

# Drafting, Debating and Ratifying the Constitution

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## Introduction

From 1781, the thirteen United States had been bound together by the [Articles of Confederation](#). Under the Confederation, the Continental Congress had successfully waged war, made alliances, secured loans, negotiated peace with Great Britain, and passed the Northwest Ordinance. Yet in the wake of the Revolution, the new United States faced many serious problems. Since Congress could only request funds from the States, and not levy taxes, it was unable to pay war-related debts. Without the power to regulate trade, it could not negotiate commercial treaties. Britain refused to remove its troops from forts in the Northwest territories, and Spain denied Americans access to the port of New Orleans. There was little that the diplomatically and militarily weak Confederation was able to do. In Massachusetts, indebted farmers had risen in revolt against the state's taxation policies – a rebellion that some feared would be imitated elsewhere. Both within and without the Congress, calls were made for increasing its authority. In February 1787, Congress supported a resolution for revising the Articles of Confederation; in May, representatives from twelve states convened in Philadelphia. Rhode Island took no part in the process.



## Drafting the Constitution

The fifty-five delegates who met in the Old State House (Independence Hall) in Philadelphia did more than revise the Articles: they drafted a new document as a replacement. From May 14th through September 17th, they considered plans and proposals for creating a stronger, more centralized system of government. To avoid public pressure and potential protests, they deliberated in secret. Nevertheless, a number of delegates, in particular James Madison of Virginia, did take notes of the proceedings. These documents provide scholars and students with information about the actions and the intentions of the participants.

## Activities

### Activity 1

First, please choose one of the following dates and read the linked section from James Madison's **Notes of Debates in the Federal Convention of 1787**:

- May 31st: [http://avalon.law.yale.edu/18th\\_century/debates\\_531.asp](http://avalon.law.yale.edu/18th_century/debates_531.asp)
- June 1st: [http://avalon.law.yale.edu/18th\\_century/debates\\_601.asp](http://avalon.law.yale.edu/18th_century/debates_601.asp)
- June 11th: [http://avalon.law.yale.edu/18th\\_century/debates\\_611.asp](http://avalon.law.yale.edu/18th_century/debates_611.asp)
- June 26th: [http://avalon.law.yale.edu/18th\\_century/debates\\_626.asp](http://avalon.law.yale.edu/18th_century/debates_626.asp)
- July 9th: [http://avalon.law.yale.edu/18th\\_century/debates\\_709.asp](http://avalon.law.yale.edu/18th_century/debates_709.asp)
- August 22nd: [http://avalon.law.yale.edu/18th\\_century/debates\\_822.asp](http://avalon.law.yale.edu/18th_century/debates_822.asp)
- September 6th: [http://avalon.law.yale.edu/18th\\_century/debates\\_906.asp](http://avalon.law.yale.edu/18th_century/debates_906.asp)
- September 17th: [http://avalon.law.yale.edu/18th\\_century/debates\\_917.asp](http://avalon.law.yale.edu/18th_century/debates_917.asp)

Second, please post to the course's Blackboard site one or two paragraphs that describe what issues were being discussed on that day, what opinions were expressed, and what actions (if any) were taken.

Third, please read the text of the entire Constitution (<http://www.archives.gov/exhibits/charters/constitution.html>).

### Debating the Proposed Constitution

On September 17th, the Convention signed the Constitution and forwarded it to Congress; on September 28th, Congress sent the document on to the states, which were to organize ratification conventions. From the autumn of 1787 through the summer of 1788, sustained debates were carried on in the press – through newspapers, broadsides and pamphlets—and in person in such venues as town meetings, coffee houses and taverns. Both the advocates of the Constitution, known as “Federalists,” and its critics, called “Anti-Federalists” tried to persuade voters to support or reject it. The debates in New York City’s press between the Anti-Federalist “Brutus” – Robert Yates – and the Federalist “Publius” – Alexander Hamilton, John Jay and James Madison – were particularly intense, and would influence public opinion across the new nation.

## Activity 2

First, please choose and read one of the following pairs of exchanges between Brutus and Publius which were published in the pages of the New York Journal, the Daily Packet and the Independent Journal: the Letters of

1. Brutus No. 1: <http://teachingamericanhistory.org/library/document/brutus-i/>  
Federalist No. 14: [http://avalon.law.yale.edu/18th\\_century/fed14.asp](http://avalon.law.yale.edu/18th_century/fed14.asp)
2. Brutus No. 2: <http://teachingamericanhistory.org/library/document/brutus-ii/>  
Federalist No. 84: [http://avalon.law.yale.edu/18th\\_century/fed84.asp](http://avalon.law.yale.edu/18th_century/fed84.asp)
3. Brutus No. 3: <http://teachingamericanhistory.org/library/document/brutus-iii/>  
Brutus No. 4: <http://teachingamericanhistory.org/library/document/brutus-iv/>  
Federalist No. 55: [http://avalon.law.yale.edu/18th\\_century/fed55.asp](http://avalon.law.yale.edu/18th_century/fed55.asp)  
Federalist No. 56: [http://avalon.law.yale.edu/18th\\_century/fed56.asp](http://avalon.law.yale.edu/18th_century/fed56.asp)
4. Brutus No. 7: <http://teachingamericanhistory.org/library/document/brutus-vii/>  
Federalist No. 23: [http://avalon.law.yale.edu/18th\\_century/fed23.asp](http://avalon.law.yale.edu/18th_century/fed23.asp)
5. Brutus No. 8: <http://teachingamericanhistory.org/library/document/brutus-viii/>  
Federalist No. 8: [http://avalon.law.yale.edu/18th\\_century/fed08.asp](http://avalon.law.yale.edu/18th_century/fed08.asp)
6. Brutus No. 16: <http://teachingamericanhistory.org/library/document/brutus-xvi/>  
Federalist No. 62: [http://avalon.law.yale.edu/18th\\_century/fed62.asp](http://avalon.law.yale.edu/18th_century/fed62.asp)

Second, please post to the course's Blackboard site two to three paragraphs that describe what issues were being debated, what main points Brutus and Publius were making, and what evidence and examples they used in making them.

