Massachusetts Centinel*, 2 February, and reprinted in the *Virginia Independent Chronicle*, 27 February, and the *Richmond Virginia Gazette and Weekly Advertiser*, 28 February. For the amendments and John Hancock's role in proposing them, see CC:508.

5. Randolph refers to himself and the other two non-signers of the Constitution—George Mason and Elbridge Gerry.

6. See "A Plain Dealer," *Virginia Independent Chronicle*, 13 February (above).

7. See "The State Soldier" III, *Virginia Independent Chronicle*, 12 March, note 7 (below).

Alexander White

Winchester Virginia Gazette, 29 February<sup>1</sup>

To the CITIZENS of VIRGINIA.

(Continued from our last.)

*Friends and Countrymen*, It is objected that there is no Bill of Rights—a clear understanding of that matter will obviate many objections. A Bill of Rights is only necessary, where the rights of different men or orders of men are uncertain, and is rather calculated to inform than to restrain. Paper chains are too feeble to bind the hands of tyranny or ambition. In England the king claimed supreme power, as inseparably annexed to the kingly office, the people claimed privileges, these different claims occasioned many contest[s], until they were defined by a Bill of Rights presented to William and Mary at their accession [in 1689]. But no doubt can arise in the American governments, the fundamental maxim of which is, that sovereignty is vested in the people, a position so plain and simple that the meanest capacity can comprehend it, and so well established both in theory and practice, that no man will deny it. Consequently should Congress attempt to exercise any powers which are not expressly delegated to them, their acts would be considered as void, and disregarded. In America it is the governors not the governed that must produce their Bills of Right: unless they can shew the charters under which they act, the people will not yield obedience.

It is said, “that an extensive territory cannot be governed on the principles of freedom otherwise than by a confederation of republics, possessing all the powers of internal government, but united in the management of their general and foreign concerns.” This is the very government we propose to establish. The separate states retain all the powers of internal government. Congress has no power which does not respect foreign nations or equally affect all the state[s]. The dissentients attempt to prove that the new government will not be a confederacy of states, but one consolidated government from the power of Congress over the purse and sword. I conceive that without those powers we should not deserve the name of a separate people. Should it remain with the several states to raise or not to raise men and money, our confederation would be no more than a treaty of friendship and alliance between independent nations. The present Congress has the same power, and so I believe has the supreme council of every confederacy, the difference is, when the present Congress shall find it necessary to provide for our defence, and shall have declared war, and proportioned the men and money to be raised by each state, they have

not the means to carry their acts into effect, and in case of failure of any of the states there is no constitutional remedy, the willing states must bear the whole burden, or have recourse to arms against the delinquents. By the new Constitution a peaceable, legal, and (as long as Congress shall act on the principles of justice and moderation) effectual mode is pointed out for the collection of taxes by application to every individual. And this I consider as the great excellency of the proposed plan, and as an improvement in the federal government which the wisdom of man never before conceived, and from which no danger can arise; because the powers vest[ed] in Congress are too feeble and circumscribed to enable them to govern this great continent with the "supremacy of despotic sway." This I have already shewn, but will add one argument more from their own objections, "that the members of Congress are too few to enjoy the general confidence of the people." They certainly are so when opposed to the sense of the numerous representatives in the State Legislature who will ever keep a watchful eye on Congress and its members, their extensive influence will render it impossible for Congress to carry into effect any acts which do not bear with them the most evident marks of justice and propriety. It is somewhat extraordinary that the Dissentients should suppose the power of Congress sufficient to produce a "despotism with a celerity that has hitherto only attended revolutions effected by the sword" in opposition to the general sense of the people and to the power of 13 independent states—and at the same time prove by very cogent arguments that from the smallness of the representation they are inadequate to the government of so extensive a country, supposing it consolidated into one state. Had the internal government of the Union been committed to Congress, I agree the representation would have been too small, but that was never intended—they are to regulate our general concerns as a nation, to this, and to this alone their power is adequate. You are told that from "the nature of the thing men of most elevated rank in life alone will be chosen." If you apply the proposition to men elevated for their wisdom and virtue, I agree to it, but deny the assertion if it is applied to birth and fortune. The senators will be chosen by the assemblies, as the members of Congress have heretofore been. I can safely refer to your own reelection, that few of these have been men of more than very moderate fortunes, in this state, and in Pennsylvania I have seen the same gentleman following his plough, and sitting in Congress. If this has been the case when the choice is made by the assemblies, what reason have we to suppose the people at large will act on different principles? It is said the representation is unsafe because it is so exposed to corruption

and undue influence, by the gift of the numerous places of honor and emolument at the disposal of the executive, by the arts and address of the great and designing, and by direct bribery? The members of Congress can hold no office during the time they remain members, nor can they enjoy any office which shall be created, or the emoluments of which shall be increased during the time for which they were elected.—Name to me the country in which the members of the legislature or the executive council are so far removed from influence—and before you consent to give each state a controul over the purse and sword, be well informed whether the Grecian confederacy was ruined by the practice of art, address, and bribery in the council of Amphyctions, or in the assemblies of the people of the different states? And whether it will not be easier to corrupt a few leading men, in some one of 13 assemblies than a majority of Congress? The assembly of Pennsylvania would be a cheap purchase if what the dissentients say is true, “that a majority of them were lately under the influence of the city members,” who I presume never bribed higher than a good dinner.

I would have preferred annual elections of the delegates, but do not conceive we are unsafe because they are biennial—the house of burgesses under the old government, though they held their seats at the pleasure of the crown were always patriotic—and the commons of England whose elections are septennial, never attempted such direful things as are foretold of Congress. The time which the senators hold their places is to me unexceptionable; there will at all times be one third of them whose seats will be vacated in two years, another third in four—this is sufficient to keep them in mind that they are one day to return to the body of the people, and they ought not to be too much under the impulse of popular prejudices, for it is sometimes necessary to save the people from themselves: the senators of Virginia hold their seats four years, and I believe no man will undertake to say, that they have shewn less regard to the interest of the country than the delegates; they have even consented to a great increase of the number of delegates a degree of patriotism, so far surpassing what the Pennsylvania minority feel, that they would have you believe it is not to be found among men. The dissentients propose that “the several states shall have power to regulate elections for senators and representatives without being controuled directly or indirectly by any interference on the part of Congress.” It is evident this would leave the existence of Congress in the power of the individual states. Montesquieu, says, (and the dissentients themselves make the quotation) “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 mona[r]chy to know who is the Prince, or how he is to govern."<sup>2</sup> Can this certainly be obtained when these important points are to be determined in 13 separate assemblies? The dissentients sensible of this, and forgetting their former reasoning as in other instances they forgot their former statement of facts, now propose, "that the time, mode, and place of elections should be fundamentally ascertained and established." Nor to insist on the difficulties and delay which a discussion of that subject must [have] occasioned in the convention. When we consider the rapid increase of the country, both in extent and population, and the consequential increase of delegates, it must appear absolutely impossible to fix these circumstances in the act of government.

They propose "that the power of organizing, arming and disciplining the militia, remain with the individual States, and that Congress ought not to have authority to call or march any of them out of their own States." The militia being under the general government, will in a great degree render a standing army unnecessary. Insurrections, such as that of Shays in Massachusetts, may generally be suppressed by them and hostile attacks from Indians repelled. The burden in these cases or in case of foreign wars, will be both lessened and equalized. Remember the late war; wherever there was distress Virginia appeared to afford relief. When you were invaded, had you the assistance of a single militia man from any other State? It is probable the Pennsylvania Dissentients think it more reasonable to draw the militia from Berkeley and Frederick, to defend the counties of Ohio and Monongahala, than from the adjacent counties of Washington and Fayette. They propose "that the legislative, executive and judiciary powers be kept separate;" they are so, much more than in any nation on the face of the earth. The quotation from Montesquieu which they make in support of their position, is taken from his discourse on the constitution of England, which he says, has for its direct object political liberty.<sup>3</sup> Now the House of Lords in England have not only the power of trying impeachments, in which they may proceed to judgment of death, and of all capital crimes committed by their own members; but appeals ly [i.e., lie] from all other courts of law and equity to them in the last resort. The Lord Chancellor is speaker of the house, and the judges of the common law courts may be and sometimes are members. The Lord Chancellor holds his office during pleasure, and when Montesque wrote the judges commissions expired with the life of the king who granted them.<sup>4</sup> The American Senate is to have no judicial power except in impeachments, and their judgment extends only to removal from office, and disqualification and they cannot while Senators hold any judicial office.

If we pay any regard to the wisdom and experience of other nations, we cannot agree that the President's connection with the Senate is dangerous. You have seen the executive power of the Roman Commonwealth in the Consuls and Senate; that of Carthage was in the Sufftes and Senate; that of Sparta in the Kings and Senate; those of Denmark and Sweden, while they retained their liberties (and they did not lose them by the combination of those powers) in the Kings and Senate. In the same school we may learn, that a council is not necessary. Athens was happily governed near 400 years while the executive power was in the hands of a single Archon, chosen at first for life, afterwards for years, but when the people changed that institution, and chose nine Archons, faction, discord, anarchy and tyranny ensued.—The provision that treaties shall be the supreme law of the land, is no more than declaring that the law of nations shall take place in America—for if you mean to support an intercourse with the other nations of the earth, you must appoint some men or body of men to conduct that intercourse, and if you do not provide the means to carry their treaties into effect, you subject yourselves to all the horrors of war, whenever any one State shall fail in compliance. To support this doctrine, I could produce many authorities, but it seems too evident to require proof. Two co-ordinate sovereignties over the same objects of dominion might be a solicism in government, but that is not the case in the proposed system. There is a clear line of distinction between the general and particular governments arising from the nature of things.—The State governments retain their sovereignty over all objects which respect their particular States only. The Continental government over all such things as respect foreign nations, or equally affect all the States; and these objects are well expressed and clearly defined in the Constitution. But should contests arise with respect to the extent of the respective jurisdictions the advantage is evidently on the side of the State governments. I speak now of a legal contest. The Continental Courts have no pre-eminence; and I suppose legal ingenuity will not be confined to them. The writ of habeas corpus gives a decided superiority to the State courts in all cases where personal liberty is concerned, by refering to their judgment, the legality of all imprisonments, incident to which is the right of determining the amount of bail to be required, where the commitment is judged lawful—But it is proposed “that in controversies respecting property, and in suits between man and man, trial by jury shall remain as heretofore; as well in the Federal Courts as in those of the several States.” What does this mean? If “heretofore” refers as I suppose it was intended, to the ancient common law, you must give up the mode of recovering debts by attach-

ments and petitions; your summary proceedings against sheriffs and collectors who have received taxes, or money on executions against lawyers who have received money for their clients; and in Pennsylvania the board of property must be done away,<sup>5</sup> and the law authorising a single magistrate to give judgment to the amount of 10 l. must be repealed.<sup>6</sup> If it refers to the present times, you would prevent Congress and the legislatures of the other States from adopting measures which have been found so salutary in this state? Where the trial by jury shall or shall not be made in civil causes, may with safety be left to Congress as it is to all our State legislatures. It is in criminal cases only, that that mode of trial is essential to liberty.

To follow those gentlemen through all their windings, and to give pointed answers to every thing which they call objections, would require volumes, but their whole opposition to the Federal plan may be reduced to these three propositions. First, That the measure itself was a deep-laid, premeditated scheme, to enslave you. Secondly, That the men whom you shall choose to fill the respective offices under that government, will pursue that scheme with unremitting ardor. And thirdly, That they will be able to accomplish it. Pause a moment and answer to your own minds, whether you believe either of them. Examine the plan of government. Do you observe the seeds of despotism sown there? On the contrary, do you not see more effectual precautions against the open or secret abuse of power, than in the Constitution of any government which has had the experience of ages, or in any plan which has been composed by philosophers or statesmen? You whose situation in life hath not enabled you to become acquainted with those things, consider who were the promoters, and who the framers of the Federal Constitution. Congress recommended and 12 States concurred in the appointment of delegates. It will not be alledged that any thing was intended but your peace and happiness in this stage of the business, consequently the members chosen by the different assemblies were such as they believed would promote those laudable designs. Does history afford an instance of an assembly of men thus chosen, acting so diametrically opposite to the design of their appointment? or of any body of men premeditate[d]ly endeavouring to enslave their country, unless they themselves were to be tyrants? Human nature, in its most depraved state, is incapable of it; nor could any thing short of the jaundiced eye of faction entertain the idea. Can you then suspect the Federal Convention, the members of which stand fair in point of reputation, notwithstanding the most virulent abuse of party rage in the State where they sat. But when you remember that among them was a Washington, whose hair has become



grey and eyes dim in watching over your safety;<sup>7</sup> whose disinterested patriotism has raised him above the reach of panegyric; and a Franklin, whose philosophical and political abilities have procured him the admiration of the world; who has already lived beyond the usual period allotted to men, and is gently descending to the grave, with the weight of years and of honors.

Is it possible that a Washington and a Franklin could conspire to enslave their country? To that indignation which the bare suggestion must raise in every generous breast, I refer the answer. Do you really believe that you cannot choose men who will faithfully promote your happiness in the discharge of the duties of their respective offices? If so, on what do you found your opinion? On your own feelings, the suggestions of your own hearts. It cannot be on the general conduct of mankind. I have called upon the opposers of the federal system to produce an instance of rulers chosen by the people, who had enslaved them; and rest satisfied it cannot be done; the impracticability of Congress effecting such a measure has likewise been made apparent. I would only beg you to attend to the superior advantages which Great Britain possessed when the contest with her commenced. To all the influence of a civil government to which an unlimited obedience had been paid from time immemorial, she added her military and naval power; the latter surpassing all the nations of the earth; yet, America resisted and success attended her efforts. With how much more ease may you oppose the oppressions of a government which owes its existence to your breath, and which possesses no power independent of you. But you are told the proposed plan may be amended. It is more perfect than any one man, or the convention of any one state could make it; because in those cases that general knowledge which is necessary to form such a system could not be obtained; and the jarring interests of 13 States, seperately considered could never be brought to unite. This to me was obvious from the beginning, and must now be so to every man. The conventions of six States have agreed to the plan without amendments.—Will these states recede? The amendments proposed in different states are irreconcilable. I will only mention those of the Pennsylvania minority, and of Governor Randolph. The Pennsylvanians object principally to the power of Congress over the purse and sword.—Governor Randolph considers that power as essentially necessary. The Pennsylvanians propose to amend the present confederation by giving great powers to Congress.—Governor Randolph says, “that the present confederation must be thrown aside.”<sup>8</sup> Would these men ever agree? Then be not deceived to your ruin. Friends and Countrymen, let my earnest solicitude for your peace and

liberty be my apology for thus intruding my sentiments. Few men in my native county receive any other vehicle of intelligence than that printed among them; in it appeared the several objections to federal measures, on which I have animadverted. I only regret that so great a cause has not in this place been defended by an abler pen than that of ALEXANDER WHITE.

1. The first part of this essay was printed on 22 February (above). White responds to the "Dissent of the Minority of the Pennsylvania Convention" (CC:353), from which are taken most of the Antifederalist remarks in quotations.

2. *Spirit of Laws*, I, Book II, chapter II, 12.

3. *Ibid.*, I, Book XI, chapter VI, 222.

4. In 1760 Parliament passed an act that allowed judges to remain in office despite the death of the king (J. Steven Watson, *The Reign of George III, 1760-1815*, [Oxford, Eng., 1960], 57n).

5. On 5 April 1782 the five-member Board of Property was created by the Pennsylvania General Assembly to hear disputes related to the land office. No determination of this board, however, could prevent either of the parties from bringing action in the common law courts. The parties, declared the Assembly, should have open access to the courts "in as full and ample manner as if no determination had ever been given" (James T. Mitchell and Henry Flanders, comps., *The Statutes at Large of Pennsylvania from 1682 to 1801* [16 vols., Harrisburg, Pa., 1896-1911], X, 408-11).

6. In 1745 the Pennsylvania legislature, to assist the poor who could not afford the costs of the common law courts, passed an act stating that cases involving debts for the value of between forty shillings and five pounds could be decided by any justice of the peace. His decision, however, could be appealed to the common law courts. In 1785 the legislature raised the amount to ten pounds. Cases, however, could still be appealed to the common law courts (*ibid.*, V, 22-27; XI, 573-75).

7. White probably refers to a statement made by General George Washington on 15 March 1783 at Continental Army headquarters at Newburgh, N.Y., to a group of officers who were threatening to use force against Congress in order to obtain their back pay. Washington formally addressed the officers, intending to squelch the movement. At the end of his address, as he began to read a letter from a delegate to Congress, he fumbled with his eye glasses and stated: "Gentlemen, you must pardon me. I have grown gray in your service and now find myself growing blind." This moving speech put an end to the Newburgh Conspiracy.

8. See "The Publication of Edmund Randolph's Reasons for Not Signing the Constitution," 27 December (above).

### Winchester Virginia Gazette, 29 February

The northern papers by the last post teem with federal and anti-federal speculations, most of which appear not to be wrote in the cool hour of reflection, but at a time when the heat of party rage was most predominant. It must give pain to every *serious* mind, to observe writers descend to the base resort of scurrility and personal scandal to support their arguments, especially when treating on the most important subject that ever remained to be determined by a free people.

**Republicus****Kentucky Gazette, 1 March**

—*True liberty*  
 —*Always with right reason dwells*  
*Twinn'd, and from her hath no dividual being.*  
 Milton.<sup>1</sup>

There is but one source of political happiness, viz. liberty; our liberty is founded on our reason, which is the gift of heaven: this proves its excellence; but many sources of unhappiness, and slavery: every one of which, owes its existence to the abuse of some passion or appetite of mankind. Ambitious persons, already raised to a pitch of eminence, disgraceful to human nature; not contented with the vassalage of thousands, who have given themselves up to the vilest subjection, even to be bought or sold like asses or swine; too often, merely to gratify a wanton lust of domination, employ those very wretches, in the infernal business of subjecting others, before happy and free; this constitutes external slavery; of such an attempt we have had a recent trial; but there is another sort of slavery, which from the modesty of its appearance, and gentleness of its approaches, is not so alarming, and therefore the more dangerous; of which we ought continually to beware: viz. internal, that is, when a people already free, implicitly entrust, or permit, any set of men to form constitutions of government or enact laws for them; without inquiring, whether such constitutions, have for their basis, the true principles of liberty, and equal right. Of those principles I have, in a former paper,<sup>2</sup> attempted a very succinct investigation: I shall in this, examine some parts of the fœderal constitution, (now held out to these states) according to those principles, and leave the public, impartially to judge for themselves.

And here, I am happy in finding myself anticipated, and the work partly done to my hand, by the publication of a letter from a gentleman, whose official situation sets his sentiments in a very conspicuous point of view; and whose well known abilities and integrity, make every observation of his, merit the highest degree of attention;<sup>3</sup> I shall therefore pass over those things which he has already done in so masterly a manner, and confine myself to a few points, which he has either slightly touched upon, or has been wholly silent.

Article I. Section I. "All legislative power herein granted, shall be vested in a Congress of the united states; which shall consist of a senate and house of representatives.["]

The absurdity of two houses of legislature, has formerly been touch'd upon on the supposition of their being both our representatives; but

that observation becomes here unnecessary: this appears without a mask: they (the senate) are not even the supposed representatives of any body; but distinguished from them, in as express terms as english words can do it; how then is this a Congress (that is a meet[i]ng) of the united States; when such meeting, does neither consist of the whole people of these states, nor wholly of the representatives of those people? but not to dispute about words let us consider the election, the proportional numbers, and the powers of this senatorial body. And first, they are to be chosen by the legislative bodies of the several states respectively: what numeral proportion these legislative bodies may bear to their constituents, or the people at large, is to me uncertain; but I will suppose it as one to two hundred; it is plain, that if they represent any body at all, it can be only those who have elected them, viz. one two-hundredth part of the people: bodies, having been chosen only for legislative purposes, and election, and legislation, being powers wholly different, and indeed too important to be both committed to the same set of men, at the same time; that choice can invest them with no right to delegate representatives for any body but themselves: but I confess this argument is superfluous, this constitution having in so many words, separated the very Idea or character of a senator, from that of a representative. Again, as to their numbers, there are to be two senators from each state; is not this visibly subversive of the great original right of equality? does it not tend to obliterate the very idea? To demonstrate this, requires only that we compare the representation of the states of Rhode-Island and Providence plantations, with that of Virginia; the former from their numbers, are intitled to have only one representative in Congress; the latter, on the same principle, and for the same reason, are to have ten[.] If Virginia, from her numbers, has a right to ten times the influence of Rhode Island, in the lower house of Congress, why not in the senate? I see no reasonable answer to this, but that the lower house consists of the representatives of the people, consequently are a regular, wel-proportioned body, the senate an unmeaning and arbitrary — — — of the different legislatures; and of consequence a body irregular, deformed, and disproportionate.

But again, if we consider this power, it contains a very considerable and essential share of the elective, legislative, executive, & judiciary department, and in all these, they are independent of the people, nor in any instance responsible to them: from whence can their right to such power arise? It was never delegated to them from the people, who alone were justly possess of it; no exterior power had authority to confer it; it appears therefore a mere non-entity; or rather a complicated usurpation of power without right: and therefore to be re-

jected: and yet, extraordinary as it may seem, this senatorial dignity, is to continue in the same hands *six years*, and even at the end of that term, they are again eligible, and so on a third, a fourth, a seventh time, to perpetuity. But I long to have them off my hands, as I would any other useless or dangerous commodity, and can only consider their institution, as a servile and ill-judg'd imitation of the house of lords in the British parliament, where (though there appears now and then a virtuous character) dissipation, venality, and corruption, are alternately, and incessantly brooding, growing, and triumphing; have often distracted the kingdom, and in some degree, enslaved the nation. I go now to Art. 2 Sec. 1. which vest the supreme continental executive power in a president: in order to the choice of whom, the legislative body of each state, is empowered to point out to their constituents, some mode of choice, or (to save trouble) may choose themselves, a certain number of electors, who shall meet in their respective states, and vote by ballot, for two persons, one of whom, at least shall not be an inhabitant of the same state with themselves. Or in other words, they shall vote for two, one or both of whom they know nothing of. An extraordinary refinement this, on the plain simple business of election; and of which the grand convention have certainly the honour of being the first inventors; and that for an officer too, of so much importance as a president; invested with legislative and executive powers—who is to be commander in chief of the army, navy, militia, &c. grant reprieves and pardons, have a temporary negative on all bills and resolves, convene and adjourn both houses of congress, be supreme conservator of laws, commission all officers, make treaties, &c. &c. and who is to continue four years, and is only removable on conviction of treason or bribery and triable only by the senate, who are to be his own council whose interest in every instance runs paralel with his own: and who are neither the officers of the people nor accountable to them. Is it then become necessary, that a free people, should first resign their right of suffrage into other hands besides their own, and then, secondly, that those to whom they resign it should be compelled to choose men, whose persons, charracters manners or principles they know nothing of; and after all, (excepting some such change as is not likely to happen twice in the same century) to intrust Congress with the final desicion at last? Is it necessary, is it rational that the sacred rights of mankind should thus dwindle down to *Electors of electors*, and those again electors of other electors; this seems to be degrading them, even below the prophetic curse denounced by the good old patriarch, on the offspring of his degenerate son; [“]servant of servants” &c<sup>4</sup>

Art. 1. Sect. 4. "The times, places, and manner of holding elections for senators, and representatives, shall be prescribed in each State, by the legislature thereof; but the Congress may, at any time by law, make or alter such regulations, except as to the place of chusing senators.["] Whether this clause gives Congress a power to call the people of Georgia to chuse their representatives in the city of Boston, and on the twentieth of December, and so of every other State, I leave to be determined by better judges of language than myself: however, I believe I shall not be a miss in asserting, that it invests them with power to appoint the time of choosing senators, at the greatest possible distance from the usual, and perhaps constitutionally appointed time of meeting for the purpose of legislation: This latter in large States, or newly settled countries amounts to little less than a peremptory exclusion of all members of legislature, in exterior districts; who from their situation, are less liable to corruption: the former, if true, would put it into the power of a few, *a very few!* to appoint representatives for the whole continent: and both together, tend to perpetuate the authority, not only of the same men, but also of their *heirs for ever*. Again, I would ask (considering how prone mankind are to engross power, and then to abuse it) is it not probable, at least possible, that the president who is to be vested with all this demi-omnipotence, who is not chosen by the community, and who consequently, as to them, is irresponsible, and independent; that he, I say, by a few, artful and dependant emissaries in congress, may not only perpetuate his own personal administration, but also make it hereditary: that by the same means, he may render his suspensive power over the laws, as operative; and permanant, as that of *G. the 3d* over the acts of the British parliament: and under the modest title of president, may exercise the combined authority of legislation, and execution, in a latitude yet unthought of: or, that upon his being invested with those powers a second, or third time, he may acquire such enormous influence, as, added to his uncontrollable power over the army, navy, and militia; together with his private interest in the officers, of all these different departments, who are all to be appointed by himself; and so his creatures, in the true political sense of the word; and more especially when added to all this, he has the power of forming treaties, and alliances, and calling them to his assistance; that he may, I say, under all these advantages, and almost irresistible temptations, on some pretended pique, haughtily, and contemptuously, turn our poor lower house, (the only shadow of liberty we shall have left) out of doors, and give us law at the bayonets point: or may not the senate, who are nearly in the same situation, with respect to the people, from similar motives,

and by similar means, erect themselves easily into an oligarchy, towards which they have already attempted so large a stride; to one of which channels, or rather to a confluence of both, we seem to be fast gliding away; and the moment we arrive at it—farewell liberty.

This leads me to Art. 1 Sect. 9. "The migration or importation of such persons, as any of the States now existing, shall think proper to admit, shall not be prohibited by the Congress prior to the year 1808; (twenty years hence) but a tax, or duty may be imposed on such importation, not exceeding ten dollars for each person.[''] An excellent clause this, in an Algerine constitution; but not so well calculated (I hope) for the latitude of America. It is not to be disguised that by "such persons," slaves are principally, if not wholly intended: and shall this be found among the principles of a free people, and making a radical part of the grand base, on which they would erect an edifice sacred to liberty. "Tell it not in Gath!"<sup>5</sup> O that no envious surge might ever roll it to the eastern side of the atlantic! Unhappy africans! what have they done? Have they murdered our citizens or burnt our settlements? Have they butchered, scalped, and exhausted every device of torture, on our defenceless women, and innocent children; as the savage mescriants of our own country have done? No, no! Then, why deprive them of the greatest of all blessings, liberty, "without which," says Dr. Price ["]man is a beast, and life a curse;<sup>6</sup> while coward-like, we court, caress, and cringe to our murderers.[''] Ignorant, and comparatively innocent, till we taught them the diabolical arts of destruction, captivity, and death; and provided them with the infernal means of carrying them into practice; and all this to furnish ourselves with slaves, at the guilty expence oftines, of the blood of, ten times the number of those thus enslaved, who lost their lives in the gallant, the virtuous defence of themselves, and families. Has this guilt ever been attoned? and do we boast of being advocates for liberty? shocking absurdity! More absurd still than a licence for such an execrable trade, should be radically woven into, and become an essential part of our national constitution a constitution, formed by a chosen assembly of our most eminent and respectable citizens; and where a personage presided, second to no individual of the human family.

The boast of America.—The wonder of Europe.—  
O liberty! O virtue! O my country.<sup>7</sup>

Tell us, ye who can thus, coolly, reduce the impious principle of slavery, to a constitutional system: ye professed violators of liberties of mankind: where will ye stop? what security can you give, that, when there shall remain no more black people, ye will not enslave others,

white as yourselves? when Africa is exhausted, will ye spare America? and is not twenty years (taking into the account the slain with the more unhappy captives, victims to perpetual slavery) sufficient to depopulate her inmost forests? Or is this only an ill boding prelude, sounded in the ears, and designedly introductory to the fate of these (yet unhappy) states, who gave you existence; and who even now, while you are thus ungratefully soaring toward the summit of *Aristocracy*, are honouring you with their confidence? I shudder at the catastrophe? awake my fellow citizens! and let this infamous clause, together with the principle which gave it birth, be not only expunged out of your constitution: but contemned, eradicated, torn from your heart forever.

To conclude, I can think of but one source of right to government, or any branch of it; and that is *the people*. They, and only they, have a right to determine whether they will make laws, or execute them, or do both in a collective body, or by a delegated authority. Delegation is a positive actual investiture. Therefore if any people are subjected to an authority which they have not thus actually chosen; even though they may have tamely submitted to it, yet it is not their legitimate government: they are wholly passive, and as far as they are so, are in a state of slavery. Thank heaven we are not yet arriv[ed] at that state; and while we continue to have sense enough to discover and detect, and virtue enough to detest and oppose every attempt, either of *force* or *fraud*, either from *without* or *within*, to bring us into it, we never will.

Let us therefore continue united in the cause of rational liberty. Let unity and liberty be our mark as well as our motto: for only such an union can secure our freedom; and division will inevitably destroy it. Thus a mountain of sand may peace-meal be removed by the feeble hands of a child: but if consolidated into a rock, it mocks the united efforts of mankind, and can only fall in a general wreck of nature[.]

1. John Milton, *Paradise Lost*, Book XII, lines 83–85.

2. See "Republicus," *Kentucky Gazette*, 16 February (above).

3. Probably a reference to Richard Henry Lee's 16 October letter to Governor Edmund Randolph (above) which was written when Lee was a delegate to Congress. The *Kentucky Gazette* had reprinted Lee's letter on 2 February.

4. Genesis 9:25. This incident, concerning Noah, his son Ham, and his grandson Canaan, is also referred to in Milton's *Paradise Lost*, Book XII, lines 101–4. (See note 1, above.)

5. II Samuel 1:20.

6. Richard Price, *Observations on the Nature of Civil Liberty, the Principles of Government, and the Justice and Policy of War with America . . .* (London, 1776), section I, "Of the Nature of Liberty in General," pp. 5–6. *Observations* first appeared in London in February 1776 and within two months over 60,000 copies (in fourteen editions) were sold. Later in 1776, it was reprinted twice in Philadelphia, and once each in Boston, New York, and Charleston (Evans 15030–34).



7. The second line is taken from Joseph Addison's play *Cato. A Tragedy*. (See "Philanthropos," *Virginia Journal*, 6 December, note 3, above.)

**George Washington to James Madison**  
**Mount Vernon, 2 March<sup>1</sup>**

The decision of Massachusetts, notwithstanding its concomitants,<sup>2</sup> is a severe stroke to the opponents of the proposed Constitution in this State; and with the favorable determinations of the States which have gone before, and such as are likely to follow after, will have a powerful operation on the Minds of men who are not actuated more by disappointment,<sup>3</sup> passion and resentment, than they are by moderation, prudence & candor.—Of the first description however, it is to be lamented that there are so many—and among them, *some* who would hazard *every* thing rather than their opposition should fail, or the sagacity of their prognostications should be impeached by an issue contrary to their predictions.

The determination you have come to, will give pleasure to your friends.—From those in your own County you will learn with more certainty than from me, the expediency of your attending the Election in it.<sup>4</sup>—With *some*, to have differed in sentiment, is to have passed the Rubicon of their friendship, altho' you should go no further—with others (for the honor of humanity) I hope there is more liberality; but the consciousness of having discharged that duty which we owe to our Country, is superior to all other considerations, and will place smaller matters in a secondary point of view.—

His Most Ch—n M—y<sup>5</sup> speaks, & acts in a style not very pleasing to republican ears, or to republican forms;—nor do I think this language is altogether so to the temper of his own Subjects at *this* day.—Liberty, when it begins to take root, is a plant of rapid growth.—The checks he endeavors to give it; however warrantable by ancient usage, will, more than probably, kindle a flame which may not easily be extinguished; tho' for a while it may be smothered by the Armies at his Command, & the Nobility in his interest.—When the people are oppressed with Taxes, & have cause to suspect that there has been a misapplication of their money, the language of despotism is but illy brooked.—This, & the mortification which the pride of the Nation has sustained in the affairs of Holland (if one may judge from appearances) may be productive of events which prudence will not mention<sup>6</sup>

To-morrow, the Elections for delegates to the Convention of this state commences—and as they will tread close on the heels of each other this month becomes interesting and important.—

1. RC, Lee-Kohns Collection, NN.

2. On 15 February Madison, writing from New York City, evidently sent Washington a newspaper copy of the Massachusetts form of ratification that included the Convention's proposed amendments to the Constitution. "The amendments," wrote Madison, "are a blemish, but are in the least offensive form" (Rutland, *Madison*, X, 510). For the amendments, see CC:508.