## Activity 3

Not all debates about the merits and the limits of the proposed Constitution were as formal as the journalistic exchanges between Brutus and Publius. Americans also made use of more accessible media such as [broadsides](#) and cartoons.

First, please examine this enlarged version of the cartoon "The Looking Glass" and click on the image for a larger version (<http://loc.harpweek.com/LCPoliticalCartoons/DisplayCartoonMedium.asp?MaxID=&UniqueID=6&Year=1787&YearMark>).

As you do so, please pay close attention to the words uttered by the characters, and the actions that are depicted.

Second, please post to the course's Blackboard site **one** paragraph in which you describe what you've seen, and in which you try to determine if the cartoon was more favorable to the Federalist or the Anti-Federalist cause.

## Ratifying the Constitution

Before becoming law, the Constitution needed to be ratified by nine states. Delaware was the first to approve it in December 1787. In the other states – with the exception of Rhode Island – special conventions were held into the following summer. Arguments by Anti-Federalists convinced delegates in a number of conventions, Massachusetts for example, to support the Constitution and to suggest a series of amendments to remedy its defects. In June 1788, New Hampshire became the ninth state to ratify, and the Constitution came into effect. But until the pivotal states of Virginia and New York supported the plan, the outcome of the process was in doubt. Virginia's convention voted in favor of the Constitution in June; New York followed in July. North Carolina, where reservations about the Constitution prevailed, did not assent until November 1789. Rhode Island agreed to the new federal framework in May 1790.

## Activity 4

First, please read the selections from the proceedings of one of the following ratification conventions: Massachusetts, Virginia and New York.

### DEBATE IN THE CONVENTION OF THE COMMONWEALTH OF MASSACHUSETTS, ON THE ADOPTION OF THE FEDERAL CONSTITUTION.

[selections]

MONDAY, *January 14*, 1788

Dr. TAYLOR. Mr. President, I am opposed to *biennial*, and am in favor of *annual* elections. Annual election? have been the practice of this state ever since its settlement, and no objection to such a mode of electing has ever been made. It has, indeed, sir, been considered as the safeguard of the liberties of the people; and the annihilation of it, the avenue through which tyranny will enter. By the Articles of Confederation, annual elections are provided for, though we have additional securities in a right to recall any or all of our members from Congress, and a provision for rotation. In the proposed Constitution, there is no provision for rotation; we have no right by it to recall our delegates. In answer to the observations, that, by frequency of elections, good men will be excluded, I answer, if they behave well, it is probable they will be continued; but if they behave ill, how shall we remedy the evil? It is possible that rulers may be appointed who may wish to root out the liberties of the people. Is it not, Mr. President, better, if such a case should occur, that at a short period they should politically die, than that they should be proceeded against by impeachment? These considerations, and others, said the doctor, make me in favor of annual elections; and the further we deviate therefrom, the greater is the evil.

TUESDAY, *January 15*, 1788

Mr. AMES. Biennial elections appear to me, sir, an essential security to liberty. These are my reasons: —Faction and enthusiasm are the instruments by which popular governments are destroyed. We need not talk of the power of an aristocracy. The people, when they lose their liberties, are cheated out of them. They nourish factions in their bosoms, which will subsist so long as abusing their honest credulity shall be the means of acquiring power. A democracy is a volcano, which conceals the fiery materials of its own destruction. These will produce an eruption, and carry desolation in their way. The people always mean right; and, if time is allowed for reflection and information, they will do right. I would not have the first wish, the momentary impulse of the public mind, become law; for it is not always the sense of the people, with whom I admit that all power resides. On great questions, we first hear the loud clamors of passion, artifice, and faction. I consider biennial elections as a security that the sober, second thought of the people shall be law. There is a calm review of public transactions, which is made by the citizens who have families and children, the pledges of their fidelity. To provide for popular liberty, we must take care that measures shall not be adopted without due deliberation. The member chosen for two years will feel some independence in his seat. The factions of the day will expire before the end of his term.

The people will be proportionably attentive to the merits of a candidate. Two years will afford opportunity to the member to deserve well of them, and they will require evidence that he has done it.

FRIDAY, *January 18*, 1788 — The third paragraph of the 2d section of article one still under consideration

Mr. DAWES said, he was very sorry to hear so many objections raised against the paragraph under consideration. He thought them wholly unfounded; that the *black inhabitants* of the Southern States must be considered either as slaves, and as so much *property*, or in the character of so many freemen; if the former, why should they not be wholly represented? Our own state laws and constitution would lead us to consider these blacks as freemen, and so indeed would our own ideas of natural justice. If, then, they are freemen, they might form an equal basis for representation as though they were all white inhabitants. In either view, therefore, he could not see that the Northern States would suffer, but directly to the contrary. He thought, however, that gentlemen would do well to connect the passage in dispute with

another article in the Constitution, that permits Congress, in the year 1808, wholly to prohibit the importation of slaves, and in the mean time to impose a duty of ten dollars a head on such blacks as should be imported before that period. Besides, by the new Constitution, every particular state is left to its own option totally to prohibit the introduction of slaves into its own territories. What could the Convention do more? The members of the Southern States, like ourselves, have *their* prejudices. It would not do to abolish slavery, by an act of Congress, in a moment, and so destroy what our southern brethren consider as property. But we may say, that, although slavery is not smitten by an apoplexy, yet it has received a mortal wound, and will die of a consumption.

SATURDAY, *January 19, 1788*

The Hon. Mr. SINGLETARY thought we were giving up all our privileges, as there was no provision that men in power should have any *religion*; and though he hoped to see Christians, yet, by the Constitution, a Papist, or an Infidel, was as eligible as they. It had been said that men had not degenerated; he did not think men were better now than when men after God's own heart did wickedly. He thought, in this instance, we were giving great power to we know not whom.

TUESDAY, *January 22, 1788* — Section 8 th [of Article 1] still under consideration.

Dr. WILLARD entered largely into the field of ancient history, and deduced therefrom arguments to prove that where power had been trusted to men, whether in great or small bodies, they had always abused it, and that thus republics had soon degenerated into aristocracies. He instanced Sparta, Athens, and Rome. The Amphictyonic league, he said, resembled the Confederation of the United States; while thus united, they defeated Xerxes, but were subdued by the gold of Philip, who brought the council to betray the interest of their country.

Hon. Mr. GORHAM (in reply to the gentleman from Uxbridge) exposed the absurdity of conclusions and hypotheses, drawn from ancient governments, which bore no relation to the confederacy proposed; for those governments had no idea of representations as we have. He, however, warned us against the evil which had ruined those states, which he thought was the want of an efficient federal government. As much as the Athenians rejoiced in the extirpation of a Lacedemonian, will, if we are disunited, a citizen of Massachusetts at the death of a Connecticut man, or a Yorker. With respect to the proposed government degenerating into an aristocracy, the honorable gentleman observed, that the nature and situation of our country rendered such a circumstance impossible; as, from the great preponderance of the agricultural interest in the United States, that interest would always have it in its power to elect such men as would, he observed, effectually prevent the introduction of any other than a perfectly democratical form of government.

Mr. RANDALL said, the quoting of ancient history was no more to the purpose than to tell how our forefathers dug clams at Plymouth; he feared a *consolidation* of the thirteen states. Our manners, he said, were widely different from the Southern States; their elections were not so *free and unbiased*; therefore, if the states were consolidated, he thought it would introduce manners among us which would set us at continual variance.

Mr. BOWDOIN pointed out other instances of dissimilarity, between the systems of the ancient republics and the proposed Constitution, than those mentioned by the honorable gentlemen from Charlestown and Beverly, in the want of the important checks in the former which were to be found in the latter; to the want of which, in the first, was owing, he said, the usurpation which took place. He instanced the *decemviri*, who, though chosen for a short period, yet, *unchecked*, soon subverted the liberties of the Romans; and concluded with a decided opinion in favor of the Constitution under debate.

Mr. JONES (of Boston) enlarged on the various checks which the Constitution provides, and which, he said, formed a security for liberty, and prevention against power being abused; the frequency of elections of the democratic branch; representation apportioned to numbers; the publication of the journals of Congress, &c. Gentlemen, he said, had compared the people of this country to those of Rome; but, he observed, the comparison was very erroneous: the Romans were divided into two classes, the nobility and plebeians; the nobility kept all kinds of knowledge to their own class; and the plebeians were, in general, very ignorant, and when unemployed, in time of peace, were ever ready for revolt, and to follow the dictates of any designing patrician. But, continued the worthy gentleman, the people of the United States are an enlightened, well-informed people, and are, therefore, not easily imposed on by designing men. Our right of

representation, concluded Mr. J., is much more just and equitable than the boasted one of Great Britain, whose representatives are chosen by corporations or boroughs, and those boroughs, in general, are the property, or at the disposal, of the nobility and rich gentry of the kingdom.

WEDNESDAY, *January 23, 1788*

Mr. PARSONS, (of Newburyport.)

It has been objected that the Constitution provides no religious test by oath, and we may have in power unprincipled men, atheists and pagans. No man can wish more ardently than I do that all our public offices may be filled by men who fear God and hate wickedness; but it must remain with the electors to give the government this security. An oath will not do it. Will an unprincipled man be entangled by an oath? Will an atheist or a pagan dread the vengeance of the Christian's God, a being, in his opinion, the creature of fancy and credulity? It is a solecism in expression. No man is so illiberal as to wish the confining places of honor or profit to any one sect of Christians; but what security is it to government, that every public officer shall swear that he is a Christian? For what will then be called Christianity? One man will declare that the Christian religion is only an illumination of natural religion, and that he is a Christian; another Christian will assert that all men must be happy hereafter in spite of themselves; a third Christian reverses the image, and declares that, let a man do all he can, he will certainly be punished in another world; and a fourth will tell us that, if a man use any force for the common defence, he violates every principle of Christianity. Sir, the only evidence we can have of the sincerity of a man's religion is a good life; and I trust that such evidence will be required of every candidate by every elector. That man who acts an honest part to his neighbor, will, most probably, conduct honorably towards the public.

It was objected that, by giving Congress a power of direct taxation, we give them power to destroy the state governments, by prohibiting them from raising any moneys; but this objection is not founded in the Constitution. Congress have only a concurrent right with each state, in laying direct taxes, not an exclusive right; and the right of each state to direct taxation is equally extensive and perfect as the right of Congress; any law, therefore, of the United States, for securing to Congress more than a concurrent right with each state, is usurpation, and void.