Madison had been keeping Washington informed about the Massachusetts Convention, writing him at least seven letters on this subject between 20 January and 11 February. In six of these letters Madison quoted Rufus King, who had been keeping Madison apprised of the Convention's proceedings (Rutland, *Madison*, X, 399, 419–20, 437–38, 455, 464–65, 481–82, 498–99). Washington believed that Massachusetts was crucial to the ratification process. On 5 February he wrote Madison that "A rejection of the New form by that State will enervate the opposition, not only in New York, but in all those which are to follow;—at the same time that it will afford materials for the Minority in such as have adopted it to blow the Trumpet of discord more loudly.—The acceptance by a *bare* majority, tho' preferable to rejection, is also to be deprecated" (CC:499).

3. The letterbook version has "Peak" instead of "disappointment."

4. On 20 February Madison wrote Washington that he would seek election to the Virginia Convention from Orange County, and that he would leave Congress, if told that his presence at the election was "indispensable" (Orange County Election, II, below).

5. His Most Christian Majesty, Louis XVI of France.

6. For Madison's comments about France and the Dutch patriots, see his 20 February letter to Washington (Rutland, *Madison*, X, 527).

### Cyrus Griffin to Thomas FitzSimons New York, 3 March (excerpt)<sup>1</sup>

... N: Hampshire, I am very sorry to tell you that the convention have seperated without taking a question upon the important business of the constitution; it seems that the federal Members were apprehensive of a negative, and therefore came into the measure of an Adjournment untill June:<sup>2</sup> I consider this piece of conduct as very unfortunate indeed, for nine states will not have agreed to the System before Virginia shall be assembled; this will make her in fact the preponderating state of the union; and being so placed I fear the consequences; perhaps Rhode Island may take up the discussion and accord with the plan, the best men of the country are very busy to that purpose, but as yet they appear a minority<sup>3</sup>—we are parting with our valuable friend Madison to Virginia from Congress, but still I am doubtful that all his virtues and abilities will avail nothing.<sup>4</sup> . . .

1. RC, Gratz Collection, PHI.

2. For the adjournment of the New Hampshire Convention to 18 June and its impact on other states, see CC:554.

3. On 24 March Griffin, still pessimistic, wrote James Madison: "The adjournment of N. Hampshire, the small majority of Massachusets, a certainty of rejection in Rhode Island, the formidable opposition in the state of n. york, the convulsions and Committee meetings in pennsylvania, and above all the antipathy of virginia to the system, operating together, I am apprehensive will prevent the noble fabrick from being erected. The constitution is beautiful in Theory—I wish the experiment to be made—in my opinion it would be found a government of sufficient energy *only*" (CC:640).

4. On 6 March Nicholas Gilman, a New Hampshire delegate to Congress, noted: "Our great and good friend Madison has just set out for Virginia where I hope his influence will be at least sufficient to counteract the ill effects of the backsliding of my native state" (to John Langdon, Dreer Collection, PHi).

**Thomas Hartley to Tench Coxe**  
**York, Pennsylvania, 3 March (excerpt)<sup>1</sup>**

... Virginia I presume will assume the Air of Wisdom and Importance; and the Leaders of the Antifœderalists will endeavour to carry their Point by Embarrassments such as adding other Amendments to those of Massachusetts &c.<sup>2</sup> The good Sense of those Gentlemen who will watch them will I hope prevent any bad Consequences. . . .

1. RC, Tench Coxe Papers, Series II, Correspondence and General Papers, PHi. Printed: CC:586. Hartley (1748–1800), a York, Pa., lawyer, voted to ratify the Constitution in the Pennsylvania Convention in December 1787.

2. For the adoption of recommendatory amendments by the Massachusetts Convention in February and for their impact on other states, see CC:508.

**James Madison to George Washington**  
**New York, 3 March<sup>1</sup>**

The Convention of N. Hampshire has afforded a very disagreeable subject of communication. It has not rejected the Constitution; but it has failed to adopt it. Contrary to all the calculations that had been made it appeared on a meeting of the members that a majority of 3 or four was adverse to the object before them, and that on a final question on the merits, the decision would be in the negative. In this critical state of things, the fœderalists thought it best to attempt an adjournment, and having proselyted some of the members who were positively instructed agst. the Constitution, the attempt succeeded by a majority of 57 agst. 47. if my information as to the numbers be correct. It seems to be fully expected that some of the instructed members will prevail on their towns to unfetter them and that in the event N. Hampshire will [be] among the adopting States. The mischief elsewhere will in the mean time be of a serious nature. The second meeting is to be in June. This circumstance will probably be construed in Virga. as making cotemporary arrangements with her. It is explained to me however as having reference merely to the conveniency of the members whose attendance at their annual elections & courts would not consist with an earlier period.—The opposition I understand is composed precisely of the same description of characters with that of Massts. and stands contrasted to all the wealth, abilities and respectability of the State.

I am preparing to set out for Orange, and promise myself the pleasure of taking Mount Vernon in the way.<sup>2</sup>

1. RC, Washington Papers, DLC. On this same day, Madison also wrote Edmund Randolph and Edmund Pendleton, explaining why the New Hampshire Convention adjourned without ratifying the Constitution (see CC:587; and Rutland, *Madison*, X, 554. For the Convention's adjournment, see CC:554.).

2. Madison arrived at Mount Vernon on 18 March and remained until the 20th.

**George Washington to John Jay  
Mount Vernon, 3 March (excerpt)<sup>1</sup>**

. . . The decision of Massachusetts would have been more influential had the Majority been greater, and the Ratification unaccompanied by the Recommendatory Act.<sup>2</sup>—As it stands however, the blow is severely felt by the antifederalists in the equivocal States.—This adoption added to the five States whh. have gone before it, and to the favorable decision of the three which is likely [to] follow next, will (as there can be little doubt of Rhode Island following the example of her Eastern brethren) be too powerful, I conceive, for locallity and sophistry to combat.—

On this day our Elections of Delegates to the Convention of this State, commences.—They will progress as our Court days in this Month shall arrive, and form an interesting epoch in our annals.—after the choice is made, the probable decision on the proposed Constitution (from the character of the members) can with more ease be conjectured:<sup>3</sup> for myself I have never entertained much doubt of its adoption, tho' I am incompetent to judge, never having been six miles beyond the limits of my own Farms since my return from Philadelphia; and receive information of the sentiments of the people from Visitors only. . . .

1. RC, Jay-Iselin Collection, Columbia University Libraries. Printed: Fitzpatrick, XXIX, 432–33. Jay (1745–1829), a lawyer, was Confederation Secretary for Foreign Affairs and the author of *The Federalist* 2–5 and 64. He was one of the Federalist leaders in the New York Convention, where he voted to ratify the Constitution in July.

2. For the adoption of recommendatory amendments by the Massachusetts Convention and their impact in other states, see CC:508.

3. On the same day, Washington made a similar statement in a letter to Henry Knox (Fitzpatrick, XXIX, 435).

**Tobias Lear to William Prescott, Jr.  
Mount Vernon, 4 March (excerpt)<sup>1</sup>**

. . . I congratulate you upon the adoption of the proposed Government in your State.—The majority in favor of it, tho' small, was very respectable, and the decent behaviour of the minority will have more

influence than the decision itself.—What *will* be its fate in this State is impossible to foretell at this distant period from our convention, but from every information I can gain (and my situation is such as enables me to gain the best) I have not a doubt of its being accepted—its opponents here are men of great influence & abilities, but their arguments have not that decided weight with the people which they would have upon any other subject—this is an important one upon which they chuse to think for themselves, and the favourable decisions of other States have more influence than the persuasive Rhetoric of a Mason, a Lee, a Henry or a Randolph.—I was not in the convention, but I suppose no person, who was not a member of that body, has had a better opportunity of knowing what were the sentiments & doings of almost every man there than myself.—The Constitution and its circumstances have been almost the sole topics of conversation here for some months past, and as we are visited by few Characters but the first & best informed<sup>2</sup> I have had more LIGHT thrown upon the subject than Mr Gerry<sup>3</sup> could have diffused had he possessed ten-times the abilities, knowledge & information than he does.—The report that General Washington was *drawn in* to sign it is as false as it is artful;<sup>4</sup>—he looks up to it as the rock of our political salvation—he knows it is not perfect, but he knows, at the same time that it approaches much nearer to perfection than any person, who knew the variety of views, interêts & prejudices which were to conciliate, could have expected.—Thus much for great & political matters. . . .

1. RC, William Prescott Papers, MHi. The address page, postmarked "ALEX, MARCH 24," included a note in George Washington's handwriting: "Free/Go: Washington." In a part of the letter omitted here, Lear said that Washington had permitted him to use his franking privileges. Prescott (1762–1844), a Beverly, Mass., lawyer, and Lear were graduated from Harvard College in 1783. Prescott had turned down the position of Washington's private secretary before it was offered to and accepted by Lear.

2. Since October, Washington had been visited by such members of the Constitutional Convention as Charles Cotesworth Pinckney, William Houstoun, and Gouverneur and Robert Morris, and by such congressmen as Richard Henry Lee, Henry Lee, and Edward Carrington. James Madison, a delegate to both bodies, visited Mount Vernon between 18 and 20 March. Arthur Lee, a member of the Confederation Board of Treasury, also stopped at Mount Vernon.

3. In his letter of 27 January (not found), Prescott possibly told Lear that the Massachusetts Convention had invited Constitutional Convention delegate Elbridge Gerry to answer questions about the drafting of the Constitution.

4. For Antifederalist charges that Washington was duped into signing the Constitution and that he signed only because he was President of the Constitutional Convention, see "Centinel" I, Philadelphia *Independent Gazetteer*, 5 October (CC:133), and *Pennsylvania Herald*, 19, 22 December, note 3 (CC:Vol. 3, pp. 555–56). "Centinel" I was reprinted in the Winchester *Virginia Gazette*, 2 November (long excerpt); the *Virginia Independent Chronicle*, 7, 14 November; and in a Richmond pamphlet anthology published around 15 December (above). See also "A Virginian," *Norfolk and Portsmouth Journal*, 12 March, note 2 (below).

**Massachusetts Salem Mercury, 4 March<sup>1</sup>**

It is the private opinion of some of the first characters in Virginia, that, notwithstanding the respectable names which have appeared against it, there will be found a majority in favour of the New Constitution, in that State. The Hon. Richard Henry Lee, if not clearly convinced of the propriety of the measure, has, it is said, so far assented to it, as to declare that he will not oppose it. This is considered as a favourable omen to the federal cause, as the extensive influence of such a man, thrown into either scale, might possibly turn the balance.

1. Reprinted: Springfield, Mass., *Hampshire Chronicle*, 12 March.

**A Federal Republican****Norfolk and Portsmouth Journal, 5 March<sup>1</sup>**

*To the People of Virginia.*

Friends & Fellow Citizens, As the time fast approaches, when you are to make choice of persons to represent you in a Convention of this State, to be held in June next, for the purpose of considering the proposed plan of Fœderal Government, it becomes the *duty* as well as the right of every citizen, upon a subject so important, to offer his sentiments to the public; and I may add too, that it is peculiarly your interest at this momentous crisis, to give the most earnest attention to every thing which may tend in the remotest degree to give you information upon a subject of such vast magnitude. In order then, my fellow citizens, to form an idea of the nature of this business which so materially concerns the happiness of us all, it might not be improper to take a view of the powers granted to Congress by the articles of Confederation, as well as those proposed to be ceded to the Congress which will be appointed in case of the adoption of the new Constitution.

By the articles of Confederation, the Congress of the United States was vested with powers for conducting the common concerns of the continent. They had the sole and exclusive right and power of determining on peace and war; of sending and receiving ambassadors; of entering into treaties and alliances, and of pointing out the respective quotas of men and money which each State should furnish. But it was expressly provided that the money to be supplied by each State should be raised by the authority and direction of the Legislature thereof: Thus reserving to the States the important privilege of levying taxes upon their citizens in such manner as might be most conformable to

their peculiar circumstances and form of government. With powers thus constituted, was Congress enabled to unite the general exertions of the continent in the cause of liberty, and to carry us triumphantly through a long and bloody war. It was not until some time after peace and a glorious independence had been established, that defects were discovered in that system of foederal government which had procured to us those blessings. It was then perceived that the articles of Confederation were inadequate to the purposes of the union; and it was particularly suggested as necessary to vest in Congress the further power of exclusively regulating the commerce of the United States, as well to enable us, by a system more uniform, to counteract the policy of foreign nations, as for other important reasons. Upon this principle, a General Convention of the United States was proposed to be held, and Deputies were accordingly appointed by twelve of the States charged with power to revise, alter, and amend the articles of Confederation. When these Deputies met, instead of confining themselves to the powers with which they were entrusted, they pronounced all amendments to the articles of Confederation wholly impracticable, and *with a spirit of amity and concession* truly remarkable!<sup>2</sup> proceeded to form a government entirely new, and totally different in its principles and organization. Instead of a Congress whose members could serve but three years out of six, and then to return to a level with their fellow citizens, and who were liable at all times, whenever the States might deem it necessary, to be recalled; Congress, by this new Constitution, will be composed of a body whose members during the time they are appointed to serve, can receive no check from their constituents. Instead of the powers formerly granted to Congress of ascertaining each State's quota of men and money, to be raised by the Legislatures of the different States in such a mode as they might think proper, Congress, by this new government, will be invested with the formidable powers of raising armies, and levying money, totally independent of the different States. They will moreover, have the power of leading troops among you in order to suppress those struggles which may sometimes happen among a free people, and which tyranny will impiously brand with the name of sedition. On one day, the State Collector will call on you for your proportion of those taxes which have been laid on you by the General Assembly, where you are fully and adequately represented;—on the next will come the *Continental* Collector to demand from you those taxes which shall be levied by the Continental Congress, where the whole State of Virginia will be represented by only ten men! Thus shall we imprudently confer on so small a number the very important power of taking our money out of our pockets,

and of levying taxes without controul;—a right which the wisdom of our State Constitution will, in vain have confided to the most numerous branch of the Legislature. Should the Sheriff, or State Collector in any manner aggrieve you either in person or property, these sacred rights are amply secured by the most solemn compact: Beside, the arm of government is always at hand to shield you from his injustice and oppression. But if a *Continental* Collector, in the execution of his office, should invade your freedom (according to this new government, which has expressly declared itself paramount to all State laws and Constitutions) the State of which you are a citizen, will have no authority to afford you relief. A Continental Court may, indeed, be established in the State, and it may be urged that you will find a remedy here, but, my fellow citizens, let me ask, what protection this will afford you against the insults or rapacity of a Continental officer, when he will have it in his power to appeal to the seat of Congress perhaps at several hundred miles distance, and by this means oblige you to expend hundreds of pounds in obtaining redress for twenty shillings unjustly extorted? Thus will you be necessarily compelled either to make a bold effort to extricate yourselves from these grievous and oppressive extortions, or you will be fatigued by fruitless attempts into the quiet and peaceable surrender of those rights, for which, the blood of your fellow citizens has been shed in vain. But the latter will, no doubt, be the melancholy fate of a people once inspired with the love of liberty, as the power vested in Congress of sending troops for suppressing insurrections, will always enable them to stifle the first struggles of freedom.

1. For commentaries on this item, see "A Virginian," *Norfolk and Portsmouth Journal*, 12 March (below), and "Alexander M'Sarcasm," *ibid.* (Mfm:Va.). "A Federal Republican" apparently answered "A Virginian" in the *Journal* on 26 March (not extant) because on 2 April "A Virginian" criticized him for "ignorantly or designedly" misunderstanding him (below).

2. In his 17 September 1787 letter to the President of Congress, George Washington—the President of the Constitutional Convention—said: "and thus the Constitution, which we now present, is the result of a spirit of amity, and of that mutual deference and concession which the peculiarity of our political situation rendered indispensable" (CC:76; and CDR, 305). This letter and the Constitution had been reprinted in the supplement to the 28 September issue of the *Norfolk and Portsmouth Journal*.

### **The Impartial Examiner I** **Virginia Independent Chronicle, 5 March<sup>1</sup>**

(Concluded from our last.)

After the most deliberate reflections on this important matter, permit me, my dear countrymen, to declare to you in the most unfeigned



manner, that not perceiving any thing in the proposed plan of government, which seems calculated to ensure the happiness of America—I could not, as a fellow-citizen, resist the inclination to impart these sentiments to you. Unmoved by party—rage—unassailed by passion—uninfluenced by any other interest, but the genuine effusion of zeal for this, our common country, I confess to you in the language of sincerity and candor, that after the first reading of this new code, I could not behold it, but with an eye of disapprobation. Unwilling, however, to reject at first sight an object of such high moment, I resolved to distrust the propriety of a construction passed at so early a period.—This led me to peruse it with the utmost diligence I was capable of; and believe me, the foregoing observations have arisen from the fullest conviction, that the system involves in it the most dangerous principles; and—so far from exalting the *standard* of American liberty, I fear indeed that, should it be adopted, this glorious *work*, which already has cost the lives of many worthy patriots, will ere long be leveled with the dust. Let it not be conjectured from hence that any illiberal conceptions are formed by the writer hereof respecting the intentions of those gentlemen, who have offered this plan of federal government. He knows no circumstance inducing him to suppose they had any other object in view but the good of their country.—When we contemplate the great—the magnanimous HERO, who has conducted our armies through all the trying vicissitudes of danger and difficulty,—there is no man so disingenuous—there is no man so ungrateful, as to impute any transactions of his to sinister motives. Every true American is well assured that steadiness of virtue—that benignity of soul have the chief rule in all his actions.—Yet every American, and every other person, are satisfied also that there is no infallibility in human nature.—To be man is to be subject to error. The best, the greatest, the wisest are liable to commit mistakes.—Let it be remembered, then, that this code of government is solemnly proposed to every freeman in America. For what?—For the purpose of binding them without their approbation? No.—For an implicit acceptance? No.—For their adoption merely in compliment to the general convention? No.—What then?—Every man's duty to his country points out to him the end of this proposition. Every man knows that it is for a free, a candid, an impartial discussion and determination thereon; whether they will approve and adopt it; or whether they will disapprove and reject it. Can any citizen, therefore, be so weak? can any be so timid? so pusillanimous, as to acknowledge that he has no right to exercise his own judgment with any regard to this matter? If there should be any haughty spirits among us, who think that this subject ought to be

handled by none but a few persons of eminent characters, let such recollect that the dignity, the importance of their country should inspire sentiments more exalted than the highest characters—sentiments, that should correspond with the worth of America, not with the consequence of any mere individuals. Will you, then, Virginians, arrogate too much by boldly asserting the privilege to judge for yourselves in what so nearly concerns the cause of liberty? No, no, my countrymen, you will not arrogate too much; you will not; I avow it by the souls of those brave patriots, who fought for the same cause in the late war. You will in this affair act as becomes you. The rank, you hold amongst the nations of the earth, requires this of you. And you will forfeit that rank: you will forfeit the character of *freemen*; and shew that you deserve to be enslaved, if you decline that privilege. The happiness of a multitude of people is certainly the highest advantage, which can be conferred on any society: and if you will contribute a full share of duty to effect this, so shall you obtain a due share of glory. No pomp of character, no sound of names, no distinction of birth—no pre-eminence of any kind, should dispose you to hoodwink your own understandings; and in that state suffer yourselves to be led at the will of any order of men whatsoever. The part you have acted heretofore,—the brave, the noble efforts, you have made, are proof enough of your fortitude, and totally exclude every idea of pusillanimity. Herein you have evinced the highest sense of public virtue; herein you have manifested to the whole world that the cause of liberty has hitherto had the prevailing influence over your hearts. And shall men possessed of these sentiments? shall those valiant defenders of their country, who have not feared to encounter toil and danger in a thousand shapes? who have not startled, even at the prospect of death itself? Shall you, O Virginians; shall you, I say, after exhibiting such bright examples of true patriotic heroism, suddenly become inconsistent with yourselves; and were<sup>2</sup> to maintain a privilege so incontestibly your due?—No, my countrymen;—by no means can I conceive that the laudable vigor, which flamed so high in every breast, can have so far evaporated in the space of five years. I doubt not, but you will in this trying instance acquit yourselves in a manner worthy of your former conduct. It is not to be feared that you need the force of persuasion, to exercise a proper freedom of enquiry into the merits of this proposed plan of government: or that you will not pay a due attention to the welfare of that country, for which you have already so bravely exerted yourselves. Of this I am well assured; and do not wonder when imagination presents to my view the idea of a numerous and respectable body of men reasoning on the principles of this federal constitution. If herein

I conceive that you are alarmed at the exceedingly high and extensive authority, which it is intended to establish, I cannot but see the strongest reasons for such apprehensions. For a system, which is to supersede the present different governments of the states, by ordaining that "laws made in pursuance thereof shall be supreme, and shall bind the judges in every state, any thing in the constitution or laws of any state to the contrary notwithstanding," must be alarming indeed! What cannot this omnipotence of power effect? How will your bill of rights avail you any thing? By this authority the Congress can make laws, which shall bind all, repugnant to your present constitution—repugnant to every article of your rights; for they are a part of your constitution,—they are the basis of it. So that if you pass this new constitution, you will have a naked plan of government unlimited in its jurisdiction, which not only expunges your bill of rights by rendering ineffectual, all the state governments; but is proposed without any kind of stipulation for any of those natural rights, the security whereof ought to be the end of all governments. Such a stipulation is so necessary, that it is an absurdity to suppose any civil liberty can exist without it. Because it cannot be alledged in any case whatsoever, that a breach has been committed—that a right has been violated; as there will be no standard to resort to—no criterion to ascertain the breach, or even to find whether there has been any violation at all. Hence it is evident that the most flagrant acts of oppression may be inflicted; yet, still there will be no apparent object injured: there will be no unconstitutional infringement. For instance, if Congress should pass a law that persons charged with capital crimes shall not have a *right to demand the cause or nature of the accusation, shall not be confronted with the accusers or witnesses, or call for evidence in their own favor*; and a question should arise respecting their authority therein,—can it be said that they have exceeded the limits of their jurisdiction, when *that* has no limits; when no provision has been made for such a right?—When no responsibility on the part of Congress has been required by the constitution? The same observation may be made on any arbitrary or capricious imprisonments *contrary to the law of the land*. The same may be made, if *excessive bail should be required*; if *excessive fines should be imposed*; if *cruel and unusual punishments should be inflicted*; if *the liberty of the press should be restrained*; in a word—if laws should be made totally derogatory to the whole catalogue of rights, which are now secure under your present form of government.

You will, doubtless, consider whether the inconveniencies may not be very disagreeable, and perhaps injurious, to which this country may be subjected by excise laws,—by direct taxation of every kind,—by the

establishment of foederal courts. You will advert to the dangerous and oppressive consequences, that may ensue from the introduction of standing armies in times of peace; those baneful engines of ambition, against which free nations have always guarded with the greatest degree of caution. You will determine likewise as to the propriety of being excluded from keeping ships of war without the consent of Congress. The situation of these states renders a naval force extremely desirable. Being bounded on one side by the sea, their coasts are accessible to every lawless adventurer: and without ships to guard them, they are subject to continual depredations. The expediency of this species of defence is manifest. The great advantages to be derived from it,—the strength,—the consequence, which it adds to a nation, are such, that every well-wisher to this country would rejoice to see as large a navy established, as the circumstances of the state can at any time admit of. This, therefore, seems to be a very improper restraint upon the states,—a restraint, which may perhaps eventually prove very injurious.

Upon the whole, my fellow-citizens, if you judge this proposed constitution to be eligible or ineligible, you will accordingly instruct your delegates when they are about to meet in convention. The wisdom of the legislature has judged it advisable to fix the time for deciding on this momentous business at the distance of several months, that you may become thoroughly acquainted with a subject, which so nearly concerns your greatest interests.

I know it is a favorite topic with the advocates for the new government—that it will advance the dignity of Congress; and that the energy, which is now wanting in the foederal system, will be hereby rendered efficient. Nobody doubts, but the government of the union is susceptible of amendment. But can any one think that there is no medium between want of power, and the possession of it in an unlimited degree? Between the imbecility of mere recommendatory propositions, and the sweeping jurisdiction of exercising every branch of government over the United States to the greatest extent? Between the present feeble texture of the confederation, and the proposed nervous ligaments? Is it not possible to strengthen the hands of Congress so far as to enable them to comply with all the exigenc[i]es of the union—to regulate the great commercial concerns of the continent,—to superintend all affairs, which relate to the United States in their aggregate capacity, without devolving upon that body the supreme powers of government in all its branches? The original institution of Congressional business,—the nature, the end of that institution evince the practicability of such a reform; and shew that it is more honorable, more glorious—and will be more happy for each American state to retain

its independent sovereignty. For what can be more truly great in any country than a number of different states in the full enjoyment of liberty—exercising distinct powers of government; yet associated by *one general head*, and under the influence of a mild, just and well-organized confederation duly held *in equilibrio*;—whilst all derive those external advantages, which are the great purposes of the union? This separate independency existing in each—this harmony pervading the whole—this due degree of energy in the fœderal department, all together, will form a beautiful *species* of national grandeur. These will add lustre to every member, and spread a glory all around. These will command the admiration of mankind. These will exhibit a bright *specimen* of real dignity, far superior to that immense devolution of power, under which the sovereignty of each state shall shrink to nothing.

It requires no great degree of knowledge in history to learn what dangerous consequences generally result from large and extensive powers. Every man has a natural propensity to power; and when one degree of it is obtained, *that* seldom fails to excite a thirst for more;—an higher point being gained, still the soul is impelled to a farther pursuit. Thus step by step, in regular progression, she proceeds onward; until the lust of domination becomes the ruling passion, and absorbs all other desires. When any man puts himself under the influence of such a passion, it is natural for him to seek after every opportunity, and to employ every means within reach, for obtaining his purpose. There is something so exceedingly bewitching in the possession of power that hardly a man can enjoy it, and not be affected after an unusual manner. The pomp of superiority carries with it charms, which operate strongly on the imagination. Nay, it is a melancholy reflection that too often the very disposition itself is transformed,—and for the gratification of ambitious views, the mild, the gentle, humane—the virtuous become cruel and violent, losing all sense of honor, probity, humanity and gratitude.—Hence, should it not be a *maxim*, never to be forgotten—that a free people ought to intrust no set of men with powers, that may be abused without controul, or afford opportunities to designing men to carry dangerous measures into execution, without being responsible for their conduct? And as no human foresight can penetrate so far into future events, as to guard always against the effects of vice,—as the securest governments are seldom secure enough;—is it not the greatest imprudence to adopt a system, which has an apparent tendency to furnish ambitious men with the means of exerting themselves—perhaps to the destruction of American liberty?

It is next to impossible to enslave a people immediately after a firm struggle against oppression, while the sense of past injury is recent

and strong. But after some time this impression naturally wears off;—the ardent glow of freedom gradually evaporates;—the charms of popular equality, which arose from the *republican plan*, insensibly decline;—the pleasures, the advantages derived from the new kind of government grow stale through use. Such declension in all these vigorous springs of action necessarily produces a supineness. The altar of liberty is no longer watched with such attentive assiduity;—a new train of passions succeeds to the empire of the mind;—different objects of desire take place;—and, if the nation happens to enjoy a series of prosperity, voluptuousness, excessive fondness for riches, and luxury gain admission and establish themselves—these produce venality and corruption of every kind, which open a fatal avenue to bribery. Hence it follows, that in the midst of this general contagion a few men—or one—more powerful than all others, industriously endeavor to obtain all authority; and by means of great wealth—or embezzling the public money,—perhaps totally subvert the government, and erect a system of aristocratical or monarchic tyranny in its room. What ready means for this *work of evil* are numerous standing armies, and the disposition of the great revenue of the United States! Money can purchase soldiers;—soldiers can produce money; and both together can do any thing. It is this deprivation of manners, this wicked propensity, my dear countrymen, against which you ought to provide with the utmost degree of prudence and circumspection. All nations pass this *paroxysm* of vice at some period or other;—and if at that dangerous juncture your government is not secured upon a solid foundation, and well guarded against the machinations of evil men, the liberties of this country will be lost—perhaps forever!

Let us establish a strong foederal government, which shall render our Congress a great and eminent body, says one. By all means, replies another; and then they will command the attention of all Europe.—Why, pray, what will it avail you in the hour of distress—in the midst of calamity, though all Europe should pay attention to the Congress? What advantage will it be to the citizens of America, should they elevate Congress to the highest degree of grandeur;—should the sound of that grandeur be wafted across the Atlantic, and echoe through every town in Europe? What will the pomp—the splendor of that *dignified body* profit you, I say, if you place yourselves in a situation, which may terminate in wretchedness? Of what consequence will that state of congressional preeminence be to you, or to your posterity, if either the one, or the other should thereby be reduced to a mere herd of —? O great GOD, avert that dreadful catastrophe.—Let not the day be permitted to dawn, which shall discover to the world that America

remains no longer a free nation!—O let not this last sacred asylum of persecuted *liberty* cease to afford a resting place for that fair goddess!—Re-animate each spirit, that languishes in this glorious cause! Shine in upon us, and illumine all our counsels!—Suffer thy bright ministers of grace to come down and direct us;—and hovering for awhile on the wings of affection, breathe into our souls true sentiments of wisdom!—that in this awful, this important moment we may be conducted safely through the maze of error!—that a firm basis of national happiness may be established, and flourish in undiminished glory through all succeeding ages!

P. P.

December 17, 1787.

1. The first two parts of this essay were printed on 20 and 27 February (above).

2. In the issue of 12 March, the printer of the *Chronicle* noted that “were” should be changed to “cease.”

### John Page to Thomas Jefferson Rosewell, 7 March

For this letter, see Gloucester County Election (II below).

### Arthur Lee’s Report on Virginia Antifederalism Philadelphia Independent Gazetteer, 7 March

On 7 March the Philadelphia *Independent Gazetteer* stated that Arthur Lee (on his way to New York City from his Virginia home) passed through Philadelphia and informed people that four-fifths of the inhabitants of Virginia were opposed to the Constitution. Four days later four New York City newspapers—the *New York Daily Advertiser*, *New York Morning Post*, *New York Packet*, and *New York Journal*—printed statements indicating that Lee had not made this assertion nor had he authorized its publication. The *Packet* made the strongest comment, charging that this intelligence from Philadelphia was “*destitute of truth*.” On 19 March Federalist Walter Rutherford, a New York City merchant, noted that “A. Lee is also returned from Virginia, says the new Constitution is as unfashionable there, as it is otherwise here” (to John Rutherford, Rutherford Collection, NH).

(For a full discussion of the newspaper debate that the Philadelphia *Independent Gazetteer*’s item touched off in New York City and Philadelphia, see CC:602.)

The report of the Philadelphia *Independent Gazetteer* of 7 March was reprinted in the *Virginia Independent Chronicle* on 26 March, and the Winchester *Virginia Centinel* on 2 April. Outside Virginia, the *Gazetteer*’s account was reprinted eight times by 2 April: N.Y. (4), N.J. (1), Pa. (1), Md. (2). The denial printed by the *New York Packet* on 11 March was reprinted in the Winchester *Virginia Gazette* on 9 April, which had not reprinted the *Gazetteer*’s item; but, on 14 and 26 March, the Winchester *Virginia Gazette* alluded to the four-fifths reference (both below).

We hear, that on Monday last passed thro' this city, on his way from Virginia to New-York, the honorable *Arthur Lee*; this gentleman informs, that four-fifths of the people of Virginia are opposed to the new constitution: and that so far from there being any chance of its adoption by that state, that there is great fear they will not allow the necessary additional powers to congress, because they have been so much alarmed by the present conspiracy against their liberties.<sup>1</sup> The same gentleman says, so great a game of deception is carrying on there; that it is generally believed all opposition is at an end in Pennsylvania and elsewhere.