It has been objected that we have no bill of rights. If gentlemen who make this objection would consider what are the supposed inconveniences resulting from the want of a declaration of rights, I think they would soon satisfy themselves that the objection has no weight. Is there a single natural right we enjoy, uncontrolled by our own legislature. that Congress can infringe? Not one. Is there a single political right secured to us by our constitution, against the attempts of our own legislature, which we are deprived of by this Constitution? Not one, that I recollect. All the rights Congress can control we have surrendered to our own legislature; and the only question is, whether the people shall take from their own legislatures a certain portion of the several sovereignties, and unite them in one head, for the more effectual securing of the national prosperity and happiness.

FRIDAY, *January 25, 1788*

Hon. Mr. SMITH. Mr. President, I am a plain man, and get my living by the plough. I am not used to speak in public, but I beg your leave to say a few words to my brother ploughjoggers in this house. I have lived in a part of the country where I have known the worth of good government by the want of it. There was a black cloud that rose in the east last winter, and spread over the west. [Here Mr. Widgery interrupted. Mr. President, I wish to know what the gentleman means by the east.] I mean, sir, the county of Bristol; the cloud rose there, and burst upon us, and produced a dreadful effect. It brought on a state of anarchy, and that led to tyranny. I say, it brought anarchy. People that used to live peaceably, and were before good neighbors, got distracted, and took up arms against government. [Here Mr. Kingsley called to order, and asked, what had the history of last winter to do with the Constitution. Several gentlemen, and among the rest the Hon. Mr. Adams, said the gentleman was in order — let him go on in his own way.] I am going, Mr. President, to show you, my brother farmers, what were the effects of anarchy, that you may see the reasons why I wish for good government. People I say took up arms; and then, if you went to speak to them, you had the musket of death presented to your breast. They would rob you of your property; threaten to burn your houses; oblige you to be on your guard night and day; alarms spread from town to town; families were broken up; the tender mother would cry, "O, my son is among them! What shall I

do for my child!" Some were taken captive, children taken out of their schools, and carried away. Then we should hear of an action, and the poor prisoners were set in the front, to be killed by their own friends. How dreadful, how distressing was this! Our distress was so great that we should have been glad to snatch at any thing that looked like a government. Had any person, that was able to protect us, come and set up his standard, we should all have flocked to it, even if it had been a monarch; and that monarch might have proved a tyrant; — so that you see that anarchy leads to tyranny, and better have one tyrant than so many at once.

Now, Mr. President, when I saw this Constitution, I found that it was a cure for these disorders. It was just such a thing as we wanted. I got a copy of it, and read it over and over. I had been a member of the Convention to form our own state constitution, and had learnt something of the checks and balances of power, and I found them all here. I did not go to any lawyer, to ask his opinion; we have no lawyer in our town, and we do well enough without. I formed my own opinion, and was pleased with this Constitution. My honorable old daddy there [pointing to Mr. Singletary] won't think that I expect to be a Congress-man, and swallow up the liberties of the people. I never had any post, nor do I want one. But I don't think the worse of the Constitution because lawyers, and men of learning, and moneyed men, are fond of it. I don't suspect that they want to get into Congress and abuse their power. I am not of such a jealous make. They that are honest men themselves are not apt to suspect other people. I don't know why our constituents have not a good right to be as jealous of us as we seem to be of the Congress; and I think those gentlemen, who are so very suspicious that as soon as a man gets into power he turns rogue, had better look at home.

...the Convention proceeded to the consideration of the 9th section.

Mr. NEAL (from Kittery) went over the ground of objection to this section, on the idea that the slave trade was allowed to be continued for twenty years. His profession, he said, obliged him to bear witness against any thing that should favor the making merchandise of the bodies of men, and, unless his objection was removed, he could not put his hand to the Constitution. Other gentlemen said, in addition to this idea, that there was not even a proposition that the negroes ever shall be free; and Gen. THOMPSON exclaimed, Mr. President, shall it be said that, after we have established our own independence and freedom, we make *slaves* of others? O! Washington, what a name has he had! How he has immortalized himself! But he holds those in slavery who have as good a right to be free as he has. He is still for self; and, in my opinion, his character has sunk fifty per cent.

On the other side, gentlemen said, that the step taken in this article towards the abolition of slavery was one of the beauties of the Constitution. They observed, that in the Confederation there was no provision whatever for its being abolished; but this Constitution provides that Congress may, after twenty years, totally annihilate the slave trade; and that, as all the states, except two, have passed laws to this effect, it might reasonably be expected that it would then be done. In the interim, all the states were at liberty to prohibit it.

MONDAY, *February 4*, 1788

Rev. Mr. BACKUS. Mr. President, I have said very little in this honorable Convention; but I now beg leave to offer a few thoughts upon some points in the Constitution proposed to us, and I shall begin with the exclusion of any religious test. Many appear to be much concerned about it; but nothing is more evident, both in reason and the Holy Scriptures, than that religion is ever a matter between God and individuals; and, therefore, no man or men can impose any religious test, without invading the essential prerogatives of our Lord Jesus Christ. Ministers first assumed this power under the Christian name; and then Constantine approved of the practice, when he adopted the profession of Christianity, as an engine of state policy. And let the history of all nations be searched from that day to this, and it will appear that the imposing of religious tests hath been the greatest engine of tyranny in the world. And I rejoice to see so many gentlemen, who are now giving in their rights of conscience in this great and important matter. Some serious minds discover a concern lest, if all religious tests should be excluded, the Congress would hereafter establish Popery, or some other tyrannical way of worship. But it is most certain that no such way of worship can be established without any religious test.

Much, sir, hath been said about the importation of *slaves* into this country. I believe that, according to my capacity; no man abhors that wicked practice more than I do; I would gladly make use of all lawful means towards the abolishing of

slavery in all parts of the land. But let us consider where we are, and what we are doing. In the Articles of Confederation, no provision was made to hinder the importation of slaves into any of these states; but a door is now open hereafter to do it, and each state is at liberty now to abolish slavery as soon as they please. And let us remember our former connection with Great Britain, from whom many in our land think we ought not to have revolted. How did they carry on the slave trade? I know that the bishop of Gloucester, in an annual sermon in London, in February, 1776, endeavored to justify their tyrannical claims of power over us by casting the reproach of the slave trade upon the Americans. But at the close of the war, the bishop of Chester, in an annual sermon, in February, 1783, ingenuously owned that their nation is the most deeply involved in the guilt of that trade of any nation in the world; and, also, that they have treated their slaves in the West Indies worse than the French or Spaniards have done theirs. Thus slavery grows more and more odious through the world; and, as an honorable gentleman said some days ago, "Though we cannot say that slavery is struck with an apoplexy, yet we may hope it will die with a consumption." And a main source, sir, of that iniquity, hath been an abuse of the covenant of circumcision, which gave the seed of Abraham to destroy the inhabitants of Canaan, and to take their houses, vineyards, and all their estates, as their own; and also to buy and hold others as servants. And, as Christian privileges are greater than those of the Hebrews were, many have imagined that they have a right to seize upon the lands of the heathen, and to destroy or enslave them as far as they could extend their power. And from thence the mystery of iniquity carried many into the practice of making merchandise of slaves and souls of men. But all ought to remember that, when God promised the land of Canaan to Abraham and his seed, he let him know that they were not to take possession of that land until the iniquity of the Amorites was full; and then they did it under the immediate direction of Heaven; and they were as real executors of the judgment of God upon those heathens as any person ever was an executor of a criminal justly condemned. And in doing it they were not allowed to invade the lands of the Edomites, who sprang from Esau, who was not only of the seed of Abraham, but was born at the same birth with Israel; and yet they were not of that church. Neither were Israel allowed to invade the lands of the Moabites, or of the children of Ammon, who were of the seed of Lot. And no officer in Israel had any legislative power, but such as were immediately inspired. Even David, the man after God's own heart, had no legislative power, but only as he was inspired from above; and he is expressly called a *prophet* in the New Testament. And we are to remember that Abraham and his seed, for four hundred years, had no warrant to admit any stranger into that church, but by buying of him as a servant, with money. And it was a great privilege to be bought, and adopted into a religious family for seven years, and then to have their freedom. And that covenant was expressly repealed in various parts of the New Testament, and particularly in the First Epistle to the Corinthians, where it is said, "Ye are bought with a price; therefore glorify God in your body, and in your spirit, which are God's." And again, "Circumcision is nothing, and uncircumcision is nothing, but keeping of the commandments of God. Ye are bought with a price; be not ye the servants of men." Thus the gospel sets all men upon a level, very contrary to the declaration of an honorable gentleman in this house, that "the Bible was contrived for the advantage of a particular order of men."

Another great advantage, sir, in the Constitution before us, is, its excluding all titles of nobility, or hereditary succession of power, which hath been a main engine of tyranny in foreign countries. But the American revolution was built upon the principle that all men are born with an equal right to liberty and property, and that officers have no right to any power but what is fairly given them by the consent of the people. And in the Constitution now proposed to us, a power is reserved to the people constitutionally to reduce every officer again to a private station; and what a guard is this against their invasion of others' rights, or abusing of their power! Such a door is now opened for the establishment of righteous government, and for securing equal liberty, as never was before opened to any people upon earth.

WEDNESDAY, *February* 6, 1788

JOHN HANCOCK, the PRESIDENT, rose, and addressed the honorable Convention as follows:

Gentlemen, being now called upon to bring the subject under debate to a decision, by bringing forward the question, I beg your indulgence to close the business with a few words. I am happy that my health has been so far restored, that I am rendered able to meet my fellow-citizens as represented in this Convention. I should have considered it as one of the most distressing misfortunes of my life to be deprived of giving my aid and support to a system which, if amended (as I

feel assured it will be) according to your proposals, cannot fail to give the people of the United States a greater degree of political freedom, and eventually as much national dignity, as falls to the lot of any nation on earth. I have not, since I had the honor to be in this place, said much on the important subject before us. All the ideas appertaining to the system, as well those which are against as for it, have been debated upon with so much learning and ability, that the subject is quite exhausted.

But you will permit me, gentlemen, to close the whole with one or two general observations. This I request, not expecting to throw any new light on the subject, but because it may possibly prevent uneasiness and discordance from taking place amongst us and amongst our constituents.

That a general system of government is indispensably necessary to save our country from ruin, is agreed upon all sides. That the one now to be decided upon has its defects, all agree; but when we consider the variety of interests, and the different habits of the men it is intended for, it would be very singular to have an entire union of sentiment respecting it. Were the people of the United States to delegate the powers proposed to be given, to men who were not dependent on them frequently for elections — to men whose interest, either from rank or title, would differ from that of their fellow-citizens in common — the task of delegating authority would be vastly more difficult; but, as the matter now stands, the powers reserved by the people render them secure, and, until they themselves become corrupt, they will always have upright and able rulers. I give my assent to the Constitution, in full confidence that the amendments proposed will soon become a part of the system. These amendments being in no wise local, but calculated to give security and ease alike to all the states, I think that all will agree to them.