1. On the same day the *Gazetteer* also printed an Antifederalist article under the title "A real state of the proposed constitution in the United States" that outlined the politics of ratification in the thirteen states. With respect to Virginia the item stated: "4-5ths of the people and most of the leading characters are decided against it; their convention not to meet till June. That state will not allow Congress farther than commercial and such general powers, and the impost. They will not allow standing armies, &c. nor part with that grand bulwark of freedom, annual elections and rotation" (CC:603).

### The Editorial Policy of the Winchester Virginia Gazette 7, 14 March

The *Virginia Gazette, and Winchester Advertiser*, Winchester's first newspaper, was established by Henry Willcocks & Company on 11 July 1787, but with the issue of 22 August it was published by Matthias Bartgis and Willcocks. Since 1785, Bartgis (1750–1825), a native of Lancaster, Pa., had published, at various times, both English- and German-language newspapers in Maryland, Pennsylvania, and Virginia. Willcocks ended his association with the *Virginia Gazette* with the issue of 11 January 1788. The *Gazette* was one of the few newspapers which, though not Antifederalist, printed a substantial amount of Antifederalist material, thus angering Winchester Federalists.

On 7 March, Bartgis informed his readers that Nathaniel Willis was his new partner. Between 1776 and 1786, Nathaniel Willis had been associated with two Boston newspapers—the *Independent Chronicle* (1776–83) and the *American Herald* (1784–86). Like the *Virginia Gazette*, the *Chronicle*, though not Antifederalist, printed a significant quantity of Antifederalist items, while the *Herald* was among the few newspapers that was clearly opposed to the Constitution. Willis' announcement in the *Virginia Gazette* on 14 March that he intended to keep the *Virginia Gazette* "free and open" further antagonized Winchester Federalists.

To counter the *Virginia Gazette*, Richard Bowen & Co. established the *Virginia Centinel*; or, the *Winchester Mercury* on 2 April. In this first issue, Bowen & Co. stated that it had been "Called upon by the PUBLIC VOICE" to establish the *Centinel*. Obviously alluding to Willis' announced editorial policy of impartiality, Bowen & Co. declared that "It has been customary with some, at the commencement of undertakings of this nature, to lavish many WORDS in commendation of the good conduct they mean to pursue,



in selecting, and issuing forth, such matter as may prove of general utility to the whole community:—We beg leave to deviate from those who have gone before us, in this respect, least we should fall into the dilemma of asserting MORE THAN WE ARE ABLE TO PERFORM.

“WORDS, the mere effusions of WIND, should never, in our opinion, be made use of, either in writing or speaking, unless they are intended to convey TRUTH—we hope our DEEDS will render us deserving the countenance and support of a judicious and disinterested public, to merit which will be our highest ambition.”

*Matthias Bartgis' Editorial Announcement, 7 March*

*To the respectable PUBLIC.*

The Subscriber, Proprietor and Editor of the *Virginia Gazette and Winchester Advertiser*, prompted by an earnest desire to place the *first established Press in the Borough of Winchester*, on the most respectable footing, is now preparing an *entire new and elegant printing apparatus* for his business, which from the exertions he is now making for their completion, doubts not, in the course of a few weeks, of accomplishing: at which time the Gazette will be greatly enlarged, and executed with neatness and accuracy;—to effect his intentions, he has commenced a co-partnership with Mr. *Nathaniel Willis*, who for many years was Editor of one of the news papers printed at *Boston*, and by whom the business will in future be conducted: from the long experience he has had in the line of his profession, and from the extensive correspondence both in *Europe* and *America*, which the company are possessed of, the Proprietor anticipates the pleasure of having it in his power to issue such a publication, as will not only be a credit to his native country, but an honor to himself.

Although the *secret views of an ungrateful party*, may aim an undeserved destruction at the first attempt to establish that safe-guard to the liberties of an independent people, a *free Press*, in the Borough of *Winchester*, yet, he is unalterably determined to persevere in his professional character, an *unbiassed, impartial Printer*, and depend on the rectitude of his intentions, and future productions, for the issue.

Being ever desirous of obtaining *Public Patronage*, he asks the aid of the learned, by affording their assistance in political and other essays. The present being a most important *Crisis* of the national affairs of this country, it must be evident to the least thoughtful, that the *body of the people* should be well informed of the nature of any Government that may be proposed for their adoption; therefore, free discussions on that momentous subject, as well as interesting intelligence from the several quarters of the world, will be thankfully received, and impartially published; and while a just record is made of every occurrence which may come to the knowledge of the Conductor, tending

to promote the interest of society, it is determined, that in future *private characters* shall be secure from the poisoned shafts of envy and malice, cast through the medium of his Press; yet, discussions of a private nature, *wrote with decency*, will find free access.

Subscriptions for the Gazette, at *twelve shillings per annum*, are received by such Gentlemen as are intrusted with subscription papers, and by

The Public's most obedient servant, MATTHIAS BARTGIS.  
Winchester, March 7, 1788.

*Nathaniel Willis' Editorial Announcement, 14 March*

To the candid PUBLIC.

The Subscriber, having commenced a co-partnership with Mr. *M. Bartgis*, under the firm of *M. Bartgis & Co.* most respectfully tenders his service, in every branch of *Printing*:—and, as the *Virginia Gazette*, &c. is now conducted by him, he most warmly solicits the aid of the friends to literature, the politician, and the intelligent, to afford that assistance which will enable him to issue such a publication as may not only be useful and entertaining, but secure the countenance and support of its patrons; to merit which, will be the height of his ambition.

To succeed disaffection or disgust, in any state or business, is not only displeasing, but often attended with many disadvantages. Should any unfavourable prejudices, previous to this, have taken place against the *original* Press in this place, through any cause whatever, the Subscriber hopes, from the kindness of the respectable public, that it will not operate obliquely to the injury of the successor in the business. On his part, he will ever endeavour to avoid intestine broils; but, if he is professionally led into any party, he hopes it will be justly applied to the nature of his business, and not as a voluntary act. As a preparatory, anonymous pieces, tending to injure the reputation, will ever be secluded. Through him, the amiable characters of the virtuous Fair, and honest man, shall never be wounded; yet, this Gazette will ever be *free* and *open* for a full discussion of all momentous subjects unbiassed by party, he will aim to be *just*. To promote the *public good*, and in general to *please*, will be the particular object of

The Public's most obedient Humble servant, NATHANIEL WILLIS.

**Winchester Virginia Gazette, 7 March**

Messieurs BARTGIS and Co. The Freedom of the PRESS is the unalienable Right of a free Government particularly when matters of the greatest moment demand the serious attention, and free discussion of the citizens.

Your giving a place to the following lines in your entertaining paper, will oblige Your most obedient, humble servant, A VIRGINIA PLANTER.

*My dear Countrymen,* I beg my intrusion upon your time and patience may be taken in good part, while you read a few sentiments, proceeding from the greatest anxiety of mind, respecting the Federal Constitution, which I have perused impartially, and from the examples of the introduction of the most arbitrary Forms of Government, we may venture to declare this plan to be replete with shackles for the free born sons of America.—Every intelligent person must know, that all the world is now groaning in a Hell of Slavery (America and Switzerland excepted) whereby it becomes absolutely necessary to consider the way and means by which they were brought into that infernal state. Can we produce an instance of one nation that ever recovered from a cursed state of vassalage, to the enjoyment of the just and indubitable rights of mankind?

Are there none in trust that will postpone the adoption of this plan, while the people may reflect coolly upon a system of Government, lest they should subject themselves and millions yet unborn, to a state of political d——n?

Are there none in power, with influence sufficient to prevent the direful catastrophe? or, are the frowns and vengeance of Heaven to be thus poured upon us? nay, we may rather conclude, that it is a tryal of our patriotism, and if we tamely submit to the yoke, we justly merit all the evil consequences resulting therefrom: but, if there are too few in the laudable opposition,

What can Cato do  
Against a world, a base degenerate world,  
That courts the yoke, and bows the neck to Cæsar.

*Addison.*<sup>1</sup>

And did the Commonwealth of Rome ever recover their liberty from under the tyranny of Cæsar and his successors? no, notwithstanding the virtuous struggles of Cato and a few, they are ever since, through a variety of changes, broiling in a Hell of Slavery, without the least glimpse or hope of deliverance from so d——ble a state.

Similar to this will be the fate of America, if the Federal Constitution should be adopted and ratified in its present form. The powers granted to Congress are boundless in some instances of the utmost consequence to the people, particularly their interference with the internal police of the States; their power of embarrassing the freedom of their own election; their taxing the people without immediate representa-

tion; their power of raising an army for two years, which may be lengthened to any term for pretended reasons, which never failed to be done, as a principal step to tyranny; their power of legislation blended with that of the execution of their own laws, without controul.

Many more may be mentioned of a fearful nature, but if the above were all, they are enough in the hands of men, to answer every purpose of making themselves absolute tyrants, and the people beasts of burden.

The dangers from the above powers, are best known and verified, by attending to the introduction of slavery to all other nations. Pray give place one moment for a cool reflection, and consider, whether any man, or set of men, vested with unlimited power in any instance, who did not exercise it to the plague and torment of the people; to the destruction of every idea of common justice and humanity.

What cannot Congress do with an army at their heels, the revenue in their pockets and with the full and absolute disposal of the militia? How do other nations fare in that predicament? History is replete with answers to the question, that they are groveling in the dark regions of slavery, and there they must remain until their own virtue work out their own deliverance, which is impossible, because, slaves and those who submit to slavery, and tyrants, have no idea of virtue, honor, or common justice.

These are hard sayings; disagreeable to despots and their sycophants; but, not so painful to the community as the excruciating pains of a Hell of Slavery; they are stubborn truths that never bend without violence.

How can we think of transmitting these fetters to posterity? What dishonour will it reflect upon us? Will they not curse the authors and abettors of their misery? Do we not stand indebted to transmit the same, and, if possible, more liberty to posterity, than our fathers handed down to us?

Cannot Congress rank with the Princes of the earth, without stooping so low as to govern slaves? nay, they will exult in the government of freemen as the greatest honor under the Heavens. What can reflect greater infamy, than to rank with tyrants, those blood sucking cannibals, who prey insatiably and incessantly upon the vitals of their miserable, wretched, politically d—d subjects.

The advanced age of the world has taught us, that the best of men are under the necessity of restraint, in every situation and circumstance respecting power. Power has altered the mildest and most affable characters, into the most abandoned cruelty and savage temper. History abounds with innumerable instances of those who, previous to their

being cursed with power, appeared as ornaments to human nature. Power is dangerous in the hands of men. Power alters all things, but God. The purpose of delegating power to men, is for the happiness and safety of the community, but with the want of proper limitations, it always proves to be a curse. I have often thought it a paradox in politics, how a few hundred of rulers can ruin the state of million[s] of subjects into a perfect Hell; the reason is, the few rulers are a junto, acting in close concert.

Devil with Devil damn'd  
Firm concord holds. *Milton.*<sup>2</sup>

While the people are like a rope of sand, vicious, ignorant and unconnected, lay themselves open to all the insults, injustice and barbarity, they please to inflict upon them.

It is with the utmost concern I hear of the precipitancy and rashness of the populace in some of the United States, inadvertently insisting for the speedy adoption of the Federal Constitution. Exactly similar to this was the mad frenzy of the populace of Rome, and many other nations, who inconsiderately cast themselves over the most dangerous precipice, into irretrievable ruin.

Virginia has hitherto exhibited a good degree of moderation (some few instances excepted.) She has not yet pass'd the Rubicon, as some States have. As she is not the least in the grand Confederacy, may her wisdom, candor, and love of liberty, shine over the Union in the choice of a convention, whose virtue and abilities may be equal to so arduous an undertaking.

Several personages in Congress will commend the freedom I take, to recapitulate the evils that may and will result from the present form of the Federal Constitution; to speak the truth, without just cause of offence, is the right of every free citizen. I am conscious of the approbation of every intelligent, honest man, and of the concurrence of every friend of America, to preserve that liberty inviolate, which we hold at the expence of so much blood and treasure.

1. Joseph Addison, *Cato. A Tragedy*, act 1, scene 1.

2. John Milton, *Paradise Lost*, Book II, lines 496-97.

### Arthur Campbell on the Constitution

Washington County, 8, 9 March

To Francis Bailey, 8 March (*excerpt*)<sup>1</sup>

... The bearer Colo. Orth,<sup>2</sup> will forward you a revised Copy of the Federal Constitution;—It is the work of a Society of Western Gentlemen,<sup>3</sup> who took this method to investigate and understand the piece

& to some of them it has lately been hinted, that the most of the pieces wrote for and against the Constitution, were rather declamatory, and bewildered common readers in the perusal; but by our mode it may be shewn at one view, what is deamed right or what is wrong.—In order to embrace so safe and direct a conveyance, too little time was afforded, to digest the amendments, and to make out a correct copy. May we request it of you, if you judge it worthy of a place in the Freemans Journal, first to give it a careful perusal, and have all inaccuracies removed. We would wish to see it in the first Page of your Paper, embellished with proper Capitals and a neat type. I suppose it will take part of two Weeks Papers, to compleat the insertion. we have thoughts of soliciting your patronage to have it inserted in the American Museum.<sup>4</sup> We might venture to assure the Editor that it is nearer the sentiments of the great body of the Yeomanry of America, especially in the Southern States, than the original.—We have thought ourselves sufficiently disposed to “amity, concession and mutual deference”<sup>5</sup> to be willing to surrender so much of our liberties to preserve the union, which is a great object with us: nor are we yet convinced, but that the States might be more safe, united, and prosperous, under something like what we now offer, than the other, which on a near view, seems to have too many of the features of despotism.—We for ourselves, for the sake of peace, and unity could submit for a course of years, by way of experiment say four, to absolute rule, provided we had security that a door would then be really open, whereby amendments might be offered.

Should any of the friends to the original Plan offer sensible strictures on our amendments, we have so well considered the subject that we are not without arguments to support them.—By means of Capt. Robert Craig<sup>6</sup> late of Lancaster County we expect in future to get the Freemans Journal, regularly.

The inclosed copy of a letter will inform you of some late com-motions in [the State of] Franklin, which you will please to insert.—I also send an extract of a letter received the other day from Kentucky. I have a desire to attend the Synod next May,<sup>7</sup> if I do, I will then be happy, in personally acknowledging how much I esteem and love a character impressed with a true stamp of freedom.

P.S. I need not remind you, of the propriety of keeping my name secret in all communications sent you.

*To Adam Orth, 9 March<sup>8</sup>*

I came here on purpose to see you and converse on the subject of the proposed Federal Constitution, a matter that now so highly interests all America.

I keep up an extensive correspondence in the Southern States and have a few intelligent friend[s] convenient to me; from all which information, we have ventured to forward to be printed a revised Copy of the Constitution, as nearer the sentiments of the People of America, than the original & yet energetic enough for all the purposes of good government.

I have proposed to Mr. Bailey to print it in his News-Paper; but since on consideration I think it would be more extensively useful if first published in a Pamphlet, and speedily dispersed, especially in Pennsylvania, N. York and Virginia.—Could not two or three of the Printers undertake to publish at their own risque I am sure several hundred copys would sell in Virginia, besides the clause in the Constitution in favour of the Press,<sup>9</sup> may be of more value to them than ten thousand copys.—But should that mode of publication be found impracticable I would submit it to you, and the other worthy Patriots of the Minority, whether you had not risque the publication in a Pamphlet at your own expence taking care to sell them low and I am sure 500 Copies forwarded to a trusty correspondent in Petersburg Virginia would sell fast. And would it not be right to have it published in the German tongue also.—After you return to Pennsylvania could you not, have a consultation with Messr. Findley Whitehill and Smilie,—or a Mr. M'Clean<sup>10</sup> near Carlisle on the subject, and communicate your sentiments to Mr. Bailey who no doubt will act with secrecy, and propriety agreeable to your desire. I am not acquainted with Dr. Ewing<sup>11</sup> but conclude it would be of great service, should he revise the Piece, and give his assistance.

I dare say you are as fully as I am impressed with the importance of the subject; if the original piece has the seeds of despotism in it, we may be forging chains for our posterity; on the other hand the preservation of the union, ought to be a first object of all our cares: These two considerations combined produced the work now sent by you; which has a *Declaration of Rights*<sup>12</sup> that I believe will please most, and has amendments to the original, that will make it a more mild & we hope a more just plan of government.

1. RC, George Bryan Papers, PHi. Campbell (1743–1811), a planter, was a Washington County justice of the peace and county lieutenant. He represented Fincastle in Virginia's fifth revolutionary convention, 1776, and in the House of Delegates, 1776–77. In 1777 Fincastle became Washington County and Campbell continued to represent the county in 1778–79, 1782–84, 1786–88. In 1784–85 Campbell was a leader of the movement to separate southwestern Virginia and place it in the State of Franklin. Bailey (c. 1735–1815) published the Antifederalist Philadelphia *Freeman's Journal*. (For Bailey and the *Journal's* editorial policy, see CC:Vol. 1, xxxiv–xxxv.)

2. Orth (1733–1794), the operator of an iron forge in Lancaster County, Pa., voted against ratification of the Constitution in the Pennsylvania Convention in December 1787 and signed the "Dissent of the Minority of the Pennsylvania Convention" (CC:353).

3. A copy of this revised Constitution has not been found in Bailey's *Freeman's Journal*. Such a document, however, was printed in the *Virginia Independent Chronicle* on 30 April and 7 May (Extraordinary) under the title "The FEDERAL CONSTITUTION amended: or, an ESSAY to make it more conformable to the sense of a majority of the Citizens of the United States." The amended Constitution was preceded by "A DECLARATION of RIGHTS, or Fundamentals of Republican Government" (III below). On 18 June Campbell also published an article signed "Many" in the *Virginia Independent Chronicle* (III below).

4. The *Philadelphia American Museum*, Mathew Carey's monthly magazine, circulated throughout the United States.

5. This is a paraphrase of a passage from the letter of George Washington, the President of the Constitutional Convention, to the President of Congress, 17 September. For the passage, see "A Federal Republican," 5 March, note 2 (above).

6. Craig, a militia captain during the Revolution, was a Lancaster County, Pa., commissioner in 1778 and a member of the Pennsylvania Assembly in 1784.

7. A reference to the New York and Philadelphia synod of the Presbyterian Church which met in Philadelphia, adjourning on 29 May (*Pennsylvania Packet*, 5 June).

8. RC, George Bryan Papers, PHI.

9. Freedom of the press was included in the declaration of rights in the revised Constitution drawn up by this society of western gentlemen. (See note 3, above.)

10. William Findley, Robert Whitehill, and John Smilie were the principal Antifederalist speakers in the Pennsylvania Convention. They voted against the Constitution and signed the "Dissent of the Minority of the Pennsylvania Convention" (CC:353). Antifederalist James McLene of Franklin County had been a member of the Pennsylvania Supreme Executive Council until he was elected to the Assembly in October 1787.

11. John Ewing, a Presbyterian minister and Philadelphia Antifederalist leader, was provost of the University of Pennsylvania.

12. See note 3 (above).

### Philadelphia Federal Gazette, 8 March<sup>1</sup>

Extract of a letter from a gentleman in Richmond, dated Feb. 28, to his friend in this city.

"We had great rejoicings here yesterday, by the federal men, on account of the ratification of the new constitution, by the state of Massachusetts. The citizens assembled at the Union tavern, about twelve o'clock, and hoisted up a flag on the top of the house, and kept it up till about 11 o'clock at night, when each repaired to his habitation pretty mellow with Madeira: a number of cannon were fired on this occasion—next Monday our election comes on for the Convention—I expect the governor and Mr. Marshall will be elected, as there seems to be little or no opposition.["]

1. Reprinted: *New York Daily Advertiser*, 12 March; *Newport Mercury*, 24 March; *Massachusetts Spy*, 3 April; *Boston Gazette*, 7 April; *Vermont Journal*, 21 April.

### William Nelson, Jr., to William Short Williamsburg, 9, 13 March (excerpts)<sup>1</sup>

[9 March] . . . To a republican mind it indeed gives pleasure to see subjects resist the will of despots, or kings (for with me they are synonymous)—call him limited,—he still tramples on the rights of equal-



ity—It is not merit on which the crown is confer'd—The monarch is not the choice of the people, from whom all power springs. No. he is the descendant of one, who may have been chosen, or has established himself by arms—The Government of Millions is to be entailed on a particular family—Be the heirs tyrannical, vicious, weak or all three combined—he is the anointed & all the people must bow—Such, my dear Short, is the humble situation to which in half a century America, I fear is doomed.—The theories of republicanism (at least according to my idea) are degraded as the phantasies of enthusiastick minds,—as metaphysical exercises for youthful genius; but too chimerical for practice.—My God! is it possible that thou hast given ~~us the light of~~ reason merely as an ornament, & not as a light wch. we are to follow in the pursuit of philosophical & political truth. Is sound argument at variance with fact? Is not what can be proved right agreeable to the course of things, or are we to prove that we ought to go to the right, & still to be drawn to the left by our own imperfections? Why, (may I ask?) are we permitted to prove a system right if, from our nature, we are disqualified from pursuing it? . . .

. . . As to the *diplomattick* line, if the recommended constitution has not preserved the spirit of Republicanism, more permanent & higher salaries will probably be bestowed on publick offices.—

[13 March] . . . Adams's book in my opinion has already done considerable injury to America;<sup>2</sup> for, tho' there is not a new opinion in it, as it was written by an American, curiosity & the pleasure, perhaps arising partly from the vanity of reading an American production, have occasioned it to be generally read.<sup>3</sup> He has laboured his point very much, as you know, &, not withstanding the confusion of his [argument] (*method* I will not call it), & style, he has so often repeated the same idea, & has made such a display of Authorities, as to make a *heavy* impression on many. I really think the book well calculated to prove his position,—that there shd. be more than one branch in the legislature; but when I see that under the title of a defence to the American constitutions, he has written an elaborate eulogium on the British Government & a defence of Monarchy (for he has actually proved that the American Governments are the best in the world, & immediately after that the British Government is still better), I confess, I wish that the book had never been written or, at least, think there is a great impropriety in the American Ambassador at the court of G. B. being the author of it.<sup>4</sup> . . .

With Respect to the recommended Governmt, you must have discovered, from many hints in this letter, that I do not like the principles of it.—The president is to be elected every four years; but he may be

elected as long as he lives. This, I think, not consistent with the spirit of Republicanism—After having served four years, he shd. return to the body of the people, & be incapable of serving for a certain term at least; for the same man will generally be continued as long as he lives, unless he shd. perpetrate some thing very flagitious—his son will be elected partly for his merit; but much also because his father was in the office before him,—& his grandson *entirely* because his father & grandfather were there before *him*. Thus it is, that hereditary governments have been established in all countries—The Emperor of Germany is said to be elective; but the Roman eagle, I fancy will never take flight from the Austrian family—The Doge of Venice was originally for life, he is now hereditary—The senate in the new government are legislative, executive, & judiciary. They are to advise the president, & then to try him—If he follows their advance they will be partial in his favor,—if he does not, they will be prejudiced agt. him. There are other objections of less importance, tho' very weighty, but if they wd. declare the president ineligible after having served a certain term, I think the necessity of an union wd. induce me to assent to it without hesitation—At present, I think the adoption of it in this country probable—Six states have taken it, & amongst them Massachusetts. This will have great weight in this State, tho' the people on the South-side of James River, from Prince George upwards are extremely averse to it. . . .

1. RC, Short Papers, DLC. Nelson (1754–1813), a lawyer and a brother of former governor Thomas Nelson, Jr., represented James City County in the House of Delegates, 1783–84, and sat in the Council of State in 1784 and 1785. An early part of this letter dated 4 March was written from “Westover,” the estate of Mary Willing Byrd (Nelson’s mother-in-law) in Charles City County. Nelson wrote: “We have had more snow this winter than has ever been known—Ever since Christmas the earth has been scarcely uncovered. A fortnight ago, it snowed for two days and nights incessantly, and, before that was melted, another fell, which now covers the face of the earth.”

2. Nelson refers to volume I of John Adams’s *Defence of the Constitutions* (CC:16). For more on the *Defence*, see Richard Henry Lee to John Adams, 3 September, note 3 (above).

3. On 6 June 1787 James Madison wrote of Adams’s *Defence*: “Men of learning find nothing new in it. Men of taste many things to criticize. And men without either not a few things, which they will not understand. It will nevertheless be read, and praised, and become a powerful engine in forming the public opinion” (to Thomas Jefferson, Rutland, *Madison*, X, 29–30).

4. In 1787 several Virginians voiced their displeasure over Adams’s love of the English Constitution and its system of checks and balances. The Reverend James Madison thought that Adams had been too long exposed to the monarchies of Europe and that he should be called home so that he could again breathe free, republican air (to James Madison, 11 June, *ibid.*, 44–46). An anonymous writer noted in a brief verse that Adams had once believed in equality, but that Adams now thought that “*Plebe’ans* must truckle to *King’s* and *Noblesse*” (Richmond *Virginia Gazette and Weekly Advertiser*, 2 August). “Tur-

got" asserted that, since America had no kings and lords, "Why of this balance make such clatter?/To us 'tis not one farthing's matter" (*Pennsylvania Packet*, 21 August, reprinted from a no-longer-extant issue of the Richmond *Virginia Gazette and Independent Chronicle*). And "A Republican" exhorted Americans to ignore Adams's "King projects" and instead defend Congress "with might and with main" (*Virginia Independent Chronicle*, 8 August).

**George Washington to Benjamin Lincoln**  
**Mount Vernon, 10 March (excerpt)<sup>1</sup>**

... The growing attachment of the People in your State to the proposed Constitution is certainly a strong proof of its general excellence; It shews that a due & impartial consideration of the subject will decide in its favor.

At the end of the present Month we shall be able to form a tolerable Judgment of what may be its fate here, as our returns for the delegates to the Convention will be known at that time, and the characters chosen will be pretty generally decided in their opinions upon the matter before their delegation, as that will determine the people in their choice.—The general tenor of the information, which I derive from those Gentlemen who call upon me, seems to agree in the oppositions losing ground here; and that nothing is wanting to render the people so favourably disposed towards it as to put the decision beyond a doubt but a proper representation of, and information upon the subject.<sup>2</sup>—The opponents are indefatigable in their exertions, while the friends to the New form seem to rest the issue upon the goodness of their Cause.—There will undoubtedly be a greater weight of abilities against the adoption in this Convention than in any other; It was to be expected from the characters who first declared against it here, but notwithstanding this, my opinion is (as it ever has been) that it will be received—

1. RC, The Original Letters of George Washington to Benjamin Lincoln, Harvard University. Printed: Fitzpatrick, XXIX, 440–41.

2. For similar statements that Washington wrote on the same day in a letter to Thomas Cushing, who, like Lincoln, was from Massachusetts, see *ibid.*, 442–43.

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

My dear Friend

... I do not know what is to be done in this business, if our Courts of Justice were put upon a proper footing. I don't care how soon the Suits were brogt agt. me, my situation is indeed not pleasant, my Rents are fallen to nothing, my Plantation is more expence than Profit, &

with the most rigid frugality I cannot keep out of debt, . . . the Weather has been so exceedingly severe, that they have not been able to prepare my Ground for Tobacco, we had a deeper Snow last Week than any this Winter, it has been milder for a day or two, but still very cold & sharp, my Stock is now dieing for want of forage, & one of my best Work Horses drowned in the Run in the fresh the other day, so that there is nothing but misfortu[n]e there, for I had too few Horses before to work my Crop—

Our Elections in the different Counties, for the Convention, to approve or reject the Constitution are now come on, & I am sorry to tell you, I do not like the complexion of many of those elected, the involved & worthless antifederalists have taken so much pains to poison & prejudice the lower order of People, that I am greatly appreh[en]sive a majority of those will be returned, however Massachussets have adopted it & 5 other States, & I have no doubt of N: Hampshire, being so intimatly connected with the Bostonians, will make seven, the States of N: York, Maryland, Virginia, & the two Carolinas, with the infamous State of R: Island, have not yet taken up the business, but I hope we may with safety reckon upon 2 or 3 if not more adopting the measure; so as to make up 9, if we reject it here, which I am afraid will be the case, so that I flatter myself the others will find the necessity of coming into it, tho' Henry & his Minions, such as your friend French Strother, Tom Barbour &c. are hardy enough to declare that they would rather see the Union dissolved, than adopt the Constitution—

The Election in this County<sup>2</sup> last Tuesday ended very unfavorably. Dawson & Colo. Monroe carryed agt. Page and Spotswood, & in Stafford yesterday the same case, old G: Mason & attorney Buchanan,<sup>3</sup> returned before Chas. Carter & B: Fitzhugh,<sup>4</sup> the latter two for both Counties firm friends, the others opposed to every good measure, the Law Tribe to a Man are Enemies to the proposed reform, & yet Bullit[t] & Grayson was elected in P: William, K: George have got good Men; old Jos Jones endeavour'd to get in, but fortunatly was disapointed, Hanover two very bad Men, Culp[epe]r I am afraid will be in the same situation, & if Maddison does not come in from Orange, he will be left out, & Barbour and another of ye same stamp elected, Caroline will come on next Thursday. where old Pendleton almost the only Judge in the State for the constitution will I suppose be chosen—

I have been obliged to sue Dawson in the Corporation Court, but no Judgemt. yet, tho' if there was, as matters are now situated, I expect no money from him or any of them for a year or two to come, this last Excoñ Law is a horrid one, but Stevens tells me, the honest in-dependant Members were under the necessity of agreeing to it, as

there was no other method to prevent paper money, or some such ruinous measure—

Dawson has become a worthless Swindler, more Suits commenced agt him than his property would sell for, notwithstanding you will be surprized to hear, that he had a respectable Vote last Session to be sent to Congress, & likewise for a Member of the Council, owing to that Scoundrel Henry taking him by the hand, so you will judge from this, & many other instances of the same nature, how our Public matters are conducted, when under the direction of such Vagabonds. . . .

1. RC, Maury Papers, ViU. The letter was endorsed: "J. Duncanson— $\text{H}$  Hendn./Fredg. March 11—1788." The vessel *Henderson* carried Duncanson's tobacco from Norfolk to Liverpool. Duncanson (1735–1791), a Scottish immigrant and a Spotsylvania County planter, was a member of the Fredericksburg committee of correspondence in 1774 and colonel of the Second State Regiment that fought with the Continental Army during the Revolution.

2. Spotsylvania.

3. Andrew Buchanan, a member of the House of Delegates in 1786–87, voted against ratification of the Constitution in the state Convention.

4. William Fitzhugh represented Stafford in the House of Delegates, 1787–88.

## A Virginian

### Norfolk and Portsmouth Journal, 12 March<sup>1</sup>

MR. PRINTER, It is no inconsiderable proof of the merit of the new Constitution, that the generality of its enemies have attacked it with falsehood and scurrility, instead of fair reasoning; these being the weapons with which people are wont to contend against truth.

There is no system of government, to which, plausible objections may not be made, while mankind labour under their present imperfections.—This, I imagine, will be found incumbered with as few as any yet formed: nevertheless, from the invidious and partial representations of one, who signs himself a Federal Republican, in your last paper, a person might be led to conclude, that the Hon. Convention had, in its formation, nothing but the slavery of the Thirteen States, in view.—There is an old proverb, which says, a fool may ask more questions in half an hour, than a wise man can answer in seven years; and I am inclined to believe, the Federal Republican can discover more defects in the same space of time than he will be able to mend in fourteen years.—How it was possible to vest Congress with a power of collecting the force of the States, to a point, and exerting it for their safety and dignity, in any other way, I cannot possibly discover; and if the Federal Republican can, and confines such an inestimable secret to his own breast, he deserves any thing better than the thanks of his fellow citizens.

It is not my design Mr. Printer, to enter upon a vindication of the new Constitution; much abler pens have done it in the amplest manner; in fact, it needs none; for, like truth itself, it requires being only well understood to be embraced: There is one article however I cannot pass unnoticed. Great pains have been taken to infuse into weak minds, a belief that appeals may be made to the Supreme Federal Court, in all cases whatever—nothing is more contrary to truth.—No appeal can take place in cases of common law; or in any case except such as are pointed out in the Constitution, and over which only Congress will have jurisdiction.

When I reflect upon the fatal consequences which will inevitably follow the rejection of this government, I am tortured with doubt and anxiety, lest some untoward circumstance should actually produce the unfortunate event. A dissolution of the present feeble confederacy would be the first and smallest evil; anarchy would quickly follow—then should we see the maritime powers of Europe playing off one miserable State against another, until, instead of becoming the admiration of the world, we shall be justly exposed to its scorn and contempt, and afford a compleat triumph to the enemies of political liberty.

Again, when I contemplate the worthy characters who composed the late Convention, my breast is filled with indignation to find their labour for the common good requited by suspicion of designs equally iniquitous and improbable, and this chiefly by people in office, whose narrow souls are alarmed at the idea of having their imaginary importance diminished. But above all, I am shock'd at the monstrous absurdity of supposing that such characters as *Washington* and *Franklin*, who, by a long life of virtue and patriotism, have acquired reputations not to be extinguished but with the world, should now, in their old age, with their mental faculties unimpaired, lend the sanction of their names to establish a system of tyranny!<sup>2</sup>

1. This item, in part, answers "A Federal Republican," *Norfolk and Portsmouth Journal*, 5 March (above). See also "A Virginian," *ibid.*, 2 April (below).

2. "A Virginian" answers an attack first made upon George Washington and Benjamin Franklin in "Centinel" I, *Philadelphia Independent Gazetteer*, 5 October 1787. "Centinel" stated: "These characters flatter themselves that they have lulled all distrust and jealousy of their new plan, by gaining the concurrence of the two men in whom America has the highest confidence, and now triumphantly exult in the completion of their long meditated schemes of power and aggrandisement. I would be very far from insinuating that the two illustrious personages alluded to, have not the welfare of their country at heart; but that the unsuspecting goodness and zeal of the one, has been imposed on, in a subject of which he must be necessarily inexperienced, from his other arduous engagements; and that the weakness and indecision attendant on old age, has been practised on in the other" (CC:133. See "A Virginian," *Norfolk and Portsmouth Journal*,

2 April, below, for his use of the term "two illustrious personages."). For the circulation of "Centinel" I in Virginia, see Tobias Lear to William Prescott, Jr., 4 March, note 4 (above).

**One of the People called Quakers in the State of Virginia  
Virginia Independent Chronicle, 12 March<sup>1</sup>**

Mr. DAVIS, "*A Virginian*" might have a right to expect, and would perhaps have received, the thanks of "*the people called Quakers in Virginia*," for the "*hint*" he hath given them, if they thought it was wholly dictated by an unfeigned regard for their interests and happiness: but its seeming want of candor, the criterion, by which a plain simple people, lovers of truth, are led to judge, inclines them to think that it springs from some other motive.

He tells the Quakers, that they should "*disapprove of the new constitution*"—["*because it admits of the importation of slaves to America for a limited time.*"] Hence it would seem, as if he inferred, and would have them to believe that the new constitution would introduce slaves into Virginia contrary to the inclination of the people: which the Quakers apprehend is not the case. Virginia indeed, may import slaves, but she may, as she now does, also prohibit,<sup>2</sup> and which it is reasonable to expect she will continue to do; and therefore, the Quakers, or any other society opposed to the slave trade, have nothing to apprehend on that score; and more especially, when it is considered that the late convention, used every means in their power, to prevail upon the Carolina's and Georgia, the only states in the union, that at present import slaves, at once to put an end to this unjust traffic; but the representatives of these states being inflexible in their opposition thereto, occasioned the limited importation as the best compromise that could be made; hence it is but just to conclude, that the new federal government, if established, would eagerly embrace the opportunity not only of putting an end to the importation of slaves, but of abolishing slavery forever.

Though the Quakers, are fully sensible of the favors and protection that they have hitherto experienced under the present constitution, and government of Virginia, they see no great reason to apprehend that their principles would not be as safe under the new constitution, and better secured and protected, under a government of more weight, dignity, and stability.

This "*hint*" like most of the other hints and objections that have hitherto appeared, rather tend to fix, than to remove any favorable impressions that "*the people called Quakers in Virginia*" have received of the new constitution. A good cause, will always be supported by

plain reasons, addressed to the most common understanding; while a bad one, stands in need of sophistry, subtilty, and even trifling "*hints*," calculated to operate upon the passions and prejudices of man, in order to mislead and confound, where they cannot convince.

1. This item answers "A Virginian," *Virginia Independent Chronicle*, 13 February (above).

2. In 1778 the Virginia legislature prohibited the importation of slaves by sea or land; any slaves so imported could not be bought or sold. Heavy fines were specified for those who engaged in such actions (Hening, IX, 471-72).

### The State Soldier III

#### Virginia Independent Chronicle, 12 March<sup>1</sup>

*To the GOOD PEOPLE of VIRGINIA, on the new FEDERAL CONSTITUTION, by an old STATE SOLDIER, respecting the influence of great names.*

When I first entered the list among the patriotic advocates for the new constitution, which I look up to now as the salvation of America, I had nothing else in view than just to expose the folly of those who made use of the names and characters of private men to support the insignificance of their own arguments.

But alarmed at the thoughts of a dissolution of the UNION, which I consider the greatest curse that could befall America, I determined to suspend my answer to those authors, to which my first address was only an introduction, until I cautioned you against laying the foundation of your own destruction by electing men for the approaching convention, who, under a pretence of amending and perfecting this new work, mean to dissolve the confederation.

And having in the fullest manner, I trust, proved to you in my last the impossibility of amending this new plan of government, at this time, without disuniting the states, I shall now return to my first design.

The adversaries to the constitution have not only held up the *chief heroes* of their party as the infallible guides on this occasion, but have spoken of some of its friends with such asperity and<sup>(a)</sup> disingenuousness as would induce those who were unacquainted with the dispute, to suppose, that it was nothing more than a private *quarrel* among some leading individuals, under whose standards all the rest of America had servilely enlisted as their vassals.

If in answering those *ingenuous, polite, and liberal* authors, I should bring to view some truths which have not yet appeared, by using their own method of arguing as the only means to refute their folly, I trust I shall be excused, as they have not only taught the useful lesson, but absolutely driven those who attempt to answer them into the necessity.

But notwithstanding all that has been said about the liberty of the



press being destroyed by the new constitution, I scarcely expect to find a sufficient remnant of that great blessing even in our present system to bring this paper to your view.

For to those very causes which some attribute the destruction of the liberty of the press, I look up for its becoming more unbounded—since clear it is, there are great restraints of that sort already, nor can any thing else be expected in a government as popular as this is.

The liberty of the press is not always one of the most lovely traits of the freest governments:—for as the most popular kinds have generally been thought the most free, it follows that the most free will not be the most favorable to that spirit which is necessary to constitute the liberty of the press.

It is in popular governments that men obtain that very superiority over others, by consent, which is held in other governments by hereditary right; with this only difference, that as the one is always the attainment of superior abilities, and the other too often the right of fools, the just sense we have of the one's being capable of doing us more real good or harm than the other, renders the influence of merit much greater than that of birth.

Whence it follows that men in popular repute over-awe the actions of others much more than those who are only the favorites of fortune. For in kingly governments where men are statesmen by birth, and perhaps only revered for their empty titles, dignity remains protected no longer than it is unattacked—which in general is not long—for superior merit ever anxious to float uppermost in the stream of life, those who possess it necessarily strive to sink others who have only risen above them by the partial hand of fortune. When instantly, that same superiority of talents which adheres to the side of government in the one instance, shifts its influence to the side of liberty in the other.

And thus the press becomes influenced, not by the absolute interference of any government, but by the mere complexion of it—and is nothing more at last than an adherence to the popular side.

In those governments whose heads are the free choice of the people, it is ever to be found on the side of the state, as the same voice which promotes will protect its favorite; and where the success of an author depends on the breath of those who have thus promoted the man at whose character he aims, it would be deemed madness to make the attempt, and nothing less than treason to aid him in it.

When on the other hand, in those governments whose heads are the establishment of birth, and the detestation of the majority, the

assistance of the press is to be found on the side of the people. And this it is that is called the liberty of the press.

In England where government has always had some of the ablest men for its opponents, with the popular voice of the people on their side, the liberty of the press is such that even the dignity of the crown does not protect men from ridicule and abuse.

But in America where the dignity of an individual depends on the voice of the people at large, the very reverse has already been seen.

In the course of the late war many attempts were made by General Lee to publish different pieces in abuse of General Washington, only one of which ever made its appearance, and for publishing that, the printer was severely handled, not by government, but by the populace.<sup>2</sup> Which we cannot now but consider as improper:—for sacred as the character of any individual may be, yet the voice of another should be fairly heard—since ridicule, when unconnected with truth, not only ceases to be severe, but degenerating into scurrility, renders the author, and not the person pointed at, the object of contempt.

Under this consideration no good man could object to seeing his character fully stated to the world—and much less would HE whose merits like the purest gold could only become the brighter by being the more frequently handled;—and whose character when held up to public view would only serve to dazzle the eye of envy itself.

That however justly General Lee might have merited our hatred on that occasion, we cannot but lament the consequences of such a disposition. For as no one can judge of the merits of another before he hears them fairly investigated, it would be wrong to shut our eyes against an attack on any one until we were convinced thereby of his purity. The impropriety of which however will be still more clearly seen in a much more recent affair—The recital of which will bring me to the principal object of this paper, from which I have already too long digressed.

As late as in the contest now subsisting about the constitution under consideration, a printer in this state for some time refused to publish a piece because it contained some reflections on one Richard Henry Lee—when, had he measured the dignity of that name by the merits of the letter to which we have lately seen it annexed,<sup>3</sup> he would have had no such scruples perhaps.

But it is not at all surprising that folly should come off with impunity where even vice itself meets with protection.

Fortunately however for this country, we are now likely to profit from both. This gentleman at length, led by his vanity to give us a true attested copy of the powers of his genius, has relieved us from

any fear we might have had of being deluded by his abilities; and being long convinced how far we might rely on his integrity, we feel ourselves more and more at ease under any political opinions he may advance. From the commencement of his political career until the publication of his letter, we have been in doubt about the one; but from the *stamp-act* until the present day, we have been clear in the other.

But whatever could have induced the opponents to the constitution, and Mr. Lee above all, to hint at the designs of its friends, I cannot conceive. Did they expect that the mere name of Lee or Mason would be sufficient protection to such barefaced impudence and folly? Did they expect that no enquiry would be made, and no return given to such uncharitable methods?—Or did they expect their characters, abilities, or designs would bear a stricter scrutiny than those aimed at on the other side?—Nothing but the vain manner in which one of those gentlemen ushered his pamphlet forth, could make us suspect either of them of such ill-grounded hopes.

It is not at all surprising however that Mr. Lee should be opposed to a government, which will probably begin with a man at its head, to procure whose disgrace he has once before convinced us he would cheerfully have sacrificed all America. This is a circumstance too fresh in the minds of all to be forgotten, though it might not have been mentioned at this time, had not this gentleman's own imprudence forced it from me.

Had those two *great statesmen* but sent forth their objections to the new constitution through the verbal medium of their friends; or, had they, like another author of the same stamp, but sent them forth in the more *important* form of *parables* for others to comment<sup>(b)</sup> upon, they would have had much more weight, I suspect, than even the objections of a Lycurgus or a Solon, supported by the printed arguments of a Lee or a Mason.

But how far the dignity of names may go towards making up for a deficiency of argument, I am incapable of ascertaining—Or how far the name of Lee may be considered as such, I only shall appeal to his own pamphlet to determine—where, whenever it shall be seen deprived of every other ornament but the genius of the man, the mighty name of—Lee—in weight, as well as size, will only be found to be the *picture of greatness in miniature* at best.

Mr. Lee begins his objections to the constitution by observing that “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.”—From which, as simplicity of thought generally denotes a goodness of heart, I should suppose this gentleman to be one of the

best creatures in nature, and if considered as similar only to what he meant should follow after, was as just as it is inelegant and inapplicable if intended to answer any other end.

For how does he prove this to be a bad government?—Is it by comparing it with the perfection of his own scheme, for I observe he has been graciously pleased to offer us his amendments to the constitution?

It is a pity this gentleman had not given a sample of what he could do before the appointment to the grand convention was made, that he might have offered his *amendments* in a more seasonable place. For had he convinced the world that he was superior to either of the nine, who were in the course of the business appointed by this state,<sup>4</sup> I have no doubt but he would have been in that honorable Assembly, where he might have shewn that superiority, of which he thinks himself possessed over the thirty nine who signed the constitution, without exposing his name at this time to the ridicule of the world.

In respect to the tyranny those gentlemen paint in such horrid colours, it appears to me, but little need be said; for it is not only true, that those who are the loudest about liberty, have always been the greatest tyrants themselves when they have had it in their power; but it is also clear that while in the very act of the one, they are even then exercising the very worst kind of the other. For it being a fixed point that human nature cannot exist without the assistance of government, and there being no power to which mankind are incident, more terrible than fear, it follows, that to keep men under a perpetual alarm about what they cannot, agreeable to their own natures, get rid of, is to worry them out with one oppression and thereby fit them for every other. And this too being generally done by the most insignificant members of the community, renders the tyranny of popular alarm much worse than the fixed oppressions of the most formidable government—and in *the present* instance far more degrading, as it would be much more honorable to be devoured alive by a LION, than frightened to death by a *monkey*.<sup>5</sup>

But I should not deal thus in trifles were it not for two reasons: The first is, having set out solely with a view of exposing in this paper the meanness and folly of being led away by the mere sound of names, I could not pass by this self-sufficient politician in silence—and the other is, that were we determined to pay no attention to trifles, Mr. Lee's whole letter would go unnoticed—which would be rather mortifying, after the hints he dropped to get it printed;—notwithstanding which, however, it had nearly died in manuscript.<sup>6</sup> For unfortunately that gentleman's correspondent was either too good a judge of literary performances to suppose, as he did, that the mere name of Richard

Henry Lee would stamp it with the title of perfection; or else, he had not clearly determined, at that time, on taking his side of the question, as he has since *prudently* taken *both*:—and that being the case, I shall say nothing to caution you against relying on his opposition to the constitution; as there are few I presume willing to rely much on the command of a general who will not openly head his own army for fear of offending the enemy.

As for Mr. Mason, poor old man, he appears to have worn his judgment entirely thread-bare and ragged in the service of his country. But however faint his present endeavors may be to render public good, his past services can never be forgot while his *great zeal* in the Indiana cause remains so lasting a monument of his *righteous* endeavors, and *happy effects* of his land-office scheme have shewn themselves so clearly—*at least in favor of his own fortune*.<sup>7</sup>

To a man thus *zealous*, the want of authority to pass *ex post facto* laws may be a great objection to the new constitution indeed, as they might be rendered highly useful to, and a great improvement on, the *art of speculation*. But in all other cases they have ever been considered a great curse, since they can only be productive of a halter to the innocent and ignorant.

Whatever this gentleman might have intended when he said that this government would “vibrate for some time between aristocracy and monarchy,” and then that “it will settle at last between the one and the other,” I will not undertake to say, as I would not presume to dive into the meanings of so profound a man. But if its *vibrating between* the two—and then *settling between* the two, proves any thing, it must be that it will not end in either—and *this is what we wish*.<sup>8</sup>

But what do you suppose are the real motives of such gentlemen for advocating the cause of liberty so strenuously at this time?—Is it that Mr. Mason, who is a man of immense fortune, and Mr. Lee, who possesses as much pride and ambition as he does fortune, are really anxious to see all men raised up to an equality with themselves?—Or is it not rather from a fear that they themselves shall be reduced below the level of some others?

Two things appear to me to operate most powerfully against the adoption of this constitution. The one is dignity—the other debt. And to both of those causes I attribute the opposition of a *man* whose designs and ingenuity are much more to be dreaded than any I have yet mentioned. The constant propensity he has ever shewn to soar upwards on the breath of popular applause, justifies my surmising the one; and his uniform opposition to the payment of certain debts,<sup>9</sup> in which the majority of this country are little interested, and the estab-

lishment of this government will certainly bring about, warrants me in asserting the other.

For he who was willing but a few years ago to vest Congress with the power of raising taxes by the absolute assistance of<sup>(c)</sup> armies, could have little objection to a plan at this time, which only proposes to raise them by moderate means, was there not something of secret consequence involved in it.<sup>10</sup>

But as this gentleman has been too wise to trust his objections to the new constitution to the eyes of the public, I shall not mention his name; though I should have little scruple in exposing to view the name of a man, who after all his patriotic canting and whining has been among the first to speculate on the unfortunate credit of his country, and that too when he enjoyed one of the first posts in government.<sup>11</sup> And should a proper opening ever offer, I shall let loose such a train of hypocrisy and deceit upon you, as will astonish you to behold.

But admitting all the enemies to the constitution to be equally honest in their opposition, that in itself is the strongest proof of the necessity there is of adopting it before we attempt to amend it. For if their different designs cannot be offered as an excuse for their differing so widely as they do about the faults of the constitution, nothing I am sure but an acknowledgement that some of them are wrong can account for it; and since we know not on which to rely, nothing but experience can teach us which is right.

Thus having remarked on the designs of some of the principal enemies to the constitution with that freedom which becomes the spirit of an independent man, to which none of those gentlemen themselves can with propriety object, since they are all such *great friends to the Liberty of the press*, I shall return again to the more pleasing subject of the constitution, and endeavor in my next to answer, in as plain a manner as I can, such objections to it as I think worthy of notice.

(a) *The Am. Off. The Centinel, &c. of Gen. Washington, Franklin, and Wilson.*<sup>12</sup>

(b) *The present Governor, who gave out his objections to the constitution, and then left them like a parcel of poor little helpless orphans to be supported by a contribution of arguments from his friends.*<sup>13</sup> Author

(c) *See Journals of Assembly of Virginia 1784,*<sup>14</sup> *resolution proposing to give Congress a right to compel the states to comply with their requisitions by force of arms—Who by?—*

1. On 5 March the printer of the *Virginia Independent Chronicle* announced: "The STATE SOLDIER, NO. 3, and NO. 4, are received. An interview with the author is requested

by the printer." For a paragraph that was reprinted from "The State Soldier" III, see note 5 (below); and for a response to this essay, see "Senex," *Virginia Independent Chronicle*, 19 March (below). For the authorship of "The State Soldier," see "The State Soldier" I, 16 January (above).

2. In August 1778 a court martial convicted General Charles Lee on three counts for his actions during and after the Battle of Monmouth and suspended him from the Continental Army for a year. Lee was convicted of disobeying orders by not attacking the enemy, for misbehavior before the enemy, and for showing disrespect to the Commander in Chief, George Washington. On 3 December the *Pennsylvania Packet* published Lee's vindication, which was, in part, critical of Washington. Congress upheld the decision of the court martial on 5 December, and three days later Mary Katherine Goddard reprinted Lee's vindication in her Baltimore *Maryland Journal*.

Some time later, General Lee drafted twenty-five rhetorical questions, entitling them "Some Queries, Political and Military, Humbly Offered to the Consideration of the Public." On 6 July 1779 the *Maryland Journal* printed these anonymous "Queries," which criticized the conduct of the war by Congress and Washington. Mary Goddard had printed the "Queries" perhaps after consultation with her brother William. Some members of the "Whig Club" of Baltimore and others were incensed by the "Queries," and on 9 July they held a mock trial in which William Goddard was accused of being unpatriotic. Goddard was taken by a mob to his print shop and forced to identify General Lee as the author of the "Queries." Goddard also signed a statement that appeared in the *Journal* on 14 July, in which he admitted transgressing "against truth, justice, and my duty as a good citizen." Two weeks later Goddard, in another item printed in the *Journal*, took back his statement and insisted that he had never given offense to General Washington or the people of Baltimore (Ward L. Miner, *William Goddard, Neuspaperman* [Durham, N.C., 1962], 168-72).

3. For the long delay in publishing "Valerius'" response to Richard Henry Lee's 16 October letter to Edmund Randolph, see "Valerius," *Virginia Independent Chronicle*, 23 January, note 1 (above).

4. For the election of Constitutional Convention delegates, Lee among them, see the "Introduction" and Appendix III. Lee had refused election.

5. This paragraph was reprinted in the *Massachusetts Centinel* on 12 April, and in the *New Hampshire Recorder* on 3 June, under the dateline of "Philadelphia, May 6."

6. Near the end of his 16 October letter to Randolph (above), Lee stated: "I am perfectly satisfied that you make such use of this letter as you shall think to be for the public good. . . ." The letter, however, was not printed until 6 December.

7. In 1779 Mason, a member of the House of Delegates, probably drafted the resolutions and a remonstrance to Congress asserting Virginia's jurisdiction over lands (now in West Virginia) that were claimed by the Indiana Company—a land company based in Pennsylvania and New Jersey. The resolutions voided the Indiana Company's claims to these lands which were based upon purchases made from the Indians. These claims also conflicted with the unconfirmed title to the same lands claimed by the Ohio Company of which Mason was the treasurer and principal proponent.

8. "The State Soldier" misstates Mason's position. Mason had written that the new government would "most probably vibrate some years between" "Monarchy, or a corrupt oppressive Aristocracy," "and then terminate in the one or the other" (see "George Mason: Objections to the Constitution," 7 October, above).

9. "The State Soldier" refers to Patrick Henry who, for some years, had opposed the payment of British debts.

10. On 19 May 1784 the House of Delegates, of which Patrick Henry was a member, adopted a resolution providing that the state's congressional delegates be instructed to accelerate the settlement of accounts between the United States and the individual states and that the balances due to the United States "ought to be enforced, if necessary, by such distress on the property of the defaulting States or of their Citizens, as by the

United States in Congress assembled, may be deemed adequate and most eligible." (The *House Journal* did not identify either the delegate who wrote or presented the resolution.)

On 10 June 1788 George Nicholas, addressing the state Convention, criticized fellow delegate Patrick Henry's defense of the requisition system of Congress, stating that requisitions "are fruitless without the coercion of arms." Nicholas read the resolution of 19 May 1784 and declared "I am sure that the Gentleman recognizes his child. Is not this a conclusive evidence of the utter inefficiency of requisitions?" (See IV below.) Henry did not deny Nicholas' charge. In 1784 Henry was an advocate of increased powers for the central government. Only a few days before the resolution was adopted, William Short reported that Henry was willing to support a plan to give the central government "greater Powers" and suggested that James Madison and Joseph Jones of King George County outline such a plan. "It was thought a bold Example set by Virginia would have Influence on the other States. Mr. Henry declared that was the only Inducement he had for coming into the present Assembly. He saw Ruin inevitable unless something was done to give Congress a compulsory Process on delinquent States &c." (to Thomas Jefferson, 14 [15] May, Boyd, VII, 257. See also Madison to Jefferson, 15 May, Rutland, *Madison*, VIII, 34.)

11. Henry served as governor from 1776 to 1779 and from 1784 to 1786.

12. "An Officer of the Late Continental Army," published in the *Philadelphia Independent Gazetteer* on 6 November, attacked James Wilson and his 6 October speech given before a Philadelphia public meeting. (See RCS:Pa., 210-16; and CC:134, 231.) For "Centinel's" derogatory remarks about George Washington and Benjamin Franklin, see Tobias Lear to William Prescott, Jr., 4 March, note 4, and "A Virginian," *Norfolk and Portsmouth Journal*, 12 March, note 2 (both above).

13. See "The Publication of Edmund Randolph's Reasons for Not Signing the Constitution," 27 December (above).

14. See note 10 (above).

## Edward Carrington to Henry Knox

Richmond, 13 March<sup>1</sup>

Having but a few days ago returned to this City from the Country I was not honoured sooner with yours of the 10th. & 14th. Ult.<sup>2</sup>

The decision of Massachusetts is perhaps the most important event that ever took place in America, as upon her in all probability depended the fate of the Constitution—had she rejected I am certain there would not have been the most remote chance for its adoption in Virginia—the demoniac spirit has within a few weeks, passed from the few in whom it was generated, to the Mass of the people & Rages in such a manner as to give an unfortunate turn to the elections which are now making for the convention—the present politics of this State, amongst the discerning, are divisible into three very distinct classes—Antifederalists who are for a direct dismemberment of the Union—Federalists who make the Union their great & first object, but are for carrying their efforts to amend the constitution as far as possible within that object,—and Federalists who are for adopting without amendment—the two latter classes will certainly coincide in the point of Nine States having adopted, and would form a very great Majority could



the Convention be formed of the most deserving in the State—but unfortunately the flame now raging amongst the body of the people, will bring in many very weak & desperate Characters, who declare in the opposition, to the exclusion of better Men who will not so commit themselves on either side—the danger is, that a great proportion of the Assembly will be so overborn by the declamatory powers of Mr. Henry as to be deceived into his measures although their ultimate views may be entirely different. it is held out by Mr. Henry and his demagogues that Virga. is so important that she can bring nine or even 12 States to her Measures. I assure you my dear Friend that I feel more anxiety upon the present occasion than ever I felt during the War. It has led me to commit myself in an election for a County<sup>3</sup> where the majority are opposed to me in sentiment, and it is highly probable I shall be rejected, yet I could not tamely submit the measure to its fate without such an effort.

P.S. I shall set out for N. York about the first of apl.<sup>4</sup>

1. RC, Knox Papers, MHi.

2. In his letter of 14 February, Knox notified Carrington that the Massachusetts Convention had ratified the Constitution (*ibid.*).

3. Powhatan. (See Powhatan County Election, II below.)

4. Carrington was a delegate to Congress.

### An Impartial Citizen VI

Petersburg Virginia Gazette, 13 March<sup>1</sup>

The conduct of the enemies of this Constitution is so extremely antifederal, and they have suffered their passions to carry them [to] such indecent lengths, as to detract every possible merit from it, and enumerate among its *pretended* defects, the very noblest incidents it could possibly have. Even Mr. Mason, a man of great reputed abilities, has seriously objected, that the general and state Legislatures are restrained from making *ex post facto* laws: Though there never was nor will be a Legislature, but what must and will make such laws, when necessity and the public safety will require it: That the making such laws will hereafter be a breach of all the Constitutions in the Union, and afford precedents for further innovations.<sup>2</sup> I do not by any means wish to detract from that gentleman any part of his merited reputation; yet can any thing be more expressive, and demonstrative of the imbecility of human nature, than that persons who are supposed; and actually affect to be connoisseurs in politics, should be so totally ignorant of the first principles of civil polity, as to mistake for a defect in a Constitution, that which it ought to be most highly extolled for; the very best part it ought to contain? If Mr. Mason's character forbids

our imputing this objection to want of mental discernment, to what are we to attribute it? *Ex post facto* laws are universally allowed to be the most dangerous ingredients of any government. Neither lives nor property can be secure, where such laws are expressly or impliedly admitted or countenanced by the Constitution. Such a law is in effect an inversion of the right order of things, by giving future energy to antecedent facts. Does not a law that declares a legal pre-existent fact to be illegal, amount to a deprivation of men's rights? Does it not wantonly subject men to evils which the most consummate wisdom, joined with the most intuitive foresight, can neither foresee or advert. If such a law be admitted by the Constitution, can any immunity or declaration of rights counterveil its pernicious operation? Is there a planter in Virginia that would not detest a law, that would punish a man for having done what was lawful at the time of doing it? The learned Judge Blackstone, in the first volume of his excellent Commentaries, page 43, speaking of the impropriety of enforcing laws, without a previous promulgation, says, that "there is still a more unreasonable method than this, which is called, making of laws *ex post facto*; when, after an action (indifferent in itself) is committed, the Legislature then, for the first time, declares it to have been a crime, and inflicts a punishment on the person who has committed it. Here it is impossible that the party could foresee that an action, innocent when it was done, should be afterwards converted to guilt by a subsequent law; he had therefore no cause to abstain from it, and all punishment for not abstaining, must of consequence be cruel and unjust. All laws should therefore be made to commence in future."<sup>3</sup> The learned Judge, in the same page, quotes Cicero, the most learned, and perhaps the wisest of the ancient Romans, who expresses his detestation of such laws in the most nervous and energetic language.<sup>(a)</sup> Another celebrated author declares, that "If laws do not punish an offender, let him go unpunished; let the Legislature, admonished of the defect of the laws, provide against the commission of future crimes of the same sort: The escape of one delinquent can never produce so much harm to the community, as may arise from the infraction of a rule, upon which the purity of public justice, and the existence of civil liberty essentially depend." Every other writer of reputation, who writes on this subject, breathes the same sentiments: Nor can the antifederalists adduce a single argument in favor of this iniquitous kind of laws. What necessity can warrant or justify so flagrant and outrageous an attack on the rights of mankind? I aver and *can maintain*, that if, in any age or country, the public safety depended on an *ex post facto* law, it was owing to some capital defect in the form of government,

and that the passing such a law did not in reality meliorate the situation of public affairs. Weak and bad governments require violent means to support them; but a well regulated system, a government whereof the direct end and basis are political liberty, need not recur to such flagitious and detestable means as this kind of law to support it. In this assertion I am warranted by the opinion of the great Montesquieu. It being therefore a maxim of natural and universal jurisprudence, that no law should be made to punish a man for the commission of an act, which was not unlawful at the time of doing it, the Convention most wisely inserted a clause in the Constitution, that no such law should be passed. When, therefore, a man of Mr. Mason's supposed political knowledge, objects to so admirable a clause, a clause whereon depends, in a great measure, the existence of our liberties, we need not be in the least surprised at the "flimsy sophistry," indecent virulence, and fallacious accusations, against the new Constitution—We need not be surprised that so many of its enemies urge that the destruction of the State Legislatures is intended, and that one general government will be raised on their ruins—We need not be surprised that this false doctrine is inculcated by that inflammatory and virulent writer, who, under the signature of *Centinel*, has most insidiously endeavoured, by the most acrimonious and indecent language, to impose on the people, and excite in their minds, not only a distrust and hatred of this system, but a detestation of those excellent and truly philanthropic patriots who framed it<sup>4</sup>—We need not be surprised that Mr. Martin, in his unfair and partial information to the Assembly of Maryland,<sup>5</sup> has also strongly inculcated this doctrine—nor need we be astonished, that it is urged in the *address* and *dissent* of the minority of the Convention of the State of Pennsylvania;<sup>6</sup> a composition which is perhaps the most barefaced attempt to impose upon mankind, and the most flagitious and detestable piece of sophistry that ever was exhibited to the world. The quibble of the antifederalists on the meaning of the word consolidation, is really worthy of their cause: They urge, that by this word is meant the utter annihilation of the State governments, and a condensation and reduction of them all to one general Legislature. Nothing can be really more ridiculous in the estimation of every sensible federalist than this. By consolidating the Union is meant nothing else than the establishment of a *firm, solid, and indissoluble* Union of the States, in contradiction to the present *feeble, relaxed, apparent* union, that subsists by the Confederation, which most certainly has nothing of an efficient junction—nothing of an union, in fact, but the bare name. So far is this probable annihilation of the State governments from being true, that the existence of the Congress depends entirely

on that of the State governments; the demolition of which it cannot, by any possibility, survive. To prove the truth of this position is very easy. By the 2d section of the 1st article of the Constitution, "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." By the 3d section of the 1st article, "The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof for six years:" And by this same section, the Senate is so constituted, that one-third shall be displaced every second year, and one-third chosen every second year, in their stead. Also, by the 1st section of the first article, "*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:*" thus the concurrence of both Houses is essentially necessary, to give validity to any of the congressional laws. How then can the Congress survive the State Legislatures? As the State Legislatures are to choose the Senators for six years, as they choose one-third of them every second year, how can there be a Senate if the State Legislatures do not exist to choose them, and if they do not also meet once in two years to choose a third of them? How can there be a House of Representatives, unless its members be chosen? How can its members be chosen, unless it be known and ascertained who have a right to vote in their election? Are not the qualifications for voters in this case known, by being the same with the qualifications requisite for electors of the most numerous branch of the State Legislature? If there be no State Legislature, how can the comparison of qualifications of electors be made, or representatives chosen? How can there be even a President, unless there be a State Legislature to direct the manner of appointing the electors who are to vote for him in each State?—In answer to these questions, we are told by the Pennsylvania minority, by *Centinel* and other antifederalists, that the influence of both Houses of Congress will be such as will enable them to usurp their places for life, and establish their children in the government in the same places; and so constitute an aristocracy that will be hereditary in their respective families. This, say they, the Congress will be able to effect by means of a standing army, an unlimited command over our purses and our swords, and their controul over the time, place, and manner of electing representatives, and over the time and manner of choosing Senators. On a due examination of the Constitution, and comparison thereof with these objections, I trust it will clearly appear, that they are dictated entirely by the most implacable hatred to every idea of