Suffer me to add, that, let the question be decided as it may, there can be no triumph on the one side or chagrin on the other. Should there be a great division, every good man, every man who loves his country, will be so far from exhibiting extraordinary marks of joy, that he will sincerely lament the want of unanimity, and strenuously endeavor to cultivate a spirit of conciliation, both in Convention and at home. The people of this commonwealth are a people of great light — of great intelligence in public business. They know that we have none of us an interest separate from theirs; that it must be our happiness to conduce to theirs; and that we must all rise or fall together. They will never, therefore, forsake the first principle of society — that of being governed by the voice of the majority; and should it be that the proposed form of government should be rejected, they will zealously attempt another. Should it, by the vote now to be taken, be ratified, they will quietly acquiesce, and, where they see a want of perfection in it, endeavor, in a constitutional way, to have it amended.

The question now before you is such as no nation on earth, without the limits of America, has ever had the privilege of deciding upon. As the Supreme Ruler of the universe has seen fit to bestow upon us this glorious opportunity, let us decide upon it; appealing to him for the rectitude of our intentions, and in humble confidence that he will yet continue to bless and save our country.

The question being put, whether this Convention will accept of the report of the committee, as follows, —

COMMONWEALTH OF MASSACHUSETTS.

*In Convention of the Delegates of the People of the Commonwealth of Massachusetts, 1788.*

The Convention, having impartially discussed and fully considered the Constitution for the United States of America, reported to Congress by the Convention of delegates from the United States of America, and submitted to us by a resolution of the General Court of the said commonwealth, passed the twenty-fifth day of October last past; and acknowledging, with grateful hearts, the goodness of the Supreme Ruler of the universe in affording the people of the United States, in the course of his providence, an opportunity, deliberately and peaceably, without fraud or surprise, of entering into an explicit and solemn compact with each other, by assenting to and ratifying a new Constitution, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty to themselves and their posterity, DO, in the name and in behalf of the people of the commonwealth of Massachusetts, assent to and ratify the said Constitution for the United States of America.

And, as it is the opinion of this Convention, that certain amendments and alterations in the said Constitution would remove the fears and quiet the apprehensions of many of the good people of the commonwealth, and more effectually guard against an undue administration of the federal government, the Convention do therefore recommend that the following alterations and provisions be introduced into the said Constitution: —

*First.* That it be explicitly declared, that all powers not expressly delegated by the aforesaid Constitution are reserved to the several states, to be by them exercised.

*Secondly.* That there shall be one representative to every thirty thousand persons, according to the census mentioned in the Constitution, until the whole number of representatives amounts to two hundred.

*Thirdly.* That Congress do not exercise the powers vested in them by the 4th section of the 1st article, but in cases where a state shall neglect or refuse to make the regulations therein mentioned, or shall make regulations subversive of the rights of the people to a free and equal representation in Congress, agreeably to the Constitution.

*Fourthly.* That Congress do not lay direct taxes, but when the moneys arising from the impost and excise are insufficient for the public exigencies, nor then, until Congress shall have first made a requisition upon the states, to assess, levy, and pay their respective proportion of such requisitions, agreeably to the census fixed in the said Constitution, in such way and manner as the legislatures of the states shall think best, and, in such case, if any state shall neglect or refuse to pay its proportion, pursuant to such requisition, then Congress may assess and levy such state's proportion, together with interest thereon, at the rate of six per cent. per annum, from the time of payment prescribed in such requisitions.

*Fifthly.* That Congress erect no company with exclusive advantages of commerce.

*Sixthly.* That no person shall be tried for any crime, by which he may incur an infamous punishment, or loss of life, until he be first indicted by a grand jury, except in such cases as may arise in the government and regulation of the land and naval forces.

*Seventhly.* The Supreme Judicial Federal Court shall have no jurisdiction of causes between citizens of different states, unless the matter in dispute, whether it concern the realty or personalty, be of the value of three thousand dollars at the least; nor shall the federal judicial powers extend to any action between citizens of different states, where the matter in dispute, whether it concern the realty or personalty, is not of the value of fifteen hundred dollars at the least.

*Eighthly.* In civil actions between citizens of different states, every issue of fact, arising in actions at common law, shall be tried by a jury, if the parties, or either of them, request it.

*Ninthly.* Congress shall at no time consent that any person holding an office of trust or profit, under the United States, shall accept of a title of nobility, or any other title or office, from any king, prince, or foreign state.

And the Convention do, in the name and in the behalf of the people of this commonwealth, enjoin it upon their representatives in Congress, at all times, until the alterations and provisions aforesaid have been considered, agreeably to the 5th article of the said Constitution, to exert all their influence, and use all reasonable and legal methods, to obtain a ratification of the said alterations and provisions, in such manner as is provided in the said article.

And, that the United States, in Congress assembled, may have due notice of the assent and ratification of the said Constitution by this Convention, it is

*Resolved,* That the assent and ratification aforesaid be engrossed on parchment, together with the recommendation and injunction aforesaid, and with this resolution; and that his excellency, JOHN HANCOCK, President, and the Hon. WILLIAM CUSHING, Esq., Vice-President of this Convention, transmit the same, countersigned by the Secretary of the Convention, under their hands and seals, to the United States in Congress assembled.