confederation, or by the grossest and most stupid ignorance. In the first place, Congress cannot interfere as to the place of choosing Senators; so that the Legislatures will be able to elect them in their usual place of session, or where they please: The manner of election signifies little, if it be dispassionate, fair, and impartial. As to the time of choosing Representatives or Senators, although the Congress can alter that prescribed by the Legislatures, yet it cannot possibly prevent the State Legislature from choosing one-third of the Senators *once* in two years, nor deprive the people of their right of electing (in the constitutional mode) the Representatives *every second* year. This right of electing Representatives, reverts to the people every second year. This right of choosing a third of the Senators, in the manner laid down by the Constitution, reverts to the Legislatures every second year; and this reverted right cannot be usurped or impaired by the Congress, without a violation of the Constitution. Congress, by their power over elections, may make excellent regulations, to prevent that violent animosity, heat, and party rage, which so frequently attend elections. If Congress had not this power, all their other powers *might* be nugatory and inefficient, and the Union be in fact dissolved. The State Legislatures *might* prescribe such times, places, and manners of elections, as would be impossible to be followed, or *might* altogether omit prescribing, whereby the Union might be dissolved, or greatly endangered. Every political sovereign power intended to be perpetual, ought to be invested with constitutional power of preventing the destruction of its perpetuity. There is nothing invidious in this power. In the Constitution of Virginia, there is a provision only for annual elections of two delegates for a county, &c. and triennial elections of one Senator for a district. The Constitution does not fix the time, place, or manner of election. Those are ascertained by acts of Assembly, are on the "mutable grounds of legislation," and may be changed, altered, and modified, at the will and pleasure of any future Assembly. So also the Federal Constitution provides, that Representatives are to be chosen biennially, and Senators for six years, in such a manner, as that a third will be biennially elected; but the time, place, and manner of election of the one, and time and manner of choosing the other, are left to be prescribed by the States; subject however to the controul of Congress, which it will most probably not exercise, if the States will regulate the election properly. As to the suggestion, that "Congress may direct the Representatives of a whole State to be elected in one place, and that the most [in]convenient," it may as well be urged, that the Legislature of Virginia will hereafter constitute oppressive changes in the mode of electing Delegates and Senators; and that they may pass the most in-

iquitous laws. This they can do, but it is extremely improbable: Their responsibility to their constituents, and the certainty of their being reduced to the same station from whence they were elected, and where they will feel the inconvenience and hardship of oppressive regulations, makes this suggestion as futile as any thing that can be conceived. Secondly, the influence of the Congress can never enable them to continue longer in their places than the respective times prescribed by the Constitution. No Senator can continue longer than six, nor Representative longer than two years, in the House of which he is a member, without he be re-elected which cannot be supposed will happen, if the intelligent Legislatures and people of America be dissatisfied with the laws of Congress, or entertain any jealousy of its members. Senators are to be thirty years of age, must have been nine years citizens of the United States, must be inhabitants of the States for which they are elected, can enjoy no other office or place and can receive no present or emolument from a foreign State or Prince. Representatives are to be twenty-five years of age, must have been seven years citizens of the United States, and be inhabitants of the States for which they are chosen; and are restricted as to offices, presents, and emoluments, in the same manner that Senators are. By these means, their judgment will be matured, their characters known, their interest in, and attachment to their community ascertained and established; their integrity guarded, and their independence secured. Such characters will not be very ready to make open and great usurpations on the rights of the people. Such violent oppressions as tend to subvert government and dissolve a constitution, have seldom been attempted by the worst of tyrants. Gradual and imperceptible encroachments are the usual modes of infringing liberty. But let us suppose for a moment that the members of Congress will at some future period continue longer in their places than the Constitution provides, under the color of a law made by themselves for that purpose or of urgent necessity, or the like; what will be the consequence? Will not this be as open and flagrant a violation of the Constitution as any other measure they could possibly attempt? Will not all the States be effectually alarmed and roused at this usurpation of power? The sitting members would not in this case be considered as the constitutional Congress: Their acts would not be looked upon as laws: The States and the people would choose other members, which would displace the usurpers, who would not be permitted to sit or act as Congress. Either this would be the case, or the Federal Union would be dissolved, and the powers of Congress would again devolve to the constituent States. It might as well be alledged that the Legislature of Virginia might alter or

abolish our Constitution with impunity, without any previous consultation of their constituents. The States would as naturally resist in the one case, as the people in the other. The resistance would probably be more efficacious. In short, every argument used to shew the semblance of aristocracy in the Constitution is fallacious, and insidiously used by designing people, to prevent the adoption of an excellent system, which may counteract their views. They instance the aristocratic Senate in the petty kingdom of Sweden, as an anticipatory proof of the loss of our liberty.<sup>7</sup> The nobles which composed the Senate in Sweden were hereditary, not elective: They were amenable to none; their mere will and pleasure was the constituent and criterion of their legislative or other public acts. As there is no similarity in our Federal Senate to them, no parallel can be drawn from thence; besides that in as small a territory as Sweden, an aristocracy might be formed with infinitely more facility than in so extensive a country as the United States. But here the enemies of the new system frighten us with the idea of a standing army. I am a mortal enemy to standing armies, in time of peace particularly; but the necessity of armies in some cases is very obvious. If there be a probability of an attack by foreign nations, or of an overthrow of the government by civil discord, we ought not to wait the enemies attack in either case. It is sophistry in the extreme to suppose, that standing armies will be kept in time of profound peace, when there is no necessity for it. As a regular statement and account of the public receipts and expenditures of money, are to be published from time to time, for the inspection and examination of the public; and as this cannot, on any pretext, be kept secret from the people should armies be unnecessarily maintained the sums which their maintenance would cost would be universally known, and as universally would the measure be reprobated. Every Legislature, and the people in every State, would certainly direct their Representative members and Senators, to vote the dismissal of the army. This would be as certainly done; or a neglect of such directions would be severely censured and punished. When a standing army will be unnecessarily maintained in the United States, there will not be a particle of virtue in the people; they will be ripe for the most corrupt government. But the power of raising and collecting taxes, and of providing for arming and disciplining the militia, and governing such part of them as may be employed in the service of the United States, are represented as the means whereby the State Legislatures will be destroyed, and the members of Congress rendered an hereditary aristocracy. Experience has sufficiently evinced the inefficiency and inutility of requisitions by Congress, of the States, for their respective quotas; these requisitions

were treated with contempt or neglect by several States. It would always be the case, as long as their consent and inclination would be the only criterion of their grants. To compel any State by dint of arms to pay her quota, would be the utmost degree of political madness; it would generate the most implacable hatred of the citizens of some States to the rest: It seems also impracticable to effect it. Yet the public credit ought to be supported, and the common defence and general welfare provided for. How could this have been done, but by recurring to the same process whereby money is levied by the different State Governments? But even this will be seldom practised, or not to a great extent, as the impost will be very productive. This is roundly denied by *Centinel*;<sup>s</sup> yet there are more reasons to believe than disbelieve it. The necessity of publishing regularly the amounts of monies received and expended, will most certainly prevent an improper application of the public money; it being provided also by the Constitution, that no appropriations of money shall be made, but in consequence of laws for that purpose enacted. The congress cannot make an instrument of tyranny of the militia: The Congress can only provide for arming and disciplining them. The propriety of this results from that of an uniformity of discipline and armour throughout the States, which must be self-evident. The Congress can provide for calling forth the militia only in three cases, viz. to execute the laws of the Union, suppress insurrections, and repel invasions: Ought not these three things to be done? Still the respective States have the authority of training the militia according to the congressional discipline; still they have the appointment of the officers: This renders the States perfectly secure. If the Congress does not prescribe any mode of discipline, the States are not abridged of disciplining them: If the Congress does, still without being trained, and without officers, militia will be useless. Officers appointed by the States would never concur in the destruction of the liberties of their country.

If the Congress were to call forth the militia of this State to quell an insurrection in Connecticut, when with infinitely more ease and convenience the Militia of Massachusetts, or some adjacent State, could effect it, the consequence would be an universal, just and irresistible alarm and struggle throughout the Continent: Every State would be deeply interested in opposing so very oppressive an act. It cannot be supposed that the Congress will ever hazard so dangerous a measure. Its members must be idiots or madmen to attempt so wanton a depression of liberty. The members of a Congress who would enact such a measure, would be amenable to their constituents, and every degree of punishment that constituents can any way inflict, would most surely



be inflicted on them. They would at all events be never confided in again, nor ever chosen to any office whatever. The people will moreover in every State give positive and pointed directions to their Representatives, and the Legislatures to the Senators, to oppose in Congress, every measure of an oppressive nature. The members from this State will ever compose one fifth at least, of the members present, or will certainly be joined by as many others as would amount to that number. At the request of that number, the yeas and nays on any question, shall be entered on the journals. This will discover the favorers of tyranny. This will prevent corrupt and dangerous proceedings most effectually. But say the antifederalists, the thirst of power will be so great, that the members of Congress will be all but too ready to oppress the people, and too reluctant to relinquish authority. I have already shewn the impracticability of their continuing in Congress, longer than the time pointed out by the Constitution. The only way then whereby Congress can oppress us in any considerable degree, will be by raising money and an army, unnecessarily, and by ordering the militia to be embodied and marched to destroy their fellow citizens. The publication of the applications of the public revenue, and the notoriety of the situation of public affairs, most clearly will prevent the former. The latter cannot be effected without the consent of the militia officers, who being appointed by the States, will be attached to the people, and will never join in the demolition of the freedom of themselves, of their friends and posterity. Besides, the States would, and I conceive *constitutionally* could, oppose this last measure: The Constitution does not say expressly, that the militia shall be marched out of their respective States. And this power by implication will never be suffered to be strained to a most unnecessary and dangerous purpose. The foes of the Constitution affect to call the Senate aristocratic; the members of which, they say, will be able to constitute their children Senators after them. But is not this a most daring insult on the understanding of the good people of the United States? If an hereditary aristocracy be established at all, it will consist of two families in each State: Will any State suffer itself to be enslaved by any two families? Would the powerful and extensive State of Virginia, permit any two men or families, however ambitious, to deprive her of her freedom? Would she suffer two persons totally dependent on herself, to enslave her? Would this *imaginary aristocratic* junto agree between themselves? Would that harmony and concord necessary for the existence and safety of an aristocratic body, subsist among persons so remotely situated from one another as New-Hampshire and Georgia? The idea is incompatible with common sense. The minority of Pennsylvania urge

that the Senate will never suffer an augmentation of the other House.<sup>9</sup> Is not this begging the question in the most pitiful manner? Is not every Senator amenable to the Assembly that elects him? Will not the proceedings of the Senate be well known? Will the Senators then dare to insult their constituents in so open a manner? Failing in argument, the enemies of the Constitution recur to the most childish sophistry.

*Centinel*<sup>10</sup> tells us, that true responsibility consists in a simple structure of government, for, that when abuses happen, the authors cannot be mistaken, and the remedy will be applied with certainty and effect: That if on the contrary, the frame of government be complicated, consisting of various orders, the people will not know the authors of abuses—that some will impute them to the Senate, others, to the other House &c. This sophistry of that virulent writer, is of a piece with the rest of his composition. His criterion of responsibility is the certainty of the authors of maladministration; consequently according to his rule, a monarchy of the worst kind, is preferable to any democracy, for, when there is but one ruler, there is an absolute certainty that he and he only is the offender.—All the states have thought his hypothesis fallacious, for, none of them have a perfectly simple structure of government. In the Federal Constitution, after the time of the appointment of the members of Congress expires, they will be most certainly discarded, if they shall have behaved improperly. That inflammatory writer has asserted that the forms of a Constitution, the semblance as he terms it, may continue, although its spirit be destroyed.<sup>11</sup> That consequently our liberties will perish, although the State Legislatures be in existence. To prove this he instances a period of the Roman history:—That in the time of Augustus, the form of the Republic still remained, although Augustus was arbitrary; that the Senate sat; that there were Consuls, Tribunes, Censors &c. as usual.—Herein he betrays an ignorance equal to his consummate arrogance: The form of the ancient Republic did not exist in Augustus's time. Augustus usurped the sovereignty by creating himself at once Consul, Tribune, Censor, nay absolute Dictator in every thing.—In the time of the Republic these offices were always separate, and never concentrated in one person.—That writer and many other antifederalists, accuse the framers of the Constitution of a design of introducing aristocracy, and of wishing to become masters of our liberties.—But nothing can be more palpably false, and unpardonably malevolent than this charge. The framers of the Constitution were solely governed by the love of their country; they have no security of being elected as Senators or Representatives. Any enlightened good man may be elected to either House, whether he possess property or not. The way is open for talents and ability.—

The people of the States can choose whom they please.—The same violent author (if he may be called an author) insinuates that our patriotic and illustrious President was imposed upon, and that the venerable Franklin has lost his understanding by force of old age.<sup>12</sup> If we compare the composition of *Centinel* to the well known writings of the President, every judge of composition, every candid man, will immediately conclude that the latter is preferable to the former, and that no man on the Continent is less apt to be imposed upon:—It is well known in Pennsylvania that Doctor Franklin's understanding is perfectly unimpaired.—I observe that Mr. Martin, in his information to the Maryland Assembly, has at every period almost, blended his own passionate sentiments with the recital. He represents his own party as ever right, just and infallible. He describes the majority of the Convention as monsters and fiends of the most malignant kind.—In short, he asserts that many of the favorers of the new system advocated in Convention, monarchy, and several other iniquitous measures.<sup>13</sup>—This *cannot* be so—I cannot believe this insinuation; the *reputed character* of the informant *forbids* my confiding in his assertions. The well known good characters of many of the Convention, and the informant's manifest partiality *command* my disbelief in his representations.—In almost every country in the world;—in almost every age; the best schemes, the most politic and equitable measures, have been impeded or destroyed by the violent exertions, and unwarrantable opposition of such *pretended patriots*, but *real enemies* of their country. Carthage fell by such arts and intrigues.—Had there been no such designing men; Macedonia and most of the Eastern Countries would not have lost their liberty, and the greatest part of Europe would not perhaps be as now, under the subjugation of absolute tyranny. In a country, which like the United States, abounds with men of great talents and integrity, it seems to me very astonishing, that any writer however violent or sanguine his temper, however antifederal his disposition, should have hazarded his reputation, by exposing his malignity or folly to the immense fund of good sense in this country, in asserting that the General Legislature would destroy the State governments: In the struggle for his cause, he should not have abandoned decency and truth.

(a) "Vetant leges sacratae, vetant duodecim tabulae, leges privatis hominibus irrogari; id enim est privilegium. Nemo unquam tulit, nihil est crudelius, nihil perniciosius, nihil quod minus haec civitas ferre possit."<sup>14</sup>

1. An unnumbered essay by "An Impartial Citizen" appeared in the Petersburg *Virginia Gazette* on 10 January (above). Essays II–IV were probably printed in the Petersburg

*Virginia Gazette* between 17 January and 21 February. None of these issues is extant. Essay V was printed on 28 February (above).

2. See "George Mason: Objections to the Constitution," 7 October (above).

3. Blackstone, *Commentaries*, Book I, Introduction, section II, 46.

4. See "Centinel" I-II (Samuel Bryan), Philadelphia *Independent Gazetteer*, 5 October, and Philadelphia *Freeman's Journal*, 24 October (CC:133, 190). For the circulation of "Centinel" I-II in Virginia, see "Richmond Pamphlet Anthologies," c. 15 December, and Tobias Lear to William Prescott, Jr., 4 March, note 4 (both above).

5. A reference to Constitutional Convention delegate Luther Martin's *Genuine Information* that was printed in twelve installments in the Baltimore *Maryland Gazette* between 28 December 1787 and 8 February 1788 (CC:389). The third and sixth installments were reprinted in the Petersburg *Virginia Gazette* on 28 February and 13 March. Other installments appeared in the no longer extant issues of the 21 February and 6 March.

6. See the "Dissent of the Minority of the Pennsylvania Convention," which was first printed in the *Pennsylvania Packet* on 18 December (CC:353). It was reprinted as a pamphlet in Richmond on 4 January by Augustine Davis, and in six installments in the weekly *Winchester Virginia Gazette* between 1 February and 14 March.

7. See, for instance, "Centinel" II (CC:190).

8. *Ibid.*

9. See note 6 (above).

10. "Centinel" I (CC:133).

11. "Centinel" II (CC:190).

12. "Centinel" I (CC:133).

13. In the second installment of his *Genuine Information* to the Maryland House of Delegates, Luther Martin listed three parties in the Constitutional Convention, one of which he said wanted to "bring forward one general government over this extensive continent of a monarchical nature. . . ." Martin obviously was in the party that was "truly federal and republican" (Baltimore *Maryland Gazette*, 1 January, CC:401).

14. Translation from Cicero's *Orations*: "The sacred laws—the laws of the Twelve Tables—forbid bills to be brought in affecting individuals only; for such a bill is a special law. No one has ever passed such measures; for no act could be more cruel, more mischievous, more abhorrent to the sense of our community." (See note 3 above.)

### **Winchester Virginia Gazette, 14 March<sup>1</sup>**

Notwithstanding the antifederal writers assert that four fifths of the people of these United States are opposed to the new system of Government, yet Six States (which are all that have had it under consideration) have adopted it.—In three of these it passed without even *one* dissenting voice, and in only *one* did the minority exceed one third.

1. See "Arthur Lee's Report on Virginia Antifederalism," 7 March (above), and the *Winchester Virginia Gazette*, 26 March (below).

### **Minton Collins to Stephen Collins Richmond, 16 March (excerpt)<sup>1</sup>**

. . . The New Feederal Constitution will meet with much opposition in this State, for many pretended patriots has taken a great deal of pains to poison the minds of the people against it; but I hope the

Wise, & prudent Steps the people of Boston has taken,<sup>2</sup> will Have great Weight with the bulk of the people who do not want understanding: There are two Clas[s]es here who oppose it, the one is those who have power, & are unwilling to part with an atom of it, & the others are the people who owe a great deal of money, and are very unwilling to pay, as they are much affraid this Constitution will make them *Honest Men*, in Spite of their Teeth.<sup>3</sup> . . .

1. RC, The Papers of Stephen Collins and Son, DLC. The letter, addressed to "Mr. Stephen Collins/Merchant/Philadelphia," was "Favoured by Mr. Pollock."

2. Collins is probably referring to the nine recommendatory amendments that accompanied Massachusetts' ratification of the Constitution. (For these amendments, see CC:508.)

3. In a part of the letter not printed here, Minton Collins referred to a forthcoming lawsuit concerning a debt due him. On 8 May he wrote Stephen Collins that he had "very little prospect" of bringing the debtor "to terms as the Laws of this State now Stands, but I hope when the New Foederal Constitution is adapted, that the Laws will be put upon a better footing—The Constitution will meet with considerable opposition here, but it will pass Notwithstanding, for there is a great Majority in favour of it—The three fourths of the people that oppose it, are those that are deeply in Debt, & do not wish to pay" (The Papers of Stephen Collins and Son, DLC).

### Virginia Independent Chronicle, 19 March<sup>1</sup>

#### FROM CORRESPONDENTS.

Out of all the members as yet returned to the Convention there are only three or four against the new constitution—and it is the general opinion that there will scarcely be found ten men in the whole state, who, when they meet here in June, will be hardy enough to set their opinions in competition with those of all the great and good patriots in America, and thus suffer themselves to be branded with the *odious* and *disgraceful* appellation of *antifederalists*.<sup>2</sup>

Those are to be accounted such who talk of amendments *before* the adoption of the constitution. The true friends to union, that is, to liberty, happiness and national glory, are those who wish to go hand in hand with Massachusetts—adopt the constitution as they have done—and *then* propose such amendments as may be thought necessary—By uniting with her we shall, as the two largest states in the union, be sure to accomplish every just, honorable and impartial amendment—But if we pull one way and Massachusetts another—both of us may lose what each may have in view.<sup>3</sup>

Six states have adopted the new constitution, and those, in which are included, after our own, the two largest states in the union, already make a majority of the free people of America.<sup>4</sup>

It is somewhat remarkable that all who are real friends to the union, and who act honestly and openly, take great pains to remove the

groundless prejudices which prevail among the people by distributing copies of the new constitution—whilst, on the other hand, those who are in their hearts against a union—that is, those who talk of amendments *before* ratification—endeavor to keep the people in the *dark* by *telling* them what the constitution is, without *shewing* them what it is—or *giving* it to them to read and *judge for themselves*. All their little artifices and low cunning, all their misconstructions and misrepresentations may serve to confirm the obstinate and to deceive the ignorant—but the honest and well meaning with only common understandings see through their designs and despise them for their wickedness—It will be fortunate for them if the resentment of the people should terminate in contempt alone—When they have been misled—it will be but a small consolation to them to be told by those who have deceived them—that they *thought so and so*.<sup>5</sup>—

1. Fifteen newspapers reprinted all four paragraphs by 5 May: Mass. (3), Conn. (3), N.Y. (3), N.J. (1), Pa. (4), S.C. (1). (For the reprinting of an excerpt from the fourth paragraph, see note 5.) The individual paragraphs were each reprinted between sixteen and twenty-six times. (See notes 2–5 below.)

2. By 5 May this paragraph was reprinted twenty-six times: N.H. (4), Mass. (6), R.I. (3), Conn. (4), N.Y. (3), N.J. (1), Pa. (4), S.C. (1).

3. By 5 May this paragraph was reprinted twenty-four times: N.H. (4), Mass. (5), R.I. (3), Conn. (3), N.Y. (3), N.J. (1), Pa. (4), S.C. (1).

4. By 5 May this paragraph was reprinted twenty-five times: N.H. (3), Mass. (6), R.I. (3), Conn. (4), N.Y. (3), N.J. (1), Pa. (4), S.C. (1).

5. By 5 May this paragraph was reprinted sixteen times: N.H. (1), Mass. (3), Conn. (3), N.Y. (3), N.J. (1), Pa. (4), S.C. (1). The reprints in the Philadelphia *Federal Gazette*, 27 March, and in five subsequent newspapers excluded the last sentence of this paragraph.

## Senex

### Virginia Independent Chronicle, 19 March<sup>1</sup>

MR. DAVIS, *You will oblige several of your Subscribers, by publishing the following short Essay in Wednesday's Chronicle—Postponing it longer would defeat the writer's intention.*<sup>2</sup>

Several essays lately published, require a filtering process; teeming with personalities. The great questions that originate from the new constitution meet only a secondary consideration, and though armies of words have been paraded, nothing more has been done, than proving the President and Senate do not possess two-thirds of legislative power: surely some regiments might have been directed to shew the probability of a paralytic stroke, rendering inactive those powers, America is modestly requested to convey to a few of her sons.

Unfortunately the combined forces of argument are otherwise applied; and we find the constitution obliged by *Valerius* to depart from

its letter, and announce what the wisdom of the convention never designed, viz. "is not the senate amenable to the different state legislatures by whose breath they exist, and can in a moment be annihilated."

Ruminate, *Valerius*, on the above assertion, and the invective against Mr. Lee of flagrant violation of truth, when your next period admits, each state has only a vote in electing a Senator, on a particular occasion, which you suppose will seldom if ever occur.

Every man certainly ought to determine agreeable to the assent of his understanding; but no intuitive perception of right or wrong, can justify an erroneous statement of fact—you must therefore, *Valerius*, excuse being called on to acknowledge you misconceived the constitution, in assuming the votes for President were to be taken by states, only, when two or more candidates had equal voices, as art. 2d, sect. 1, enacts that mode for every case, except when one candidate has a majority of electors.

I must now give the *State Soldier* that applause he merits, and candidly admit his arguments about the liberty of the press,<sup>3</sup> cannot be suspected of—*one*—Plagiarism, for no antient or modern sage ever before attempted to prove the press cannot flourish in a free country, and that the soil of despotism affords it more nourishment, than pure earth cultivated in a popular style—Though fond of experimental philosophy, I humbly conceive France must be admitted an exception to the above ingenious theory, for in that kingdom Lettres de Cachet, generally correct vulgar antiquated notions of government, and French genius, awed by the majesty of a bastille, or the impending axe, flies to neighboring nations for protection; and the policy of despotism will suffer no book or even news-paper to be printed without a licence obtained from inspectors, who invariably refuse one, to every writer who presumes to animate mankind to the recollection of natural rights. A free press is their faithful guardian, by bringing to light the silent advances of ambition—by informing the community at large of the good or evil that may flow from any proposition. The present crisis confirms it beyond the reach of scepticism, and had printers betrayed the public, by refusing to insert those strictures patriotism, vanity, or selfishness have brought forth, the new constitution would have been eagerly adopted, without reflecting on those vices and virtues that seem to contend in the womb, and alternately create admiration and indignation in the contemplating mind of every citizen.

What man now views the subject, as when first presented?—What infinite wisdom, inspired foresight, &c. echoed from every corner?—How different the scene in 1788—Intemperate adulation, and the leth-

argy, reverence to great names gave birth to, gradually declining. Reason reassumes her scales, proclaiming with awful energy from north to south, that the rights retained by the people do not counter-balance the powers conveyed away,—that the evils of a relaxed government have been great, but contrary extremes may be greater.

Such are the consequences of free discussion,—may its source, the liberty of the press, remain a perpetual blessing to America, and her sons who fought and bled like the *Old Soldier*, for free constitutions, perfect the great work, not adopt a creed recently exec[r]ated, become cynically sullen, or stigmatize old friends for retaining republican sentiments.

The passions, the animosity of partisans, are foreign to patriotism,—they vainly exhaust metaphor, in abusing him who cannot be forgot without ingratitude—While the resentment of individuals vanishes with themselves, and millions descend to parent earth, unnoticed, unknown, remote generations must venerate that man, who, on the fourth day of July, 1776, moved Congress to declare America independent,<sup>4</sup>

“Spoke an Empire into birth.”

Remember him, freeholders of Westmoreland!<sup>5</sup>—suffer no party work to delude you, by relinquishing the honor of such a representative at the next convention!

Manchester, March 14, 1788

1. “Senex” replies to “Valerius,” *Virginia Independent Chronicle*, 23 January, and “The State Soldier” III, 12 March, both of whom had criticized Richard Henry Lee’s letter of 16 October to Edmund Randolph (both above).

2. The Westmoreland County election of delegates for the state Convention was scheduled for 25 March, the day before the next issue of the *Chronicle*.

3. See “The State Soldier” III, 12 March (above).

4. On 7 June 1776 Richard Henry Lee moved that the colonies “are, and of right ought to be, free and independent states”; independence was voted on 2 July; and the Declaration of Independence was adopted on the 4th.

5. Lee’s estate “Chantilly” was in Westmoreland County.

## A Ploughman

Winchester Virginia Gazette, 19 March<sup>1</sup>

*Messieurs BARTGIS & Co. Your giving a place to the following, in your impartial Gazette will oblige A CUSTOMER.*

Dear Countrymen, When we address the People at large, we approach the source of majesty, power and dominion, for all authority and constitutional right of government originates with, and proceeds from, the People; but, when the People become so degenerated as to have no jealousy for their dignity, rights and privileges, they never fail to find usurpers in power and dominion; and various have been the



schemes for that purpose, sometimes by artful insinuations, sometimes by sheer deception, and often by open violence. Not long since, the ambitious sons of Britain made wide stretches in their encroachments upon our liberties, but by our virtue and bravery, we shook off the insupportable yoke, and thereby became the most free, happy and renowned people in the universe. But, *Liberty!* That Heaven-born darling of every virtuous soul, must undergo her long-accustomed treatment. When banished from Asia, Africa and Europe, she appeared in all her beauty and excellence, in the dreary regions of America; you see how ambition and avarice beset her, with all their sordid concomitants, and are indefatigably exerting every nerve to force her flight from our world, to those blissful regions from whence she descended.

The happy state of America, in the enjoyment of liberty, roused up the envy of the sons of pride, who never could bear with the happiness of the people in any part of this world, have formed a plan of government, incompatible with, and subversive of, those virtuous plans established by our brave and worthy patriots of the late revolution.

And in order to rivet the chains of perpetual slavery upon us, they have made a standing army an essential of the Federal Constitution, which the world cannot produce an instance of a more permanent foundation to erect the fabrick of tyranny upon; here we are to support and pay our own tormentors, with a bayonet at our breast; to be domineered over by the instruments of tyranny and oppression, and to keep a standing army, gives cause to suspect that the rulers are afraid of the people, or that they have a design upon them. If their designs are oppressive, the army is necessary to compleat the tyranny; if the army is the strongest force in a State, it must be a military government, and it is eternally true, that a free government and a standing army are absolutely incompatible.

An army is so forcible, and at the same time so terrible an instrument, that any hand that wields it may, without much dexterity, perform any operation, and gain any ascendancy in human society, and is a mortal distemper in a free government, of which it must inevitably perish.

It was a custom with Lord Walpole when he was minister of state in England, that if any borough did not elect whom he directed, he would send a messenger of satan to buffet them, viz. a company of soldiers to live upon them.

I wish the majesty of the people, together with Congress, would consider, that notwithstanding the throne of tyranny is upheld by an army, it is in continual danger of being overthrown by the same army. Armies have dethroned many a tyrant of their own setting up, and are

sure to set up another tyrant in his place. Witness many of the Roman Emperors (of scarlet memory); the Turkish Emperors with their bloody bashaws. Witness the tyrant Charles the first of England; the same army set up the tyrant Cromwell, whom they would murder, had he not concealed himself; but the same army hanged him at Tyburn after he was dead, and that same army set up the tyrant Charles the second; so that an army, with all its inherent malignancy, force and terror, is not to be depended upon; if they do not butcher the people, they will sacrifice their masters; the nature and disposition of an army will not admit of their being inoffensive.

Permit me, my dear fellow citizens, to add one truth more as true as the gospel; that by the Federal Constitution, every soul in America will be an absolute slave; the common people, who are the best and greatest supporters of government, will be slaves to a numberless herd of creeping sycophants; those will be slaves to their employers; their employers will be slaves to Congress, and Congress will be slaves to the army, and the army will be slaves to the &c. &c. &c.

These sentiments are stubborn truths which none upon earth but an American dare hold up to the publick; but if the Federal Constitution be ratified, *the Liberty of the PRESS, that palladium of Freedom, will be lost also.*

Finally, my fellow citizens, you ought to consider this period to be the most interesting you ever saw, or ever will see; now is the time to secure, or to bid an eternal farewell to liberty.

Your interest is inseparably connected with that of Your humble servant, A PLOUGHMAN.

*Cherry-lane, March 3, 1788.*

1. For a reply to this item, see "Peregrine," *Winchester Virginia Gazette*, 2 April (below).

#### **The State Soldier IV** **Virginia Independent Chronicle, 19 March<sup>1</sup>**

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

I have now shewn you the *effects which an attempt to amend the new constitution, at this time, would have on the Union*; and also the meanness there is *in being influenced by the mere sound of names* on this important occasion.

And in doing this, I have been unavoidably led to answer some of the individual objections to the constitution themselves—among these are *the want of a bill of rights, the equality in the senate, and the liberty of*

*the press*—all of which I shall avoid recapitulating at this time, with an intention of confining myself wholly to those objections which I have not heretofore entered fully into.

All the objections to the constitution appear to be contained under two heads—the one respects our liberties, the other our interests. To those which respect our liberties, only, I mean to reply in this paper; and in order the more effectually to do that, I shall head this first class of objections under that assertion, which holds forth, that *by the adoption of this constitution we shall be deprived of our liberties*.

And considering that as the *ne plus ultra* of antifoederal workmanship, I shall, after viewing it in the light of a slender fabrick built in air, and filled with imaginary bugbears, first examine into its foundation as a general assertion; and then prove its feebleness by trying the arguments on which it depends for support.

The only desirable purpose of any government, is, the security of mens persons and property; and that which advances farthest that way, is not only the most perfect, but the most free.

Chimerical and speculative enjoyments may amuse the imagination; but justice and safety alone can ensure real happiness—and liberty without happiness is but emptiness and sound.

The more independent a government is therefore of the people, under proper restraints, the more likely it is to produce that justice; and the more substantial and efficient under such restraints, the better calculated to protect both the persons and property of mankind. And the efficiency and energy, of this government being acknowledged in this *general objection* itself, the only necessary enquiry will be, whether the restraints are sufficient to prevent its becoming too formidable in the end.

In respect to restraints on government, there are but three things necessary to be guarded against, the first is a power to deprive men of their personal rights or property by direct laws; the second, is, a power to depress those natural rights into a meanness of person by preventing men from acquiring property from loading them unequally with the public burthens of the state; and the third is, a power to destroy the equality of right by a partial administration of justice. That government which is guarded against those powers, may be said to have all the restraints necessary to constitute a rational happiness under any society.

Let us examine then how far the proposed constitution may be valued on that head.

Under this government neither the Congress nor state legislature could, by direct laws, deprive us of any property we might hold under

the general law of the land, or punish us for any offence committed previous to the passage of such laws, since they are prohibited from passing *ex post facto* laws. Nor could they injure the value of any species of property by partial taxes, since from the proportion laid down in that government, to affect the value of slaves, for instance, in this state, they must ruin all the free persons in several others. Nor could they injure the property of an individual in any state, since the same proportion must be observed throughout a part as well as the whole.

Neither could they in the third instance destroy the equality of right, or injure the value of property in a particular state, or belonging to any individual by a partial administration of justice, since the same doors of one general tribunal would be opened to all—which would on the contrary enhance the value of all property on the continent by giving confidence to foreign creditors, and an equal security to citizens of every state.

Under such restraints and useful regulations, it cannot be denied but that the authorities contained in a firm and efficient government are necessary to procure safety, and give to that machine a proper motion; unless there be those so chimerical and speculative as to expect government, like a wind-mill, to go on by airy efforts only.

But in order the more clearly to view that *great objection* still on general principles, as I first proposed to examine it, let us next try it by the simple test of facts.

That there will go no more power out of the peoples' hands by the adoption of this constitution than what is already given up, is obvious, because the state legislature and Congress together have in their hands, at this time, every authority which is proposed to be given to the new head, and that too without any restraints on those of the state. The right of passing *ex post facto* laws, the power of administering partial taxation, and a right to procrastinate justice, or interfere, in their legislative capacity, in private affairs, make up the only compound necessary to give a dismal *hue* to the finest features of any government. Yet such are the powers already given into the hands of government as to justify and produce all those acts.

The only difference therefore between our present situation and under the new government will be, that the most of the powers already given up will be in the hands of Congress instead of the legislature of the state; which change will only be felt by the leading men in each state, and not by the people. Whence we shall experience all the security which an efficient government can afford, without being subject to its oppressions. For in the proposed plan will be exercised all the

useful authorities which already belong to the state, with all the salutary and safe restraints inseparable from the new system.

Thus having shewn on general principles the fallacy of that doctrine which holds out that we shall be deprived of our liberties by the adoption of this constitution, I shall now examine how this general assertion stands supported by the individual objections themselves.

The first I shall touch upon, is, that to the *authorities of the supreme court*.

There were three things in the first place which made it necessary to establish this court—the first is, the disputes that might arise between the different states, which could not otherwise [have] been determined but by a recourse to arms—the second is, in disputes between foreigners and citizens, without which general and impartial mode of trial under a fœderal government, an end would soon be put to foreign credit, and of course to that extensive commerce which alone can ensure a lasting value to our property—and the third is, in disputes between citizens of different states, which alone could prevent that jealousy that must have been accited by trials in the state where only one of the parties resided; and which would have been destructive of that confidence and harmony which will ever be requisite to preserve that union and agreement, without which, this new government itself would cease to exist. And the two last are the only cases in which the people can be much affected; and that in most instances only by appeal.

The next objection I shall take notice of, is, that against standing armies.

There are but two ways in which armies are ever employed, the one is defending, the other abusing, mens' rights; and in order to do the one, they must first begin with a pretence of intending the other. Nor can they long go undiscovered in acting thus, as the difference between the two is very easily observed; and as it will only become necessary to make the discovery to put an end to its progress, so in order to become a lasting evil, they must have some other foundation to depend on, than the will of those they are to injure. Either the separate interests or popular influence of those who employ them, have ever been the causes of their being used for a bad purpose. Hence it follows that a body of men so numerous as to make a division of power but a small object to any; and who only enjoy that power under the will of those they would endeavor to enslave, would neither wish to succeed in such a design, even were it practicable, nor expect to find it practicable should they make the attempt. As long therefore as the representatives of a people are elected by them, and under the necessity of returning among them at stated periods, when they will be liable

to their resentments, there is but little danger of their committing an open outrage on their liberties. It cannot be then for the abuse of our rights that Congress are to have a power of raising armies, as it is clearly on the will of the people the right of creating them depends—and therefore for our protection alone can be employed.

The right of laying direct taxes is also objected to, though this is among the powers already given up by the people, and necessary for the existence of every government. Whether it extends itself over the whole continent or only a single state therefore, the effects will be the same to the people; and all the difference there will be, is, that less will be collected by the states individually, and more by the continent than now is.—But this, like all the other powers to be exercised by a representative who holds his authority under the will of those he is to govern; cannot be exercised but for their immediate benefit.

But then “the laws made under this constitution are to be the supreme laws of the land.” Under this clause it is said every authority is included.

It is with this objection however as with that about taxation; it would [have] availed but little to have attempted altering our system, and at the same time withhold from the new plan every thing that was useful. The great object which we had in view when we first called for the assistance of a convention, was, the strengthening the hands of the UNION; and if there are to be left in the hands of the different states sufficient powers to supersede those of Congress, little after all has been effected. At least a contention for supremacy between the different states and Congress would have been the consequence, had not some such distinguishing mark been set up to decide the superiority; the consequence of which would have been, that each in vieing with the other would be provoked to make daily experiments of its power, while the people would be left between the two rival authorities as the subject of their *anatomy*.

But this objection is a contradiction in itself; and if of any weight, only serves to operate against every other objection that has been made to the constitution; for if there be an objection to any other part of the constitution, it must be because there is an authority some where else besides in that general clause, which is a contradiction, because, an absolute and unbounded authority admits of no rivalry—And on the other hand, by viewing it in the light of a general authority given to Congress without controul, we render null and void all the other authorities, of which, in the same breath are so loudly complained; and in doing that, we destroy at a single blow every other objection,

since there can be no objection to any part, where there is to be no power.

But to view it in a still more serious light, the saying that the laws made under that constitution shall be the supreme laws of the land, never could [have] been intended to bear that construction which has been put on it by some, because, if it had been intended or wished that Congress should have possessed such an unbounded power as is said, it would have been needless to run the risk of losing that *desirable* point, by adding to it, things which were to be of no use. And as it is not, that the laws made under that particular clause of the constitution, but the laws made under the whole system, of which that is but a small part, shall be the supreme laws of the land, so any law made in contradiction to any other clause, will be as void of effect as another made in direct compliance with that will be binding.

That this part of the constitution is neither so contradictory in itself as it appears when made an objection, nor are the other parts so useless and insignificant as they are made by giving that particular clause absolute power—but each in their several places form the different useful authorities and checks which are necessary to give both stability to our laws and safety to the people.

These, together with the other three assertions which I have endeavored to refute in some previous papers, form the most important supports of that grand objection to the constitution which respects our liberties; though there are many others which might have come under the same head; for it is a rule with artists, that in rearing the superstructure of all fabrics, to have as good a foundation and as firm supporters as possible; but when they cannot support the edifice by strength of braces, they naturally have recourse to [a] number of posts; and when they far exceed the number, which if found, would answer, it does not require much reasoning to prove that they themselves have but little confidence in any.

That from what has been said already on either side, it may I think be concluded that our liberties so far from being diminished, will be increased by the adoption of the new constitution, as it will be a means of depriving the states of the right of exercising the most unbounded acts of injustice, under which, both the persons and property of men are insecure; and under such insecurity, every earthly consideration is lessened in its value. Whence, as there is no species of liberty but what is connected either with the person or property of mankind, so there is no species of it also but what is increased by adding confidence and safety to the one, and permanence and value to the other. And that

government therefore which is best calculated to ensure both, is most consistent with every rational idea of liberty and happiness.

1. On 5 March the *Virginia Independent Chronicle* announced: "The STATE SOLDIER, No. 3, and No. 4, are received. An interview with the author is requested by the printer." Parts of this fourth essay are similar to passages found in a manuscript in the handwriting of George Nicholas and dated 16 February (above). For more on its authorship, see "The State Soldier" I, 16 January (above).

**Caleb Wallace to William Fleming  
Danville, Ky., 22 March (excerpt)<sup>1</sup>**

... At present I will not venture my opinion concerning the Form of Government proposed for the Federal Union on which you wrote to me last fall, and which has greatly excited the attention of almost every body in this Quarter but myself. At first my Sentiments were suspended on the magnitude and intricasy of the Subject, and latterly though I wish to study it, I find the Subject to be ungrateful to a mind too much born down with a domestic affliction.<sup>2</sup> However when I write again I purpose to be more particular than time will permit at present. I shall only add that I expect our Representatives from this District w[ill] [unanim]ously vote against the adoption of this Cons[titution] [unless it] is materially amended.

1. RC, Hugh Blair Grigsby Papers, ViHi.

2. Earlier in the letter, Wallace mentioned the accidental death of his young son.

**William Finnie to Horatio Gates  
Williamsburg, 24 March (excerpts)<sup>1</sup>**

Your esteemed favour of the 31st. of October I delayed thus long answering until our Elections in these parts were over that I might endeavour to find out the general opinion of the People in this quarter, I am happy to inform you that we have elected some able and warm advocates for the Cons[ti]tution Colo. Innes for our City. Wyth & Blair for York. Burwell & Andrews for James City.<sup>2</sup> we are told by our Governor who is now here that he is very apprehensive of a violent and determined opposition against it by Henry, Lawson,<sup>3</sup> Mason—Lee, &c besides a vast number of proselytes we are told they have made. how far this may opporate I know not, tho I flatter my self we shall adopt it in spite of all their maneuvering—I have to return you my sincere and warmest acknowledgements for your kind and friendly advice which I shall most strictly adhere too. I wish in case of your removal from Berkly we may be so happy as to [fix?] in the same City. perhaps where the new Government is established, and where I mean



as soon as its organised to attend, in hopes once more of giting some appointment under them, with your friendly assistance nothing but the hopes of this new sistam could have induced me to think of such a thing, I was informed their would be many places of proffet to be given should the Government take place. . . . your friends the M[ess]rs. Morris<sup>4</sup> from Philadelphia have been in Virginia great part of the winter. six weeks of their time they spent in this City, and were very much attatched to it. their principle business was to close their old accompts with Beale and Braxton. I hope if occasion offers you will secure their interest in my favor. . . . your acquaintances here are all well and are much pleased to se[e] your Name in the papers as a Delegate for the Convention, where I hope to have the happiness of se[e]ing you. . . .

1. RC, Gates MSS, NN. Finnie (1739–1804), a former mayor of Williamsburg, was Continental Deputy Quartermaster-General of the Southern Department, 1776–83. In February 1786 a traveler listed him and Gates among “the principal people” living in Williamsburg. Gates, the owner of “Travellers Rest” in Berkeley County, was apparently visiting in Williamsburg at that time.

2. Nathaniel Burwell represented James City County in the House of Delegates, 1778–80, 1782–83. Robert Andrews, a former Anglican minister, was professor of mathematics at the College of William and Mary. Both men voted to ratify the Constitution in the state Convention.

3. Robert Lawson, a lawyer, represented Prince Edward County in the revolutionary conventions, 1775–76, and the House of Delegates, 1778–79, 1780–81, 1782, 1783–84, 1787–88, and was a member of the Council of State, 1782–83. He voted against ratification of the Constitution in the state Convention.

4. Robert and Gouverneur Morris had been in Virginia since November. (See James Madison to George Washington, 18 November, note 3, above.)

### Winchester Virginia Gazette, 26 March

A correspondent observes, that, *at present*, the representation of this State in Congress, is only equal to that of Rhode-Island, the most insignificant of all the States in the union; in the *new* Congress, it will be *ten times* greater, and *a fourth* larger than any State in the thirteen.<sup>1</sup> It is these advantages, says he, that alarm some of the inhabitants of the Northern States, and induces them to oppose the Federal Constitution, and with these advantages, shall we hesitate in adopting it, or give our support to such a beneficial government?

\* \* \* \* \*

Various are the opinions of our domestic politicians, as to what reception the Federal Constitution will meet with in this State, at the ensuing Convention; some assert that four fifths of the people are against it;<sup>2</sup> in the lower counties, it is generally believed, a great majority is decidedly opposed to it. Time only can determine the important event.<sup>3</sup>

1. Under the Articles of Confederation, each state had one vote in Congress, although each could send between two and seven delegates. Under the Constitution, the House of Representatives was to be apportioned on the basis of population and each representative would have one vote. The Constitution gave Rhode Island one representative, Virginia ten, and Massachusetts and Pennsylvania eight each.

2. See "Arthur Lee's Report on Virginia Antifederalism," 7 March, and the Winchester *Virginia Gazette*, 14 March (both above).

3. This paragraph was reprinted in the Philadelphia *Independent Gazetteer*, 8 April, and the Baltimore *Maryland Gazette*, 15 April.

### **The Post Office and the Circulation of Newspapers Winchester Virginia Gazette, 26 March–9 April**

For several years, stagecoaches had carried the United States mail along the nation's postroads. By 1787, however, Postmaster General Ebenezer Hazard had become disillusioned with the stagecoach operators because, according to him, they charged too much, schedules were inconvenient, and drivers were often "careless, & inattentive to the Mail" (to Jeremy Belknap, 17 May 1788, CC:Vol. 4, p. 594). On 15 October 1787 Congress, responding to Hazard's request, authorized him to contract for the delivery of mail in 1788 by stagecoaches or postriders. Soon after, the post office advertised in newspapers, seeking bids for contracts to deliver mail north of Philadelphia for the ensuing year. Contracts were awarded to postriders whose bids were considerably lower than their stagecoach competitors. Hazard also broke with tradition and disallowed the postage-free exchange of newspapers among printers. He required each printer to enter into an agreement with the postrider who carried his paper.

This "new arrangement" broke down almost immediately. Postriders, in general, were less reliable in maintaining schedules and delivering mail. They often refused to accept newspapers, and when they did, they found it easier to throw them away or to sell them along the way. Consequently, printers turned to the stagecoaches; and, in an effort to counter the "new arrangement," some stagecoach operators even offered free delivery of letters and newspapers, the latter to both subscribers and printers.

By March 1788 newspaper printers from all over America complained that beginning in January, they had not received their usual newspaper exchanges. For instance, on 30 January the Philadelphia *Freeman's Journal* reported that "By private accounts from Virginia, we learn . . . that the people to the southward were all kept in the dark by the stoppage of the newspapers in the Post Office" (CC:Vol. 3, p. 573). A statement by the publisher of the *Norfolk and Portsmouth Journal* on 6 February supported the contention of the *Freeman's Journal*: "A disappointment in not receiving the Northern mail as usual (after waiting to the latest hour), renders an apology to our kind Subscribers necessary, in ushering to their presence a barren sheet for this week's Number. At the same time we hope, and can most assuredly inform our Readers that, as at all times, every requisite attention has, and will be paid, to afford the gratification which the earliest foreign or domestic intelligence can present. The Public will please to cast a favorable eye on this day's publication, and generously ascribe its *vacuum* to the real cause above assigned." Antifederalists believed that the "new arrangement" at the post office was intentionally

designed to delay, if not totally stop, the free and widespread circulation of the few Antifederalist-oriented newspapers. (For a full discussion of the post office's policies and the reaction to them, see "The Controversy over the Post Office and the Circulation of Newspapers," CC:Vol. 4, pp. 540-96. In particular, see "Mentor," Petersburg *Virginia Gazette*, 3 April, pp. 578-80.)

Matthias Bartgis and Nathaniel Willis, the printers of the Winchester *Virginia Gazette*, took a decided stand on the controversy over the circulation of newspapers among printers. From 14 March to 21 May almost every issue of the *Gazette* contained at least one item (either an original piece or a reprinting) decrying the post office's new policies. The publication of these and other Antifederalist items provoked "a gentleman in the country" to accuse the printers of being "strong anti-federalists." The printers defended their conduct by stating that, whatever their "*private sentiments . . .* may be, on political subjects, they ever have endeavoured to demonstrate a *strict equality* of publications on the new government: *unbiased by party, and unawed by frowns, they are determined to be free.*" See "The Editorial Policy of the Winchester Virginia Gazette," 7, 14 March (above).

#### *The Editors, 26 March*<sup>1</sup>

The Editors of this Paper, feel with their brother Printers throughout the United States, the ill-consequences of a *late* regulation at the general Post-Office, for stopping the circulation of the news-papers through the medium of the mails, they not having received any Northern papers, except by transient conveyance, for several months past. Whatever *secret views* the promoters of this diabolical plan may have, we hope the guardians of our liberty and future safety, will be vigilant in frustrating so dangerous a measure, which may eventually lead us blind-fold to the rivets of slavery. If this is a *sample* of what we *may expect* from the establishment of the Federal Constitution, may we not with propriety say, from *such a government*, "Good Lord, deliver us."

#### *A Federalist: To the Editors, 2 April*

Of all the anti-federal productions which have yet appeared, the paragraph in your last paper, respecting the stoppage of the circulation of news-papers is the most extraordinary. If the fact be as there stated, it is a grievance which ought to be redressed, but it is inconsistency in the extreme to charge a government which is not in existence, with the mal-administration of the present government. If Congress authorise the abuse, it affords an additional reason for their dissolution, and for the establishment of a government on more liberal principles, in which our rulers will be chosen by the people at large, and consequently we may expect them to be more attentive to our interests,

and more vigilant guardians of our liberties, than the members of the present Congress.

*The Editors, 2 April<sup>2</sup>*

☞ The Editors sincerely wish that the new Constitution had been so framed, that *every paragraph* published on that important subject, could have been truly federal, but when opinions vary, and it is submitted to the People for free discussion, to see *men in public office* taking undue measures to establish it, without a thorough investigation, and by means which not only grossly infringes on the liberties of the people, but strikes a fatal blow at their very political existence, the Editors think it a duty incumbent on them as Printers of a public paper, to give the alarm. It ever has been, (even under the tyrannical government of Britain) an invariable privilege to suffer, for the public good, a free passage for news-papers in the mails, but of late, for reasons which the Editors wish not to suggest, they are prohibited. Whatever may be the views of *public men* at the present day, if they should be continued in office (which it is more than probable they will, unless from their present conduct they are well guarded against) may we not expect the same measures? which, if practised, we may bid adieu to that *scourge to tyrants, an unrestrained Press*.

The most distant view of injuring the Constitution did not exist by publishing the paragraph above referred to, but, that due notice might be taken of so daring a breach of public confidence.

*One of the People, 9 April*

*Extract of a letter from a gentleman in the country, to his friend in town.*

“From Messrs Bartgis & Company’s addresses to the public, in their papers of the 7th and 14th instant, I was led to believe, that they were no party men.<sup>3</sup> But from their piece in the last *Winchester Gazette*, I take them to be strong anti-federalists: be that as it may, I am clear of opinion, every man has a right to enjoy his own opinion. But I am also of opinion that they, nor no other man can, with propriety, lay the blame of their not receiving the northern papers, to the Federal Constitution, when every body knows, that Constitution has not taken place, and of course can have no effect. If the Post-Master-General, his deputy, his deputy’s deputy, or any other, has stop’d the circulation of news, as they have set forth in their piece, the Post-Master-General, his deputy, &c. are liable to public censure, and ought to be exposed, then their prayer would [have] been with more propriety thus: From our present, or any other government, which will suffer the Post-

Master-General, his deputy, his deputy's deputy, or any other person whatever to stop the<sup>4</sup>

Winchester, 31st March, 1788.

*The Editors, 9 April*

☞The Editors with the greatest reluctance again trouble their readers with a defence of their public conduct, as Printers:—they have before asserted, that no intention existed with them of injuring the constitution:—they wish to expose every *secret* attempted to effect a *partial* circulation of observations wrote on the subject, *by men who are looking for continuations of lucrative offices*. Had an effort been made by those *opposed* to the constitution, to wrest from the public eye, *the means of information*, they would as readily have exposed them. They conceive it *their duty* to be watchful of every attempt to destroy our dear-earn'd freedom, let the design come from what man, or set of men, it may.

Whatever the *private sentiments* of the Editors may be, on political subjects, they ever have endeavoured to demonstrate a *strict equality* of publications on the new government: *unbiassed by party, and unawed by frowns, they are determined to be free*.

1. Reprinted: Philadelphia *Independent Gazetteer*, 8 April; *New York Journal*, 12 April; Boston *American Herald*, 28 April. This issue of the *Virginia Gazette* contained three other allusions to the stoppage of newspapers in the mails. In one item, the editor noted: "Through the *attention* of our worthy Correspondent at Baltimore, in forwarding us several of his late papers, by a private hand, we are enabled to communicate the following *interesting intelligence*, viz." Two brief items were reprinted from the *Massachusetts Centinel*, 16 February, and the *Maryland Journal*, 11 March, in which the publishers of those papers complained that they had received few or no newspapers through the mails. (For these two items, see CC:Vol. 4, pp. 551–52, 556.)

2. In this same issue, the editor of the *Virginia Gazette* reprinted "Manco" from the *Maryland Journal* of 18 March. "Manco" praised the principle of the liberty of the press and newspapers as "the *best* vehicles of intelligence and information," and he attacked the policy of the Postmaster General concerning the carriage of newspapers in the mails (CC:Vol. 4, pp. 561–62).

3. See "The Editorial Policy of the Winchester Virginia Gazette," 7, 14 March (above).

4. In the only extant issue of the *Virginia Gazette* for this date, a small item from the verso of this page has been clipped out, thus removing the last fourteen lines (about 75 words) of text. The pseudonym, "One of the People," and the place and date of writing remain.

**Alexander Contee Hanson to Tench Coxe**  
Annapolis, 27 March (excerpt)<sup>1</sup>

(Not before last night, did I receive your letter of the 15th and 21st ult.) Considering the importance of it's contents, I have reason to join the clamor, that is raised against the post office. It's failures, and the

defect of communication between even adjoining states are really serious evils. (I believe the people of Virginia have, in general, seen few publications respecting the proposed government, except Mason's, Lee's and Randolph's.) I judge so from the avidity, with which I am informed my humble essay<sup>2</sup> has been bought up; and I regret that I did not send them thither much sooner and in a larger quantity. . . .

1. RC, Coxe Papers, Series II, Correspondence and General Papers, PHi. Printed: CC:490-E (longer excerpts). The text printed in angle brackets, and excerpts not printed here, were printed in the Philadelphia *Pennsylvania Gazette* on 9 April. The bracketed material was reprinted seven times by 2 May: N.H. (1), Mass. (1), R.I. (1), Conn. (1), N.Y. (2), S.C. (1). Hanson (1749-1806) was a judge of the Maryland General Court, 1778-89, and he represented the city of Annapolis in the Maryland Convention, where he voted to ratify the Constitution in April.

2. Hanson refers to a pamphlet that he had written under the pseudonym "Aristides" entitled *Remarks on the Proposed Plan of a Federal Government, Addressed to the Citizens of the United States of America, And Particularly to the People of Maryland* (CC:490-A). The pamphlet, inscribed to George Washington, was offered for sale in Annapolis on 31 January. In addition to the pamphlets that Hanson sent to Virginia for sale, he forwarded a copy to Washington, whom he had served as assistant private secretary in 1776. Horatio Gates and George Nicholas received copies of the pamphlet from their correspondents and both men praised it. (See Christopher Richmond to Gates, 13 February, and Philip Thomas to Gates, 21 March, Gates MSS, NN; George Nicholas to David Stuart, 9 April, III below; and an Extract of a Letter from a Berkeley County Gentleman, *Maryland Journal*, 11 April, III below.)

### **John Coalter to Michael Coalter Chesterfield County, 29 March (excerpt)<sup>1</sup>**

. . . The poeple here in general seem opposd to the proposd Constitution. . . .

1. RC, Brown, Coalter, and Tucker Papers, ViW. The postscript to this letter was dated 5 April. John Coalter (1771-1838) was a tutor to the children of St. George Tucker. Michael Coalter of Augusta County was John's father. On 29 December 1787 John Coalter had written his father "that the Poeple are much divided with regard to the proposed Constitution. I believe the greatest number are against it" (*ibid.*).

### **George Washington to Henry Knox Mount Vernon, 30 March (excerpt)<sup>1</sup>**

Your favor of the 10th.<sup>2</sup> came duly to hand, and by Mr. Madison I had the pleasure to hear that you had recovered from a severe indisposition, on which event I sincerely congratulate you.

The conduct of the State of New Hampshire has baffled all calculation, and happened extremely mal-apropos for the election of delegates to the Convention of this State;<sup>3</sup> For be the *real* cause of the adjournment to so late a day, what it may, the antifederal party with us do not scruple to declare, that, it was done to await the issue of this Convention before it would decide—and add, that if this State

should reject it, all those which are to follow will do the same; & consequently, the Constitution cannot obtain, as there will be only eight States in favor of the measure.<sup>4</sup>—

Had it not been for this untoward event, the opposition in this State would have proved entirely unavailing, notwithstanding the unfair conduct (I might have bestowed a harsher epithet without doing injustice) which has been practiced to rouse the fears, and to inflame the passions<sup>5</sup> of the people.—What will be the result *now*, is difficult for me to say with any degree of certainty,<sup>6</sup> as I have seen but a partial return of the delegates, and [am] not well acquainted with the political sentiments even of those few.—In the Northern part of the State the tide of Sentiment—I know—is *generally* in favor of the proposed system.—In the Southern part—*I am told*—it is the reverse.—While the Middle, it is said, is pretty much divided.—The Kentucke district will have great weight in deciding this question; and the idea of its becoming an impediment to its seperation, has got hold of them; while no pains is spared to inculcate a belief that the Government proposed will—without scruple or delay—barter away the right of Navigation to the River Mississipi. . . .

1. RC, Knox Papers, MHi. For significant differences between this copy and the letterbook version, see notes 3 and 5 (below).

2. Among other subjects, Knox discussed the adjournment of the New Hampshire Convention on 22 February without ratifying the Constitution (CC:610).

3. In the letterbook version, this clause reads: “and has come extremely mal-apropos for a favorable decision on the proposed Constitution in this State” (Washington Papers, DLC).

4. In letters written soon after, Washington commented further on the significance of the adjournment of the New Hampshire Convention. He declared that the adjournment “gave an opportunity to the [Virginia] opponents of the proposed Constitution to hold up to the people an idea of its not having been so generally approved of in other States as they had been taught to believe, and of consequence prepared them to receive other impressions unfriendly to the Government and tending to influence their votes in favor of antifederal characters” (to John Langdon, 2 April, Fitzpatrick, XXIX, 452–53). In another letter, he wrote that the adjournment was “a matter of surprize,” but “circumstanced as they were” it was “a very prudent step, for it appears that the great question would have been lost if the sense of the convention had been taken upon it at that time” (to Caleb Gibbs, 3 April, *ibid.*, 453).

5. “Passions” was written “mi[n]ds” in the letterbook version (Washington Papers, DLC).

6. In letters written soon after, Washington expressed confidence that Virginia would adopt the Constitution (to John Langdon, 2 April, and to Richard Butler, 3 April, Fitzpatrick, XXIX, 453, 454).

### Arthur Lee to Charles Lee

New York, 31 March (excerpt)<sup>1</sup>

. . . By the returns of Delegates hitherto elected, I think you have 5 or 6 Majority for the Constitution. In this State the Majority on either side will be very small; nor is it possible to determine how it will go. . . .

1. RC, Lee-Ludwell Papers, ViHi.

**Olney Winsor to Mrs. Olney Winsor  
Alexandria, 31 March (excerpt)<sup>1</sup>**

. . . Saturday morning last Mr Jenckes<sup>2</sup> & myself received a very polite Card from General Washington, requesting our company to dine with him on Sunday, in Company with several other Gentlemen from this Town—accordinly we set out from the Store yesterday Morning half past 11. oClock and arrived at Mount Vernon about one—where we were received by the General & his family with great freedom and politeness, at the same time without any ceremonious parade.—The general converses with great deliberation, & with ease, except in pronouncing some few words, in which he has a hesitancy of speech—he was dressed in a plain drab Coat, red Jacket, buff Breeches & white Hose.—Mrs. Washington is an elegant figure for a person of her years, perhaps 45.—she is rather fleshy, of good complexion, has a large portly double chin, and an open & engageing Countenance, on which a pleasing smile sets during Conversation, in which she bears an agreeable part.—

She was dressed in a plain black Sattin gown, with long Sleeves, figured Lawn Apron & Handkf, guaze french night Cap with black bowes—all very neat—but not guady—

From this description you will conclude that your *plain* Husband, was pleased with his reception, and felt himself perfectly at ease, in this agreeable & improveing Company—

We had an exceeding good Dinner, which was served up in excellent order—After Dinner the new Constitution was introduced as the subject of conversation, & sundry questions asked me by the General, & Colo. Humphreys, from Connecticut, who now resides at the Generals, respecting the part I expected your State would take—I wish I could have given them more pleasing & encouraging Answers—but we all hoped for the best—the General expressed himself on the Subject with such real concern for the united happiness of the States, & at the same time with such clearness on those parts of the Constitution which have been objected to, as not being sufficiently explicit, that I was as much pleased with him, as a private man, a former of a System for the United States, as I have heretofore been in his military character—in which all agree that he was the Saviour of America<sup>3</sup>—then, how preposterous a part do those now act, who charge him with being a Conspirator against the liberties of that very Country which he so lately saved from the all grasping hand of a haughty Tyrant?—to start the Idea is, ungratefull,—to devulge it, is black infernal ingratitude! . . .

1. RC, Miscellaneous Manuscripts, Rhode Island Historical Society. Winsor began this letter on 31 March and made other entries on 4, 5, 8, 10, 12, 17, 18, and 19 April.



The entries for 10 and 17 April are printed in III below under the earlier date. Mrs. Winsor was visiting with family and friends in Providence, R.I.

2. "Mr. Jenckes" was Winsor's partner in the Alexandria mercantile firm of Jenckes, Winsor, & Co.

3. In a draft of this letter, the text beginning "the General" reads: "the general expressed himself with such calmness, elucidated some dark parts as they are called—with such general Ideas that I was as much Charmd with him in his private & legislative as I have ever been in his Military Character—in which all acknowledge he was the political Saviour of America" (Olney Winsor Letters, Vi).

## Biographical Gazetteer

The following sketches outline the political careers of the principal Virginia leaders. When known, their political positions are indicated (1) on the Constitution in 1787-1788; (2) in national politics after 1789.

BROWN, JOHN (1757-1837)

Federalist/Republican

Born Staunton, Augusta Co. Attended College of New Jersey (Princeton), 1776; College of William and Mary, 1778-81 (Phi Beta Kappa, 1778). Studied law under Thomas Jefferson. Moved to Kentucky, 1783, settling first in Danville and later in Frankfort. State senator, 1784-87. Active in Kentucky statehood movement. Charter member, "The Political Club," Danville, Ky., 1786. Delegate to Congress, 1787-88. Delegate, Kentucky constitutional convention, Danville, 1788. U.S. Representative, 1789-92. U.S. Senator from Kentucky, 1792-1805. Implicated in James Wilkinson's Spanish conspiracy.