**THE DEBATE IN THE CONVENTION OF THE  
COMMONWEALTH OF VIRGINIA, ON THE ADOPTION  
OF THE FEDERAL CONSTITUTION.**

In Convention, Richmond  
[selections]

WEDNESDAY, *June 4*, 1788

Mr. HENRY. Chairman, the public mind, as well as my own, is extremely uneasy at the proposed change of government. Give me leave to form one of the number of those who wish to be thoroughly acquainted with the reasons of this perilous and uneasy situation, and why we are brought hither to decide on this great national question. I consider myself as the servant of the people of this commonwealth, as a sentinel over their rights, liberty, and happiness. I represent their feelings when I say that they are exceedingly uneasy at being brought from that state of full security, which they enjoyed, to the present delusive appearance of things. A year ago, the minds of our citizens were at perfect repose. Before the meeting of the late federal Convention at Philadelphia, a general peace and a universal tranquillity prevailed in this country; but, since that period, they are exceedingly uneasy and disquieted. When I wished for an appointment to this Convention, my mind was extremely agitated for the situation of public affairs. I conceived the republic to be in extreme danger. If our situation be thus uneasy, whence has arisen this fearful jeopardy? It arises from this fatal system; it arises from a proposal to change our government — a proposal that goes to the utter annihilation of the most solemn engagements of the states — a proposal of establishing nine states into a confederacy, to the eventual exclusion of four states. It goes to the annihilation of those solemn treaties we have formed with foreign nations.

The present circumstances of France — the good offices rendered us by that kingdom — require our most faithful and most punctual adherence to our treaty with her. We are in alliance with the Spaniards, the Dutch, the Prussians; those treaties bound us as thirteen states confederated together. Yet here is a proposal to sever that confederacy. Is it possible that we shall abandon all our treaties and national engagements? — and for what? I expected to hear the reasons for an event so unexpected to my mind and many others. Was our civil polity, or public justice, endangered or sapped? Was the real existence of the country threatened, or was this preceded by a mournful progression of events? This proposal of altering our federal government is of a most alarming nature! Make the best of this new government — say it is composed by any thing but inspiration — you ought to be extremely cautious, watchful, jealous of your liberty; for, instead of securing your rights, you may lose them forever. If a wrong step be now made, the republic may be lost forever. If this new government will not come up to the expectation of the people, and they shall be disappointed, their liberty will be lost, and tyranny must and will arise. I repeat it again, and I beg gentlemen to consider, that a wrong step, made now, will plunge us into misery, and our republic will be lost.....And here I would make this inquiry of those worthy characters who composed a part of the late federal Convention. I am sure they were fully impressed with the necessity of forming a great consolidated government, instead of a confederation. That this is a consolidated government is demonstrably clear; and the danger of such a government is, to my mind, very striking. I have the highest veneration for those gentlemen; but, sir, give me leave to demand, What right had they to say, *We, the people*? My political curiosity, exclusive of my anxious solicitude for the public welfare, leads me to ask, Who authorized them to speak the language of, *We, the people*, instead of, *We, the states*? States are the characteristics and the soul of a confederation. If the states be not the agents of this compact, it must be one great, consolidated, national government, of the people of all the states. I have the highest respect for those gentlemen who formed the Convention, and, were some of them not here, I would express some testimonial of esteem for them. America had, on a former occasion, put the utmost confidence in them — a confidence which was well placed; and I am sure, sir, I would give up any thing to them; I would cheerfully confide in them as my representatives. But, sir, on this great occasion, I would demand the cause of their conduct. Even from that illustrious man who saved us by his valor, I would have a reason for his conduct: that liberty which he has given us by his valor, tells me to ask this reason; and sure I am, were he here, he would give us that reason. But there are other gentlemen here, who can give us this information. The people gave them no power to use their name. That they exceeded their power is perfectly clear. It is not mere curiosity that actuates me: I wish to hear the real, actual, existing danger, which should lead us to take those steps, so dangerous in my conception. Disorders have arisen in other parts of America; but here, sir, no

dangers, no insurrection or tumult have happened; every thing has been calm and tranquil. But, notwithstanding this, we are wandering on the great ocean of human affairs. I see no landmark to guide us. We are running we know not whither. Difference of opinion has gone to a degree of inflammatory resentment in different parts of the country, which has been occasioned by this perilous innovation. The federal Convention ought to have amended the old system; for this purpose they were solely delegated; the object of their mission extended to no other consideration. You must, therefore, forgive the solicitation of one unworthy member to know what danger could have arisen under the present Confederation, and what are the causes of this proposal to change our government.

TUESDAY, *June 5, 1788*

Mr. PENDLETON. Mr. Chairman, my worthy friend (Mr. Henry) has expressed great uneasiness in his mind, {36} and informed us that a great many of our citizens are also extremely uneasy, at the proposal of changing our government; but that, a year ago, before this fatal system was thought of, the public mind was at perfect repose. It is necessary to inquire whether the public mind was at ease on the subject, and if it be since disturbed, what was the cause. What was the situation of this country before the meeting of the federal Convention? Our general government was totally inadequate to the purpose of its institution; our commerce decayed; our finances deranged; public and private credit destroyed: these and many other national evils rendered necessary the meeting of that Convention. If the public mind was then at ease, it did not result from a conviction of being in a happy and easy situation: it must have been an inactive, unaccountable stupor. The federal Convention devised the paper on your table as a remedy to remove our political diseases. What has created the public uneasiness since? Not public reports, which are not to be depended upon; but mistaken apprehensions of danger, drawn from observations on government which do not apply to us. When we come to inquire into the origin of most governments of the world, we shall find that they are generally dictated by a conqueror, at the point of the sword, or are the offspring of confusion, when a great popular leader, taking advantage of circumstances, if not producing them, restores order at the expense of liberty, and becomes the tyrant over the people. It may well be supposed that, in forming a government of this sort, it will not be favorable to liberty: the conqueror will take care of his own emoluments, and have little concern for the interest of the people. In either case, the interest and ambition of a despot, and not the good of the people, have given the tone to the government. A government thus formed must necessarily create a continual war between the governors and governed.