CARRINGTON, EDWARD (1749-1810)

Federalist/Federalist

Born Cartersville, Cumberland Co. Member, Cumberland Co. Committee of Safety, 1775-76. Lieutenant Colonel, 1st Continental Artillery, 1776-83; State Superintendent and Director for Repair of Arms, 1780-81; Continental Deputy Quartermaster General, and Chief of Artillery, Southern Department, 1781-83. Represented Cumberland, 1784-86, and Powhatan, 1788-90, in House of Delegates. Delegate to Congress, 1786-88. U.S. marshal for Virginia, 1789-95. Federal supervisor for collection of excise taxes on liquors in Virginia, 1791-95. Recorder, 1805, and mayor of Richmond, 1806, 1809.

CORBIN, FRANCIS (1759-1821)

Federalist/

Born Caroline Co., of wealthy Loyalist parents. Attended Cambridge University and Inner Temple. Returned to Virginia after the Revolution. Represented Middlesex in House of Delegates, 1784-95, and in state Convention, voted to ratify, 1788. Rector, College of William and Mary, 1790. Elected U.S. Representative, 1792, but declined to serve.

GRAYSON, WILLIAM (c. 1736-1790)

Antifederalist/

Born Prince William Co. Entered College of Pennsylvania, 1758, but did not graduate. Studied law at Inner Temple. Practiced law, Dumfries, Prince William Co. Member, Prince William Co. Committee of Safety, 1774. Continental Army officer, 1776-79 (aide-camp to George Washington, 1776). Commissioner, Virginia Board of War, 1779-81. Represented Prince William Co. in House of Delegates, 1784-85, 1788. Delegate to Congress, 1785-87. Delegate to state Convention, voted against ratification, 1788. U.S. Senator, 1789-90.

HENRY, PATRICK (1736-1799)

Antifederalist/Federalist

Born "Studley," Hanover Co. Farmer and storekeeper until 1760, when admitted to Virginia bar. Represented Louisa Co., 1765-68, and Hanover Co., 1769-76, in House of Burgesses; Hanover Co. in revolutionary conventions, 1774-76; Henry Co., 1780-84, and Prince Edward Co., 1787-91, in House of Delegates. Delegate to Congress, 1774-75. Commander, Virginia forces, 1775-76. Governor, 1776-79, 1784-86 (did not seek reelection in 1786). Declined appointment to the Constitutional Convention, 1787. Led opposition to the Constitution in Virginia. Represented Prince Edward Co. in state Convention, voted against ratification, 1788. Retired from public life, 1791. Moved to "Red Hill," Charlotte Co., in 1796. Declined appointments as U.S. Senator, 1794, U.S. Secretary of State, 1795, and Chief Justice of U.S., 1796. Elected Charlotte Co. delegate to the House of Delegates in 1799, but died before taking seat.

JEFFERSON, THOMAS (1743-1826)

Federalist/Republican

Born "Shadwell," Albemarle Co. Attended College of William and Mary, 1760-62. Studied law under George Wythe, admitted to Virginia bar, 1767. Represented Albemarle in House of Burgesses, 1769-75, in all revolutionary conventions (did not attend last two), and in House of Delegates, 1776-79, 1782-83. Delegate to Congress, 1775-76, 1783-84; author and signer, Declaration of Independence, 1776; author, Ordinance for Government of Western Territory, 1784. Governor, 1779-81. Author, Virginia statute of religious freedom, enacted in 1786. Minister Plenipotentiary to negotiate treaties in Europe, 1784-85, and to France, 1785-89. U.S. Secretary of State, 1790-93. U.S. Vice President, 1797-1801. Author, Kentucky Resolutions, 1798. President of U.S., 1801-9. Founder, University of Virginia, 1819, and rector, 1819-26.

JONES, JOSEPH (1727-1805)

Federalist/Republican

Born King George Co. Admitted to Inner Temple, 1749, Middle Temple, 1751, and English bar, 1751. Practiced law in Fredericksburg. Represented King George Co. in House of Burgesses, 1772-76, in all revolutionary conventions, and in House of Delegates, 1776-78, 1780-81, 1783-85. Member, Virginia Committee of Safety, 1775. Delegate to Congress, 1777, 1780-83. Judge, General Court, 1778-79, 1789-1805. Member, Council of State, 1785-89.

LEE, ARTHUR (1740-1792)

Antifederalist/

Born "Stratford," Westmoreland Co. Brother of Richard Henry Lee; cousin of Henry Lee. Attended Eton. University of Edinburgh, M.D., 1764; University of Leyden, M.D., 1765. Fellow, Royal Society, 1766. Practiced medicine in Williamsburg, 1766, then switched to law. Returned to England, 1768. Studied at Middle Temple and Lincoln's Inn, admitted to English bar, 1775. Revolutionary advocate and prolific pamphleteer beginning in 1769. Colonial agent for Massachusetts Bay and New Jersey (substitute, 1770-75), 1775-76. Correspondent to Congress' Committee of Secret Correspondence, 1775-76. Treaty commissioner to France, 1776-79. Attempted negotiations with Spain, 1777. Signer, Treaties of Alliance and Commerce with France, 1778. Returned to America, 1781, after major dispute with fellow commissioners Benjamin Franklin and Silas Deane. Represented Prince William Co. in House of Delegates, 1781-84. Delegate to Congress, 1782-84. Indian Commissioner, Fort Stanwix, 1784, and Fort McIntosh, 1785. Member, Confederation Board of Treasury, 1785-89. Wrote "Cincinnatus" essays, first published in New York City, 1787.

LEE, HENRY ("Light Horse Harry") (1756–1818)  
Federalist/Federalist

Born "Leesylvania," Prince William Co. Cousin of Richard Henry Lee and Arthur Lee. College of New Jersey (Princeton), A.B., 1773. Officer of militia and Continental Army, rising to rank of Lieutenant Colonel, 1780; awarded a congressional gold medal for bravery at Battle of Paulus Hook, 1779. Represented Westmoreland in House of Delegates, 1785–86, 1789–91, 1795–99, and in state Convention, voted to ratify, 1788. Delegate to Congress, 1786–88. Governor, 1791–94. Commanded federal troops to suppress Whiskey Rebellion in western Pennsylvania, 1794. Major General, U.S. Army, 1798–1800. U.S. Representative, 1799–1801.

LEE, RICHARD HENRY (1732–1794)  
Antifederalist/Republican

Born "Stratford," Westmoreland Co. Brother of Arthur Lee; cousin of Henry Lee. Attended Wakefield Academy, Yorkshire, Eng. Justice of Peace, Westmoreland Co., 1757. Organized Westmoreland Co. Nonimportation Association, 1766. Co-author, intercolonial plan for committees of correspondence, 1773. Represented Westmoreland in House of Burgesses, 1758–76, in revolutionary conventions, 1774–76, and in House of Delegates, 1777–78, 1780–81, (speaker, 1781), 1782–85. Delegate to Congress, 1774–79, 1784–85 (president), 1787; made motion for independence and confederation, 1776; signed Declaration of Independence, 1776, and Articles of Confederation, 1778. Declined appointment to Constitutional Convention, 1787. U.S. Senator, 1789–92.

MADISON, JAMES (1751–1836)  
Federalist/Republican

Born Port Conway, King George Co. Attended Donald Robertson's School, King and Queen Co., 1762–67, and College of New Jersey (Princeton), 1769–71, receiving an A.B.; pursued graduate studies, 1771–72. Elected to Orange Co. Committee of Safety, 1774. Represented Orange Co. in fifth revolutionary convention, 1776, and in House of Delegates, 1776–77, 1784–87, 1799–1800. Member, Council of State, 1778–79. Delegate to Congress, 1780–83, 1787–88; to Annapolis Convention, 1786; and to Constitutional Convention, 1787 (principal author, Virginia Resolutions). One of three authors of *The Federalist*, 1787–88. Orange Co. delegate to state Convention, voted to ratify, 1788. U.S. Representative, 1789–97. Author, Virginia Resolutions, 1798. Presidential Elector, 1800. U.S. Secretary of State, 1801–09. President of U.S., 1809–17. Rector, University of Virginia, 1826–34. Member, Virginia Constitutional Convention, 1829–30.

MARSHALL, JOHN (1755–1835)  
Federalist/Federalist

Born near Germantown, Fauquier Co. Officer in militia and Continental Army, 1775–81 (inactive after 1779). Briefly attended College of William and Mary (Phi Beta Kappa, 1780). Represented Fauquier, 1782, 1784–85; Henrico, 1787–88; Richmond City, 1789–91, 1795–97, in House of Delegates. Member, Council of State, 1782–84. Henrico Co. delegate to state Convention, voted to ratify, 1788. U.S. commissioner to France, 1797–98. U.S. Representative, 1799–1800. U.S. Secretary of State, 1800–1. Chief Justice of U.S., 1801–35. Member, Virginia Constitutional Convention, 1829–30.

MASON, GEORGE (1725–1792)  
Antifederalist/

Born Fairfax Co. Justice, Fairfax Co. Court, 1747–89. Board of Trustees, Alexandria, 1754–79. Represented Fairfax in House of Burgesses, 1758–61, in revolutionary conventions, 1775, 1776, and in House of Delegates, 1776–81, 1786–87 (absent), 1787–

88. Author, "Fairfax Resolves," 1774. Member, Virginia Committee of Safety, 1775. Principal author, Virginia Declaration of Rights and Virginia Constitution, 1776. Elected to Congress, 1777, but did not attend. Delegate to Constitutional Convention, 1787, refused to sign Constitution. Stafford delegate to state Convention, voted against ratification, 1788. Appointed U.S. Senator, 1790, but declined.

MONROE, JAMES (1758–1831)

Antifederalist/Republican

Born Westmoreland Co. Attended College of William and Mary, 1774–76. Militia and Continental Army officer, 1775–78. Studied law under Thomas Jefferson, admitted to bar, 1786. Represented King George Co., 1782; Spotsylvania, 1787–89, and Albemarle, 1810–11, in House of Delegates. Member, Council of State, 1782–83. Delegate to Congress, 1783–86. Represented Spotsylvania in state Convention, voted against ratification, 1788. U.S. Senator, 1790–94. Minister Plenipotentiary to France, 1794–96. Governor, 1799–1802, 1811. Special envoy to France, helped negotiate Louisiana Purchase, 1803. U.S. Secretary of State, 1811–17; U.S. Secretary of War, 1814–15. President of U.S., 1817–25. President, Virginia Constitutional Convention, 1829–30.

NICHOLAS, GEORGE (c. 1754–1799)

Federalist/Republican

Born Williamsburg. Entered College of William and Mary, 1772. Continental Army officer, 1775–77. Admitted to Virginia bar, 1778. Acting Attorney General of Virginia, 1781–82. Represented Williamsburg, 1778–79, Hanover, 1781–82, and Albemarle, 1783–84, 1786–88, in House of Delegates. Albemarle delegate to state Convention, voted to ratify, 1788. Moved to Kentucky, 1789. Attorney General of District of Kentucky, 1790–92, and first attorney general of new State of Kentucky, 1792. Delegate to Kentucky Constitutional Convention, 1792. Implicated in James Wilkinson's Spanish conspiracy. First professor of law, Transylvania University.

PENDLETON, EDMUND (1721–1803)

Federalist/Republican

Born Caroline Co. Admitted to Caroline Co. bar, 1741. Appointed Deputy King's Attorney, Caroline Co., 1744. Justice of Peace, Caroline Co. 1751–77. Represented Caroline in House of Burgesses, 1752–76, in all revolutionary conventions (president, 4th and 5th), and in House of Delegates, 1776–78 (speaker, 1776–77). Member, Caroline Co. nonimportation committees, 1770, 1774–75. Original member, Committee of Correspondence, 1773. Delegate to Congress, 1774–75. President, Virginia Committee of Safety, 1775–76. Member, committee on revision of Virginia laws, 1777, 1787. President, High Court of Chancery, 1778–88, serving as president of Supreme Court of Appeals, 1779–88; president of newly created Supreme Court of Appeals, 1788–1803. President, state Convention, voted to ratify, 1788.

RANDOLPH, EDMUND (1753–1813)

Federalist?/Federalist

Born near Williamsburg. Attended College of William and Mary, 1770–71. Admitted to Virginia bar before August 1774. Aide-de-camp to George Washington, 1775–76. State Attorney General, 1776–86. Represented Williamsburg in fifth revolutionary convention, 1776. Mayor, Williamsburg, 1776–77. Clerk, House of Delegates, 1778–79. Delegate to Congress, 1779, 1781–82. Governor, 1786–88. Delegate to Annapolis Convention, 1786, and Constitutional Convention, 1787, refused to sign Constitution. Henrico delegate to state Convention, voted to ratify, 1788. Represented Williamsburg in

House of Delegates, 1788–89. U.S. Attorney General, 1790–94; U.S. Secretary of State, 1794–95.

STUART, DAVID (1753–c. 1814)

Federalist/Federalist

Born King George Co. Entered College of William and Mary, 1771; received a medical degree from University of Edinburgh, 1777. Married in 1783 to Eleanor Custis, widow of George Washington's adopted son. Represented Fairfax in House of Delegates, 1785–89, and in state Convention, voted to ratify, 1788. Presidential Elector, 1789. Commissioner, District of Columbia, 1791–94.

WASHINGTON, GEORGE (1732–1799)

Federalist/Federalist

Born Westmoreland Co. Culpeper Co. surveyor, 1749. District adjutant, 1752–53. Appointed lieutenant colonel, 1754. Commander in Chief of Virginia forces, 1755–58. Represented Frederick Co., 1758–65, and Fairfax, 1766–76, in House of Burgesses. Delegate to Congress, 1774–75. General and Commander in Chief, Continental Army, 1775–83. President-General, Society of the Cincinnati, 1783–99. President, Constitutional Convention, 1787. Chancellor, College of William and Mary, 1788–99. President of U.S., 1789–97. Lieutenant General and Commander in Chief, U.S. Provisional Army, 1798–99.

WYTHE, GEORGE (1726–1806)

Federalist/Republican

Born Elizabeth City Co. Admitted to Virginia bar, 1746. Moved to Williamsburg, 1748. Represented Williamsburg, 1754–55, College of William and Mary, 1758–61, and Elizabeth City Co., 1761–68, in House of Burgesses. Temporary Attorney General, 1754–55. Author, Virginia's Remonstrance against Stamp Act, 1764. Elected mayor of Williamsburg, 1768. Clerk, House of Burgesses, 1768–76. Delegate to Congress, 1775–76, signed Declaration of Independence. Member, committee to revise laws, 1777–79. Represented Williamsburg in House of Delegates, 1777–78 (speaker). Judge, High Court of Chancery, 1778–88, became sole Chancellor, 1788. First professor of law, College of William and Mary, 1779–89. Delegate to Constitutional Convention, 1787, left before Convention adjourned. York Co. delegate to state Convention, chairman of committee of whole, voted to ratify, 1788. Moved to Richmond, 1791.

## Appendix I

### The Virginia Declaration of Rights<sup>1</sup>

*A DECLARATION of RIGHTS made by the representatives of the good people of Virginia, assembled in full and free Convention; which rights do pertain to them, and their posterity, as the basis and foundation of government.*

1. That all men are by nature equally free and independent, and have certain inherent rights, of which, when they enter into a state of society, they cannot, by any compact, deprive or divest their posterity; namely, the enjoyment of life and liberty, with the means of acquiring and possessing property, and pursuing and obtaining happiness and safety.

2. That all power is vested in, and consequently derived from, the people; that magistrates are their trustees and servants, and at all times amenable to them.

3. That government is, or ought to be, instituted for the common benefit, protection, and security, of the people, nation, or community, of all the various modes and forms of government that is best, which is capable of producing the greatest degree of happiness and safety, and is most effectually secured against the danger of mal-administration; and that whenever any government shall be found inadequate or contrary to these purposes, a majority of the community hath an indubitable, unalienable, and indefeasible right, to reform, alter, or abolish it, in such manner as shall be judged most conducive to the public weal.

4. That no man, or set of men, are entitled to exclusive or separate emoluments or privileges from the community, but in consideration of publick services; which, not being descendible, neither ought the offices of magistrate, legislator, or judge, to be hereditary.

5. That the legislative and executive powers of the state should be separate and distinct from the judiciary; and that the members of the two first may be restrained from oppression, by feeling and participating the burthens of the people, they should at fixed periods, be reduced to a private station, return into that body from which they were originally taken, and the vacancies be supplied by frequent, certain, and regular elections, in which all, or any part of the former members, to be again eligible, or ineligible, as the laws shall direct.

6. That elections of members to serve as representatives of the people, in assembly, ought to be free; and that all men, having sufficient evidence of permanent common interest with, and attachment to, the community, have the right of suffrage, and cannot be taxed or deprived of their property for publick uses without their own consent, or that

of their representatives so elected, nor bound by any law to which they have not, in like manner, assented, for the publick good.

7. That all power of suspending laws, or the execution of laws, by any authority without consent of the representatives of the people, is injurious to their rights, and ought not to be exercised.

8. That in all capital or criminal prosecutions a man hath a right to demand the cause and nature of his accusation, to be confronted with the accusers and witnesses, to call for evidence in his favour, and to a speedy trial by an impartial jury of his vicinage, without whose unanimous consent he cannot be found guilty, nor can he be compelled to give evidence against himself; that no man be deprived of his liberty except by the law of the land, or the judgment of his peers.

9. That excessive bail ought not to be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

10. That general warrants, whereby any officer or messenger may be commanded to search suspected places without evidence of a fact committed, or to seize any person or persons not named, or whose offence is not particularly described and supported by evidence, are grievous and oppressive, and ought not to be granted.

11. That in controversies respecting property, and in suits between man and man, the ancient trial by jury is preferable to any other, and ought to be held sacred.

12. That the freedom of the press is one of the great bulwarks of liberty, and can never be restrained but by despotick governments.

13. That a well regulated militia, composed of the body of the people, trained to arms, is the proper, natural, and safe defence of a free state; that standing armies, in time of peace, should be avoided, as dangerous to liberty: and that, in all cases, the military should be under strict subordination to, and governed by, the civil power.

14. That the people have a right to uniform government; and therefore, that no government separate from, or independent of, the government of *Virginia*, ought to be erected or established within the limits thereof.

15. That no free government, or the blessing of liberty, can be preserved to any people but by a firm adherence to justice, moderation, temperance, frugality, and virtue, and by frequent recurrence to fundamental principles.

16. That religion, or the duty which we owe to our CREATOR, and the manner of discharging it, can be directed only by reason and conviction, not by force or violence, and therefore all men are equally entitled to the free exercise of religion, according to the dictates of conscience; and that it is the mutual duty of all to practice Christian forbearance, love, and charity, towards each other.



### The Virginia Constitution<sup>2</sup>

*The* CONSTITUTION, or FORM of GOVERNMENT, agreed to and resolved upon by the Delegates and Representatives of the several counties and corporations of VIRGINIA.

Whereas *George* the third, king of *Great Britain* and *Ireland*, and elector of *Hanover*, heretofore intrusted with the exercise of the kingly office in this government, hath endeavoured to pervert the same into a detestable and insupportable tyranny, by putting his negative on laws the most wholesome and necessary for the publick good:

By denying his governours permission to pass laws of immediate and pressing importance, unless suspended in their operation for his assent, and, when so suspended, neglecting to attend to them for many years:

By refusing to pass certain other laws, unless the persons to be benefited by them would relinquish the inestimable right of representation in the legislature:

By dissolving legislative Assemblies repeatedly and continually, for opposing with manly firmness his invasions of the rights of the people:

When dissolved, by refusing to call others for a long space of time, thereby leaving the political system without any legislative head:

By endeavouring to prevent the population of our country, and, for that purpose, obstructing the laws for the naturalization of foreigners:

By keeping among us, in times of peace, standing armies and ships of war:

By affecting to render the military independent of, and superiour to, the civil power:

By combining with others to subject us to a foreign jurisdiction, giving his assent to their pretended acts of legislation:

For quartering large bodies of armed troops among us:

For cutting off our trade with all parts of the world:

For imposing taxes on us without our consent:

For depriving us of the benefits of trial by jury:

For transporting us beyond seas, to be tried for pretended offences:

For suspending our own legislatures, and declaring themselves invested with power to legislate for us in all cases whatsoever:

By plundering our seas, ravaging our coasts, burning our towns, and destroying the lives of our people:

By inciting insurrections of our fellow subjects, with the allurements of forfeiture and confiscation:

By prompting our negroes to rise in arms among us, those very negroes whom, by an inhuman use of his negative, he hath refused us permission to exclude by law:

By endeavouring to bring on the inhabitants of our frontiers the merciless *Indian* savages, whose known rule of warfare is an undistinguished destruction of all ages, sexes, and conditions of existence:

By transporting, at this time, a large army of foreign mercenaries, to complete the works of death, desolation, and tyranny, already begun with circumstances of cruelty and perfidy unworthy the head of a civilized nation:

By answering our repeated petitions for redress with a repetition of injuries:

And finally, by abandoning the helm of government, and declaring us out of his allegiance and protection.

By which several acts of misrule, the government of this country, as formerly exercised under the crown of *Great Britain*, is **TOTALLY DISSOLVED**.

We therefore, the delegates and representatives of the good people of *Virginia*, having maturely considered the premises, and viewing with great concern the deplorable condition to which this once happy country must be reduced, unless some regular adequate mode of civil polity is speedily adopted, and in compliance with a recommendation of the General Congress, do ordain and declare the future form of government of *Virginia* to be as followeth:

The legislative, executive, and judiciary departments, shall be separate and distinct, so that neither exercise the powers properly belonging to the other; nor shall any person exercise the powers of more than one of them at the same time, except that the justices of the county courts shall be eligible to either House of Assembly.

The legislative shall be formed of two distinct branches, who, together, shall be a complete legislature. They shall meet once, or oftener, every year, and shall be called the **GENERAL ASSEMBLY OF VIRGINIA**.

One of these shall be called the **HOUSE OF DELEGATES**, and consist of two representatives to be chosen for each county, and for the district of *West Augusta*, annually, of such men as actually reside in and are freeholders of the same, or duly qualified according to law, and also [of] one delegate or representative to be chosen annually for the city of *Williamsburg*, and one for the borough of *Norfolk*, and a representative for each of such other cities and boroughs as may hereafter be allowed particular representation by the legislature; but when any city or borough shall so decrease as that the number of persons

having right of suffrage therein shall have been for the space of seven years successively less than half the number of voters in some one county in *Virginia*, such city or borough thenceforward shall cease to send a delegate or representative to the Assembly.

The other shall be called the SENATE, and consist of twenty four members, of whom thirteen shall constitute a House to proceed on business, for whose election the different counties shall be divided into twenty four districts, and each county of the respective district, at the time of the election of its delegates, shall vote for one Senator, who is actually a resident and freeholder within the district, or duly qualified according to law, and is upwards of twenty five years of age; and the sheriffs of each county, within five days at farthest after the last county election in the district, shall meet at some convenient place, and from the poll so taken in their respective counties return as a Senator the man who shall have the greatest number of votes in the whole district. To keep up this Assembly by rotation, the districts shall be equally divided into four classes, and numbered by lot. At the end of one year after the general election, the six members elected by the first division shall be displaced, and the vacancies thereby occasioned supplied from such class or division, by new election, in the manner aforesaid. This rotation shall be applied to each division, according to its number, and continued in due order annually.

The right of suffrage in the election of members for both Houses shall remain as exercised at present, and each House shall choose its own speaker, appoint its own officers, settle its own rules of proceeding, and direct writs of election for supplying intermediate vacancies.

All laws shall originate in the House of Delegates, to be approved or rejected by the Senate, or to be amended with the consent of the House of Delegates; except money bills, which in no instance shall be altered by the Senate, but wholly approved or rejected.

A Governour, or chief magistrate, shall be chosen annually, by joint ballot of both Houses, to be taken in each House respectively, deposited in the conference room, the boxes examined jointly by a committee of each House, and the members severally reported to them, that the appointments may be entered (which shall be the mode of taking the joint ballot of both Houses in all cases) who shall not continue in that office longer than three years successively, nor be eligible until the expiration of four years after he shall have been out of that office. An adequate, but moderate salary, shall be settled on him during his continuance in office; and he shall, with the advice of a Council of State, exercise the executive powers of government according to the laws of this commonwealth; and shall not, under any pretence,

exercise any power or prerogative by virtue of any law, statute, or custom, of *England*: But he shall, with the advice of the Council of State, have the power of granting reprieves or pardons, except where the prosecution shall have been carried on by the House of Delegates, or the law shall otherwise particularly direct; in which cases, no reprieve or pardon shall be granted, but by resolve of the House of Delegates.

Either House of the General Assembly may adjourn themselves respectively. The Governour shall not prorogue or adjourn the Assembly during their sitting, nor dissolve them at any time; but he shall, if necessary, either by advice of the Council of State, or on application of a majority of the House of Delegates, call them before the time to which they shall stand prorogued or adjourned.

A Privy Council, or Council of State, consisting of eight members, shall be chosen by joint ballot of both Houses of Assembly, either from their own members or the people at large, to assist in the administration of government. They shall annually choose out of their own members a president, who, in case of the death, inability, or necessary absence of the Governour from the government, shall act as Lieutenant-Governour. Four members shall be sufficient to act, and their advice and proceedings shall be entered of record, and signed by the members present (to any part whereof any member may enter his dissent) to be laid before the General Assembly, when called for by them. This Council may appoint their own clerk, who shall have a salary settled by law, and take an oath of secrecy in such matters as he shall be directed by the board to conceal. A sum of money appropriated to that purpose shall be divided annually among the members, in proportion to their attendance; and they shall be incapable, during their continuance in office, of sitting in either House of Assembly. Two members shall be removed by joint ballot of both Houses of Assembly at the end of every three years, and be ineligible for the three next years. These vacancies, as well as those occasioned by death or incapacity, shall be supplied by new elections, in the same manner.

The delegates for *Virginia* to the Continental Congress shall be chosen annually, or superseded in the mean time by joint ballot of both Houses of Assembly.

The present militia officers shall be continued, and vacancies supplied by appointment of the Governour, with the advice of the Privy Council, on recommendations from the respective county courts; but the Governour and Council shall have a power of suspending any officer, and ordering a court-martial on complaint of misbehaviour or inability, or to supply vacancies of officers happening when in actual

service. The Governour may embody the militia, with the advice of the Privy Council; and, when embodied, shall alone have the direction of the militia under the laws of the country.

The two Houses of Assembly shall, by joint ballot, appoint Judges of the Supreme Court of Appeals, and General Court, Judges in Chancery, Judges of Admiralty, Secretary, and the Attorney-General, to be commissioned by the Governour, and continue in office during good behaviour. In case of death, incapacity, or resignation, the Governour, with the advice of the Privy Council, shall appoint persons to succeed in office, to be approved or displaced by both Houses. These officers shall have fixed and adequate salaries, and, together with all others holding lucrative offices, and all ministers of the Gospel of every denomination, be incapable of being elected members of either House of Assembly, or the Privy Council.

The Governour, with the advice of the Privy Council, shall appoint Justices of the Peace for the counties; and in case of vacancies, or a necessity of increasing the number hereafter, such appointments to be made upon the recommendation of the respective county courts. The present acting Secretary in *Virginia*, and Clerks of all the County Courts, shall continue in office. In case of vacancies, either by death, incapacity, or resignation, a Secretary shall be appointed as before directed, and the Clerks by the respective courts. The present and future Clerks shall hold their offices during good behaviour, to be judged of and determined in the General Court. The Sheriffs and Coroners shall be nominated by the respective courts, approved by the Governour with the advice of the Privy Council, and commissioned by the Governour. The Justices shall appoint Constables, and all fees of the aforesaid officers be regulated by law.

The Governour, when he is out of office, and others offending against the state, either by mal-administration, corruption, or other means by which the safety of the state may be endangered, shall be impeachable by the House of Delegates. Such impeachment to be prosecuted by the Attorney-General, or such other person or persons as the House may appoint in the General Court, according to the laws of the land. If found guilty, he or they shall be either for ever disabled to hold any office under government, or removed from such office *pro tempore*, or subjected to such pains or penalties as the law shall direct.

If all, or any of the Judges of the General Court, shall, on good grounds (to be judged of by the House of Delegates) be accused of any of the crimes or offences before-mentioned, such House of Delegates may, in like manner, impeach the Judge or Judges so accused, to be prosecuted in the Court of Appeals; and he or they, if found

guilty, shall be punished in the same manner as is prescribed in the preceding clause.

Commissions and grants shall run, *In the name of the COMMONWEALTH of VIRGINIA*, and bear test by the Governour with the seal of the commonwealth annexed. Writs shall run in the same manner, and bear test by the clerks of the several courts. Indictments shall conclude, *Against the peace and dignity of the commonwealth*.

A Treasurer shall be appointed annually, by joint ballot of both Houses.

All escheats, penalties, and forfeitures, heretofore going to the king, shall go to the commonwealth, save only such as the legislature may abolish, or otherwise provide for.

The territories contained within the charters erecting the colonies of *Maryland, Pennsylvania, North and South Carolina*, are hereby ceded, released, and for ever confirmed to the people of those colonies respectively, with all the rights of property, jurisdiction, and government, and all other rights whatsoever which might at any time heretofore have been claimed by *Virginia*, except the free navigation and use of the rivers *Potowmack* and *Pohomoke*, with the property of the *Virginia* shores or strands bordering on either of the said rivers, and all improvements which have been or shall be made thereon. The western and northern extent of *Virginia* shall in all other respects stand as fixed by the charter of king *James* the first, in the year one thousand six hundred and nine, and by the publick treaty of peace between the courts of *Great Britain* and *France* in the year one thousand seven hundred and sixty three; unless, by act of legislature, one or more territories shall hereafter be laid off, and governments established westward of the *Allegheny* mountains. And no purchase of lands shall be made of the *Indian* natives but on behalf of the publick, by authority of the General Assembly.

In order to introduce this government, the representatives of the people met in Convention shall choose a Governour and Privy Council, also such other officers directed to be chosen by both Houses as may be judged necessary to be immediately appointed. The Senate to be first chosen by the people, to continue until the last day of *March* next, and the other officers until the end of the succeeding session of Assembly. In case of vacancies, the speaker of either House shall issue writs for new elections.

1. *Ordinances Passed at a General Convention . . .* (Williamsburg, [1776]), 3-5 (Evans 15199).

2. *Ibid.*, 5-13.

## Appendix II

### Virginia Calls Meeting to Consider Granting Congress Power to Regulate Trade 21 January–23 February 1786

*Resolution of the Virginia Legislature, 21 January<sup>1</sup>*

*Resolved*, That Edmund Randolph, James Madison, jun. Walter Jones, Saint George Tucker, and Meriwether Smith, Esquires, be appointed Commissioners, who, or any three of whom, shall meet such Commissioners as may be appointed by the other States in the Union at a time and place to be agreed on, to take into consideration the trade of the United States; to examine the relative situations and trade of the said States; to consider how far a uniform system in their commercial regulations may be necessary to their common interest and their permanent harmony; and to report to the several States such an act relative to this great object, as, when unanimously ratified by them, will enable the United States in Congress effectually to provide for the same.

That the said Commissioners shall immediately transmit to the several States copies of the preceding resolution, with a circular letter requesting their concurrence therein, and proposing a time and place for the meeting aforesaid.

*Edmund Randolph to the Executives of the States  
Richmond, 19 February<sup>2</sup>*

I do myself the honor of transmitting to your excellency the inclosed resolution[.] the Commissioners thereby appointed, have instructed me to open the communication, which it directs with the several states. It is impossible for me to decide how far the uniform System in commercial regulations, which is the Subject of that resolution, may or may not be attainable. I can only venture to declare that the desire of such an arrangement arose from a regard to the federal Interest.

The commissioners of Virginia have therefore only to request the concurrence of your State, and to propose the first Monday in September next as the time, and the City of Annapolis as the place for the meeting of the different deputies.

*Governor Patrick Henry to the Executives of the States*  
*Richmond, 23 February*<sup>3</sup>

The General assembly have appointed Edmd Randolph, James Madison junr. Walter Jones, St George Tucker, Meriwether Smith, David Ross, William Ronald, & George Mason Esquires Commissioners to meet others from the different States in the Union at a time & place to be agreed on for the purpose of framing such regulations of Trade as may be judged necessary to promote the general Interest

I have to request your Excellency's attention to this Subject, & that you will be pleased to make such communication of it as may be necessary to forward the Views of this Legislature—

1. *House Journal* [17 October 1785–21 January 1786] [Richmond, 1786], 151.

2. Copy, Governor's Letter Books, VIII, 200, North Carolina Department of Archives and History.

3. RC, John Work Garrett Library, Johns Hopkins University. There is no indication on the letter as to which state executive the letter was sent.



### Appendix III

#### Virginia's Appointment of Delegates to the Constitutional Convention 23 November–4 December 1786

*Act Authorizing the Election of Delegates, 23 November<sup>1</sup>*

An ACT for appointing DEPUTIES from this Commonwealth to a CONVENTION proposed to be held in the City of Philadelphia in May next, for the purpose of revising the FEDERAL CONSTITUTION.

SECTION I. Whereas the Commissioners who assembled at Annapolis, on the fourteenth day of September last, for the purpose of devising and reporting the means of enabling Congress to provide effectually for the Commercial Interests of the United States, have represented the necessity of extending the revision of the Federal System to all its defects; and have recommended that Deputies for that purpose be appointed by the several Legislatures, to meet in Convention in the City of Philadelphia, on the second day of May next; a provision which seems preferable to a discussion of the subject in Congress, where it might be too much interrupted by the ordinary business before them, and where it would besides be deprived of the valuable counsels of sundry individuals, who are disqualified by the Constitution or Laws of particular States, or restrained by peculiar circumstances from a seat in that Assembly: And whereas the General Assembly of this Commonwealth, taking into view the actual situation of the Confederacy, as well as reflecting on the alarming representations made from time to time by the United States in Congress, particularly in their Act of the fifteenth day of February last,<sup>2</sup> can no longer doubt that the crisis is arrived at which the good people of America are to decide the solemn question, whether they will by wise and magnanimous efforts reap the just fruits of that Independence, which they have so gloriously acquired, and of that Union which they have cemented with so much of their common blood; or whether by giving way to unmanly jealousies and prejudices, or to partial and transitory interests, they will renounce the auspicious blessings prepared for them by the Revolution, and furnish to its enemies an eventual triumph over those by whose virtue and valour it has been accomplished: And whereas the same noble and

extended policy, and the same fraternal and affectionate sentiments, which originally determined the Citizens of this Commonwealth to unite with their brethren of the other States in establishing a Federal Government, cannot but be felt with equal force now, as motives to lay aside every inferior consideration, and to concur in such further concessions and provisions, as may be necessary to secure the great objects for which that Government was instituted, and to render the United States as happy in peace, as they have been glorious in war:

SECT. II. *BE it therefore enacted by the General Assembly of the Commonwealth of Virginia*, That seven Commissioners be appointed by joint ballot of both Houses of Assembly, who, or any three of them, are hereby authorized as Deputies from this Commonwealth, to meet such Deputies as may be appointed and authorised by other States, to assemble in Convention at Philadelphia, as above recommended, and to join with them in devising and discussing all such alterations and further provisions, as may be necessary to render the Federal Constitution adequate to the exigencies of the Union; and in reporting such an Act for that purpose, to the United States in Congress, as, when agreed to by them, and duly confirmed by the several States, will effectually provide for the same.

SECT. III. *AND be it further enacted*, That in case of the death of any of the said Deputies, or of their declining their appointments, the Executive are hereby authorised to supply such vacancies. And the Governor is requested to transmit forthwith a copy of this Act to the United States in Congress, and to the Executives of each of the States in the Union.

*House and Senate Elect Delegates, 4 December<sup>3</sup>*

The house according to the order of the day proceeded by joint ballot with the Senate, to the appointment of seven deputies from this Commonwealth, to a Convention proposed to be held in the city of Philadelphia in May next, for the purpose of revising the federal constitution, and the members having prepared tickets with the names of the persons to be appointed, and deposited the same in the ballot boxes, Mr. Corbin, Mr. Matthews, Mr. David Stuart, Mr. George Nicholas, Mr. Richard Lee, Mr. Wills, Mr. Thomas Smith, Mr. Goodall, and Mr. Turberville, were nominated a committee, to meet a committee from the Senate in the conference chamber, and jointly with them to examine the ballot boxes, and report to the House on whom the majority of votes should fall.

The committee then withdrew, and after some time returned into

the House and reported that the committee had, according to order, met a committee from the Senate in the conference chamber, and jointly with them examined the ballot boxes, and found a majority of votes in favor of George Washington, Patrick Henry, Edmund Randolph, John Blair, James Madison, George Mason, and George Wythe, Esquires.

1. *Acts Passed at a General Assembly of the Commonwealth of Virginia . . .* [16 October 1786–11 January 1787] (Richmond, [1787]), 11. The act was introduced in the House on 3 November, and final action was completed when the Senate adopted the bill on 23 November.

2. On 15 February 1786 a committee of Congress reported on the state of the Impost of 1783 (CDR, 146–48). Congress then resolved to resubmit the Impost to those states that “have not fully complied with the same,” and warned them “that the most fatal evils will inevitably flow from a breach of public faith, pledged by solemn contract, and a violation of those principles of justice, which are the only solid basis of the honor and prosperity of Nations” (JCC, XXX, 70–76).

3. *House Journal* [16 October 1786–11 January 1787] (Richmond, [1787]), 86. Patrick Henry declined to serve, and on 22 February 1787 Thomas Nelson, Jr., was appointed to fill the vacancy. Nelson declined, and Richard Henry Lee was appointed on 20 March. Lee also declined, and James McClurg was appointed on 5 April.

## Appendix IV

### The Constitution of the United States<sup>1</sup>

We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.

#### Article. I.

Section. 1. All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

Section. 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 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.

When vacancies happen in the Representation from any State, the Executive Authority thereof shall issue Writs of Election to fill such Vacancies.

The House of Representatives shall chuse their Speaker and other Officers; and shall have the sole Power of Impeachment.

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

Immediately after they shall be assembled in Consequence of the first Election, they shall be divided as equally as may be into three Classes. The Seats of the Senators of the first Class shall be vacated at the Expiration of the second Year, of the second Class at the Expiration of the fourth Year, and of the third Class at the Expiration of the sixth Year, so that one third may be chosen every second Year; and if Vacancies happen by Resignation, or otherwise, during the Recess of the Legislature of any State, the Executive thereof may make temporary Appointments until the next Meeting of the Legislature, which shall then fill such Vacancies.

No Person shall be a Senator who shall not have attained to the Age of thirty Years, and been nine Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State for which he shall be chosen.

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

The Senate shall chuse their other Officers, and also a President pro tempore, in the Absence of the Vice President, or when he shall exercise the Office of President of the United States.

The Senate shall have the sole Power to try all Impeachments. When sitting for that Purpose, they shall be on Oath or Affirmation. When the President of the United States is tried, the Chief Justice shall preside: And no Person shall be convicted without the Concurrence of two thirds of the Members present.

Judgment in Cases of Impeachment shall not extend further than to removal from Office, and disqualification to hold and enjoy any Office of honor, Trust or Profit under the United States: but the Party convicted shall nevertheless be liable and subject to Indictment, Trial, Judgment and Punishment, according to Law.

Section. 4. The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators.

The Congress shall assemble at least once in every Year, and such Meeting shall be on the first Monday in December, unless they shall by Law appoint a different Day.

Section. 5. Each House shall be the Judge of the Elections, Returns and Qualifications of its own Members, and a Majority of each shall constitute a Quorum to do Business; but a smaller Number may adjourn from day to day, and may be authorized to compel the Attendance of absent Members, in such Manner, and under such Penalties as each House may provide.

Each House may determine the Rules of its Proceedings, punish its members for disorderly Behaviour, and, with the Concurrence of two thirds, expel a Member.

Each House shall keep a Journal of its Proceedings, and from time to time publish the same, excepting such Parts as may in their Judgment require Secrecy; and the Yeas and Nays of the Members of either House on any question shall, at the Desire of one fifth of those Present, be entered on the Journal.

Neither House, during the Session of Congress, shall, without the Consent of the other, adjourn for more than three days, nor to any other Place than that in which the two Houses shall be sitting.

Section. 6. The Senators and Representatives shall receive a Compensation for their Services, to be ascertained by Law, and paid out of the Treasury of the United States. They shall in all Cases, except Treason, Felony and Breach of the Peace, be privileged from Arrest during their Attendance at the Session of their respective Houses, and in going to and returning from the same; and for any Speech or Debate in either House, they shall not be questioned in any other Place.

No Senator or Representative shall, during the Time for which he was elected, be appointed to any civil Office under the Authority of the United States which shall have been created, or the Emoluments whereof shall have been encreased during such time; and no Person holding any Office under the United States, shall be a Member of either House during his Continuance in Office.

Section. 7. All Bills for raising Revenue shall originate in the House of Representatives; but the Senate may propose or concur with Amendments as on other Bills.

Every Bill which shall have passed the House of Representatives and the Senate shall, before it become a Law, be presented to the President of the United States; If he approve he shall sign it, but if not he shall return it, with his Objections to that House in which it shall have originated, who shall enter the Objections at large on their Journal, and proceed to reconsider it. If after such Reconsideration two thirds of that House shall agree to pass the Bill, it shall be sent, together with the Objections, to the other House, by which it shall likewise be

reconsidered, and if approved by two thirds of that House, it shall become a Law. But in all such Cases the Votes of both Houses shall be determined by yeas and Nays, and the Names of the Persons voting for and against the Bill shall be entered on the Journal of each House respectively. If any Bill shall not be returned by the President within ten Days (Sundays excepted) after it shall have been presented to him, the Same shall be a Law, in like Manner as if he had signed it, unless the Congress by their Adjournment prevent its Return, in which Case it shall not be a Law.

Every Order, Resolution, or Vote to which the Concurrence of the Senate and House of Representatives may be necessary (except on a question of Adjournment) shall be presented to the President of the United States; and before the Same shall take Effect, shall be approved by him, or being disapproved by him, shall be repassed by two thirds of the Senate and House of Representatives, according to the Rules and Limitations prescribed in the Case of a Bill.

Section. 8. The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States;

To borrow Money on the credit of the United States;

To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes;

To establish an uniform Rule of Naturalization, and uniform Laws on the subject of Bankruptcies throughout the United States;

To coin Money, regulate the Value thereof, and of foreign Coin, and fix the Standard of Weights and Measures;

To provide for the Punishment of counterfeiting the Securities and current Coin of the United States;

To establish Post Offices and post Roads;

To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries;

To constitute Tribunals inferior to the supreme Court;

To define and punish Piracies and Felonies committed on the high Seas, and Offences against the Law of Nations;

To declare War, grant Letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water;

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 make Rules for the Government and Regulation of the land and naval Forces;

To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions;

To provide for organizing, arming, and disciplining, the Militia, and for governing such Part of them as may be employed in the Service of the United States, reserving to the States respectively, the Appointment of the Officers, and the Authority of training the Militia according to the discipline prescribed by Congress;

To exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square) as may, by Cession of particular States, and the Acceptance of Congress, become the Seat of the Government of the United States, and to exercise like Authority over all Places purchased by the Consent of the Legislature of the State in which the same shall be, for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings;—And

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.

Section. 9. The Migration or Importation of such Persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the Year one thousand eight hundred and eight, but a Tax or duty may be imposed on such Importation, not exceeding ten dollars for each Person.

The Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it.

No Bill of Attainder or ex post facto Law shall be passed.

No Capitation, or other direct, Tax shall be laid, unless in Proportion to the Census or Enumeration herein before directed to be taken.

No Tax or Duty shall be laid on Articles exported from any State.

No Preference shall be given by any Regulation of Commerce or Revenue to the Ports of one State over those of another: nor shall Vessels bound to, or from, one State, be obliged to enter, clear, or pay Duties in another.

No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law; and a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time.



No Title of Nobility shall be granted by the United States: And no Person holding any Office of Profit or Trust under them, shall, without the Consent of the Congress, accept of any present, Emolument, Office, or Title, of any kind whatever, from any King, Prince, or foreign State.

Section. 10. No State shall enter into any Treaty, Alliance, or Confederation; grant Letters of Marque and Reprisal; coin Money; emit Bills of Credit; make any Thing but gold and silver Coin a Tender in Payment of Debts; pass any Bill of Attainder, ex post facto Law, or Law impairing the Obligation of Contracts, or grant any Title of Nobility.

No State shall, without the Consent of the Congress, lay any Imposts or Duties on Imports or Exports, except what may be absolutely necessary for executing it's inspection Laws: and the net Produce of all Duties and Imposts, laid by any State on Imports or Exports, shall be for the Use of the Treasury of the United States; and all such Laws shall be subject to the Revision and Controul of the Congress.

No State shall, without the Consent of Congress, lay any Duty of Tonnage, keep Troops, or Ships of War in time of Peace, enter into any Agreement or Compact with another State, or with a foreign Power, or engage in War, unless actually invaded, or in such imminent Danger as will not admit of delay.

## Article. II.

Section. 1. The executive Power shall be vested in a President of the United States of America. He shall hold his Office during the Term of four Years, and, together with the Vice President, chosen for the same Term, be elected, as follows

Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, equal to the whole Number of Senators and Representatives to which the State may be entitled in the Congress: but no Senator or Representative, or Person holding an Office of Trust or Profit under the United States, shall be appointed an Elector.

The Electors shall meet in their respective States and vote by Ballot for two Persons, of whom one at least shall not be an Inhabitant of the same State with themselves. And they shall make a List of all the Persons voted for, and of the Number of Votes for each; which List they shall sign and certify, and transmit sealed to the Seat of the Government of the United States, directed to the President of the Senate. The President of the Senate shall, in the Presence of the Senate

and House of Representatives, open all the Certificates, and the Votes shall then be counted. The Person having the greatest Number of Votes shall be the President, if such Number be a Majority of the whole Number of Electors appointed; and if there be more than one who have such Majority, and have an equal Number of Votes, then the House of Representatives shall immediately chuse by Ballot one of them for President; and if no Person have a Majority, then from the five highest on the List the said House shall in like Manner chuse the President. But in chusing the President, the Votes shall be taken by States, the Representation from each State having one Vote; A quorum for this Purpose shall consist of a Member or Members from two thirds of the States, and a Majority of all the States shall be necessary to a Choice. In every Case, after the Choice of the President, the Person having the greatest Number of Votes of the Electors shall be the Vice President. But if there should remain two or more who have equal Votes, the Senate shall chuse from them by Ballot the Vice President.

The Congress may determine the Time of chusing the Electors, and the Day on which they shall give their Votes; which Day shall be the same throughout the United States.

No Persons except a natural born Citizen, or a Citizen of the United States, at the time of the Adoption of this Constitution, shall be eligible to the Office of President; neither shall any Person be eligible to that Office who shall not have attained to the Age of thirty five Years, and been fourteen Years a Resident within the United States.

In Case of the Removal of the President from Office, or of his Death, Resignation, or Inability to discharge the Powers and Duties of the said Office, the Same shall devolve on the Vice President, and the Congress may by Law provide for the Case of Removal, Death, Resignation or Inability, both of the President and Vice President, declaring what Officer shall then act as President, and such Officer shall act accordingly, until the Disability be removed, or a President shall be elected.

The President shall, at stated Times, receive for his Services, a Compensation, which shall neither be increased nor diminished during the Period for which he shall have been elected, and he shall not receive within that Period any other Emolument from the United States, or any of them.

Before he enter on the Execution of his Office, he shall take the following Oath or Affirmation:—"I do solemnly swear (or affirm) that I will faithfully execute the Office of President of the United States, and will to the best of my Ability, preserve, protect and defend the Constitution of the United States."

Section. 2. The President shall be Commander in Chief of the Army and Navy of the United States, and of the Militia of the several States, when called into the actual Service of the United States; he may require the Opinion, in writing, of the principal Officer in each of the executive Departments, upon any Subject relating to the Duties of their respective Offices, and he shall have Power to grant Reprieves and Pardons for Offences against the United States, except in Cases of Impeachment.

He shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two thirds of the Senators present concur; and he shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the supreme Court, and all other Officers of the United States, whose Appointments are not herein otherwise provided for, and which shall be established by Law: but the Congress may by Law vest the Appointment of such inferior Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments.

The President shall have Power to fill up all Vacancies that may happen during the Recess of the Senate, by granting Commissions which shall expire at the End of their next Session.

Section. 3. He shall from time to time give to the Congress Information of the State of the Union, and recommend to their Consideration such Measures as he shall judge necessary and expedient; he may, on extraordinary Occasions, convene both Houses, or either of them, and in Case of Disagreement between them, with Respect to the Time of Adjournment, he may adjourn them to such Time as he shall think proper; he shall receive Ambassadors and other public Ministers; he shall take Care that the Laws be faithfully executed, and shall Commission all the Officers of the United States.

Section. 4. The President, Vice President and all civil Officers of the United States, shall be removed from Office on Impeachment for, and Conviction of Treason, Bribery, or other high Crimes and Misdemeanors.

### Article III.

Section. 1. The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish. The Judges, both of the supreme and inferior Courts, shall hold their Offices during good

Behaviour, and shall, at stated Times, receive for their Services, a Compensation, which shall not be diminished during their Continuance in Office.

Section. 2. The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority;—to all Cases affecting Ambassadors, other public Ministers and Consuls;—to all Cases of admiralty and maritime Jurisdiction;—to Controversies to which the United States shall be a Party;—to Controversies between two or more States;—between a State and Citizens of another State;—between Citizens of different States,—between Citizens of the same State claiming Lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.

In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be Party, the supreme Court shall have original Jurisdiction. In all the other Cases before mentioned, the supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make.

The Trial of all Crimes, except in Cases of Impeachment, shall be by Jury; and such Trial shall be held in the State where the said Crimes shall have been committed; but when not committed within any State, the Trial shall be at such Place or Places as the Congress may by Law have directed.

Section. 3. Treason against the United States, shall consist only in levying War against them, or in adhering to their Enemies, giving them Aid and Comfort. No Person shall be convicted of Treason unless on the Testimony of two Witnesses to the same overt Act, or on Confession in open Court.

The Congress shall have Power to declare the Punishment of Treason, but no Attainder of Treason shall work Corruption of Blood, or Forfeiture except during the Life of the Person attainted.

#### Article. IV.

Section. 1. Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State. And the Congress may by general Laws prescribe the Manner in which such Acts, Records and Proceedings shall be proved, and the Effect thereof.

Section. 2. The Citizens of each State shall be entitled to all privileges and Immunities of Citizens in the several States.

A Person charged in any State with Treason, Felony, or other Crime, who shall flee from Justice, and be found in another State, shall on Demand of the executive Authority of the State from which he fled, be delivered up, to be removed to the State having Jurisdiction of the Crime.

No Person held to Service or Labour in one State, under the Laws thereof, escaping into another, shall, in Consequence of any Law or Regulation therein, be discharged from such Service or Labour, but shall be delivered up on Claim of the Party to whom such Service or Labour may be due.

Section. 3. New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the Jurisdiction of any other State; nor any State be formed by the Junction of two or more States, or Parts of States, without the Consent of the Legislatures of the States concerned as well as of the Congress.

The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States; and nothing in this Constitution shall be so construed as to Prejudice any Claims of the United States, or of any particular State.

Section. 4. The United States shall guarantee to every State in this Union a Republican Form of Government, and shall protect each of them against Invasion; and on Application of the Legislature, or of the Executive (when the Legislature cannot be convened) against domestic Violence.

#### Article. V.

The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution, or, on the Application of the Legislatures of two thirds of the several States, shall call a Convention for proposing Amendments, which, in either Case, shall be valid to all Intents and Purposes, as Part of this Constitution, when ratified by the Legislatures of three fourths of the several States, or by Conventions in three fourths thereof, as the one or the other Mode of Ratification may be proposed by the Congress; Provided that no Amendment which may be made prior to the Year One thousand eight hundred and eight shall in any Manner affect the first and fourth

Clauses in the Ninth Section of the first Article; and that no State, without its Consent, shall be deprived of it's equal Suffrage in the Senate.

#### Article. VI.

All Debts contracted and Engagements entered into, before the Adoption of this Constitution, shall be as valid against the United States under this Constitution, as under the Confederation.

This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

The Senators and Representatives before mentioned, and the Members of the several State Legislatures, and all executive and judicial Officers; both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution; but no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States.

#### Article. VII.

The Ratification of the Conventions of nine States, shall be sufficient for the Establishment of this Constitution between the States so ratifying the Same.

The Word, "the," being interlined between the seventh and eighth Lines of the first Page, The Word "Thirty" being partly written on an Erasure in the fifteenth Line of the first Page, The Words "is tried" being interlined between the thirty second and thirty third Lines of the first Page and the Word "the" being interlined between the forty third and forty fourth Lines of the second Page.

Attest William Jackson Secretary

done in Convention by the Unanimous Consent of the States present the Seventeenth Day of September in the Year of our Lord one thousand seven hundred and Eighty seven and of the Independance of the United States of America the Twelfth In Witness whereof We have hereunto subscribed our Names,

Go: Washington—Presidt.  
and deputy from Virginia

Delaware { Geo: Read  
Gunning Bedford junr  
John Dickinson  
Richard Bassett  
Jaco: Broom

Maryland { James McHenry  
Dan of St Thos. Jenifer  
Danl Carroll

Virginia { John Blair—  
James Madison Jr.

North Carolina { Wm. Blount  
Richd. Dobbs Spaight.  
Hu Williamson

South Carolina { J. Rutledge  
Charles Cotesworth  
Pinckney  
Charles Pinckney  
Pierce Butler

Georgia { William Few  
Abr Baldwin

New Hampshire { John Langdon  
Nicholas Gilman

Massachusetts { Nathaniel Gorham  
Rufus King

Connecticut { Wm: Saml. Johnson  
Roger Sherman

New York ... Alexander Hamilton

New Jersey { Wil: Livingston  
David Brearley  
Wm. Paterson  
Jona: Dayton

Pensylvania { B Franklin  
Thomas Mifflin  
Robt Morris  
Geo. Clymer  
Thos. FitzSimons  
Jared Ingersoll  
James Wilson  
Gouv. Morris

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## Appendix V

### Virginia Population from the 1790 U.S. Census

<u>COUNTIES</u>	<u>SLAVES</u>	<u>TOTAL INHABITANTS</u>
EASTERN SHORE.		
Accomack	4,262	13,959
Northampton	3,244	6,889
BETWEEN RAPPAHANNOCK AND POTOMAC RIVERS.		
Fairfax	4,574	12,320
King George	4,157	7,366
Lancaster	3,236	5,638
Northumberland	4,460	9,163
Prince William	4,704	11,615
Richmond	3,984	6,985
Stafford	4,036	9,588
Westmoreland	4,425	7,722
BETWEEN YORK AND RAPPAHANNOCK RIVERS.		
Caroline	10,292	17,489
Essex	5,440	9,122
Gloucester	7,063	13,498
King and Queen	5,143	9,377
King William	5,151	8,128
Middlesex	2,558	4,140
BETWEEN JAMES AND YORK RIVERS.		
Charles City	3,141	5,588
Elizabeth City	1,876	3,450
Hanover	8,223	14,754
Henrico	5,819	12,000
James City	2,405	4,070
New Kent	3,700	6,239
Warwick	990	1,690
York (including Williams- burg)	2,760	5,233
BETWEEN JAMES RIVER AND NORTH CAROLINA.		
Chesterfield	7,487	14,214
Dinwiddie	7,334	13,934
Greensville	3,620	6,362
Isle of Wight	3,867	9,028



Nansemond	3,817	9,010
Norfolk	5,345	14,524
Prince George	4,519	8,173
Princess Anne	3,202	7,793
Southampton	5,993	12,864
Surry	3,097	6,227
Sussex	5,387	10,554

## BETWEEN THE TIDEWATER AND THE BLUE RIDGE.

Albemarle	5,579	12,585
Amelia	11,307	18,097
Amherst	5,296	13,703
Bedford	2,754	10,531
Brunswick	6,776	12,827
Buckingham	4,168	9,779
Campbell	2,488	7,685
Charlotte	4,816	10,078
Culpeper	8,226	22,105
Cumberland	4,434	8,153
Fauquier	6,642	17,892
Fluvanna	1,466	3,921
Franklin	1,073	6,842
Goochland	4,656	9,053
Halifax	5,565	14,722
Henry	1,551	8,479
Loudoun	4,030	18,962
Louisa	4,573	8,467
Lunenburg	4,332	8,959
Mecklenburg	6,762	14,733
Orange	4,421	9,921
Pittsylvania	2,979	11,579
Powhatan	4,325	6,822
Prince Edward	3,986	8,100
Spotsylvania	5,933	11,252

## WEST OF THE BLUE RIDGE.

Augusta	1,567	10,886
Berkeley	2,932	19,713
Botetourt	1,259	10,524
Frederick	4,250	19,681
Greenbrier	319	6,015
Hampshire	454	7,346
Hardy	369	7,336

Harrison	67	2,080
Monongalia	154	4,768
Montgomery	828	13,228
Ohio	281	5,212
Pendleton	73	2,452
Randolph	19	951
Rockbridge	682	6,548
Rockingham	772	7,449
Russell	190	3,338
Shenandoah	512	10,510
Washington	450	5,625

## DISTRICT OF KENTUCKY

Bourbon	1,116	10,104
Fayette	5,909	26,786
Jefferson	876	4,565
Lincoln	1,094	6,548
Madison	737	5,772
Mercer	1,317	6,941
Nelson	1,219	11,099
<b>TOTALS</b>	<b>292,627</b>	<b>747,610</b>

## VIRGINIA TOWNS

<u>TOWN</u>	<u>SLAVES</u>	<u>TOTAL</u>
Alexandria (Fairfax)	543	2,748
Danville (Mercer)	22	150
Fredericksburg (Spotsylvania)	567	1,485
Lexington (Fayette)	63	834
Norfolk (Norfolk)	1,294	2,959
Petersburg (Dinwiddie) (includes Blandford in Prince George and Pocahontas in Chesterfield)	1,265	2,828
Portsmouth (Norfolk)	616	1,702
Richmond (Henrico)	1,479	3,761
Williamsburg (James City & York)	636	1,344
Winchester (Frederick)	170	1,651
York (York)	372	661

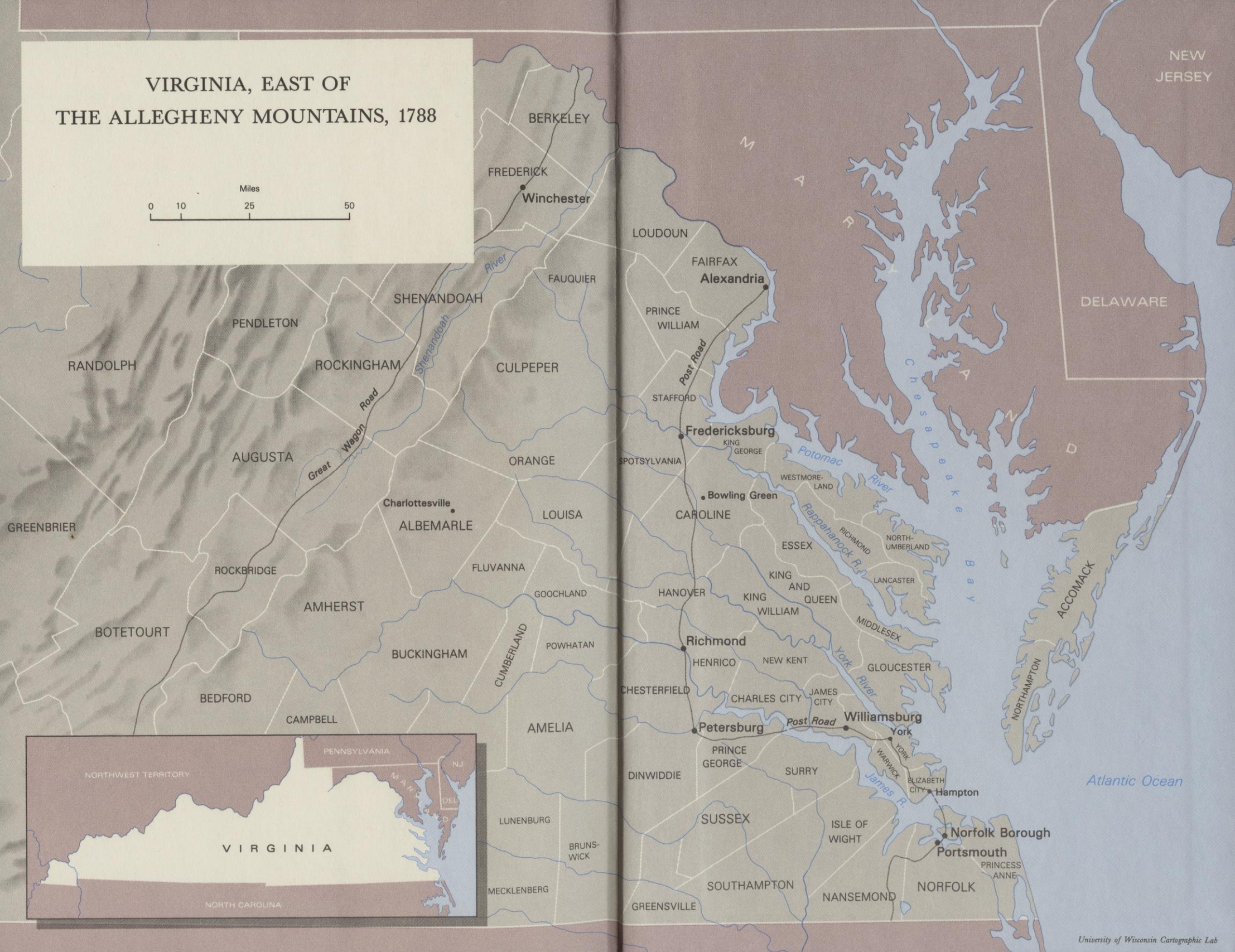
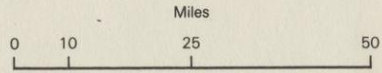
**THE DOCUMENTARY HISTORY OF THE  
RATIFICATION OF THE CONSTITUTION**

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# VIRGINIA, EAST OF THE ALLEGHENY MOUNTAINS, 1788





their reasons for not signing the new Constitution. It includes the public meetings in various towns and counties that petitioned the legislature to call a ratifying convention to consider the new form of government. It contains all of the newspaper articles in Virginia commenting on the Constitution as well as broadsides and pamphlets, both Federalist and Antifederalist. Most of these articles have never been printed before, and some are taken from issues of newspapers not previously thought extant.

The documents provide insights into the intricate political maneuvering in the Virginia legislature which led to the calling of a state convention to consider the new Constitution. The editors show in detailed notes how important out-of-state newspaper essays—for example *The Federalist*, "An American Citizen," and Benjamin Franklin's last speech in the Constitutional Convention—were reprinted and circulated in Virginia. The attitude of Kentuckians, many of whom strongly supported separate statehood from Virginia, toward the Constitution is vividly painted in private letters, newspaper articles, and the debates in the Political Club of Danville, Kentucky.

This volume contains 3-color endpaper maps of Virginia, lists of officeholders and legislators, a biographical gazetteer of Virginians important in the ratification debate, a chronology, and a calendar. Several appendices contain the Virginia Declaration of Rights and constitution of 1776, the state's call of the Annapolis Convention and its appointment of delegates to the Constitutional Convention, and population figures for counties and towns taken from the U.S. Census of 1790. This first volume of Virginia documents, coupled with the two remaining volumes, will present the fullest story ever told of how Virginians debated the Constitution and came to ratify it.

#### THE EDITORS

JOHN P. KAMINSKI and GASPARE J. SALADINO have been editing *The Documentary History of the Ratification of the Constitution* since March 1970. Both hold doctorates from the University of Wisconsin, where the project is located. Associate editor RICHARD LEFFLER has served on the project since 1973.

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