The people will be proportionably attentive to the merits of a candidate. Two years will afford opportunity to the member to deserve well of them, and they will require evidence that he has done it.

Writers consider the two parties (the people and tyrants) as in a state of perpetual warfare, and sound the alarm to the people. But what is our case? We are perfectly free from sedition and war: we are not yet in confusion: we are left to consider our real happiness and security: we want to secure these objects: we know they cannot be attained without government. Is there a single man, in this committee, of a contrary opinion? What was it that brought us from a {37} state of nature to society, but to secure happiness? And can society be formed without government? Personify government: apply to it as a friend to assist you, and it will grant your request. This is the only government founded in real compact. There is no quarrel between government and liberty; the former is the shield and protector of the latter. The war is between government and licentiousness, faction, turbulence, and other violations of the rules of society, to preserve liberty. Where is the cause of alarm? We, the people, possessing all power, form a government, such as we think will secure happiness: and suppose, in adopting this plan, we should be mistaken in the end; where is the cause of alarm on that quarter? In the same plan we point out an easy and quiet method of reforming what may be found amiss. No, but, say gentlemen, we have put the introduction of that method in the hands of our servants, who will interrupt it from motives of self-interest. What then? We will resist, did my friend say? conveying an idea of force. Who shall dare to resist the people? No, we will assemble in Convention; wholly recall our delegated powers, or reform them so as to prevent such abuse; and punish those servants who have perverted powers, designed for our happiness, to their own emolument. We ought to be extremely cautious not to be drawn into dispute with regular government, by faction and turbulence, its natural enemies. Here, then, sir, there is no cause of alarm on this side; but on the other side, rejecting of government, and dissolving of the Union, produce confusion and despotism.

But an objection is made to the form: the expression, We, the people, is thought improper. Permit me to ask the gentleman who made this objection, who but the people can delegate powers? Who but the people have a right to form government? The expression is a common one, and a favorite one with me. The representatives of the people, by their authority, is a mode wholly inessential. If the objection be, that the Union ought to be not of the people, but of the state governments, then I think the choice of the former very happy and proper. What have the state governments to do with it? Were they to determine, the people would not, in that case, be the judges upon what terms it was adopted.

Mr. HENRY. This Constitution is said to have beautiful features; but when I come to examine these features, sir, they appear to me horribly frightful. Among other deformities, it has an awful squinting; it squints towards monarchy; and does not this raise indignation in the breast of every true American?

Your President may easily become king. Your Senate is so imperfectly constructed that your dearest rights may be sacrificed by what may be a small minority; and a very small minority may continue forever unchangeably this government, {59} although horribly defective. Where are your checks in this government? Your strongholds will be in the hands of your enemies. It is on a supposition that your American governors shall be honest, that all the good qualities of this government are founded; but its defective and imperfect construction puts it in their power to perpetrate the worst of mischiefs, should they be bad men; and, sir, would not all the world, from the eastern to the western hemisphere, blame our distracted folly in resting our rights upon the contingency of our rulers being good or bad? Show me that age and country where the rights and liberties of the people were placed on the sole chance of their rulers being good men, without a consequent loss of liberty! I say that the loss of that dearest privilege has ever followed, with absolute certainty, every such mad attempt.

If your American chief be a man of ambition and abilities, how easy is it for him to render himself absolute! The army is in his hands, and if he be a man of address, it will be attached to him, and it will be the subject of long meditation with him to seize the first auspicious moment to accomplish his design; and, sir, will the American spirit solely relieve you when this happens? I would rather infinitely — and I am sure most of this Convention are of the same opinion — have a king, lords, and commons, than a government so replete with such insupportable evils. If we make a king, we may prescribe the rules by which he shall rule his people, and interpose such checks as shall prevent him from infringing them; but the President, in the field, at the head of his army, can prescribe the terms on which he shall reign master, so far that it will puzzle any American ever to get his neck from under the galling yoke. I cannot with patience think of this idea. If ever he violates the laws, one of two things will happen: he will come at the head of his army, to carry every thing before him; or he will give bail, or do what Mr. Chief Justice will order him. If he be guilty, will not the recollection of his crimes teach him to make one bold push for the American throne? Will not the immense difference between being master of every thing, and being ignominiously tried and punished, powerfully excite him to make this bold push? But, sir, where is the existing force to punish him? Can he not, at the head of his army, beat down every opposition? Away with your {60} President! we shall have a king: the army will salute him monarch: your militia will leave you, and assist in making him king, and fight against you: and what have you to oppose this force? What will then become of you and your rights? Will not absolute despotism ensue?

Mr. GEORGE NICHOLAS. But it is objected to for want of a bill of rights. It is a principle universally agreed upon, that all powers not given are retained. Where, by the Constitution, the general government has general powers for any purpose, its powers are absolute. Where it has powers with some exceptions, they are absolute only as to those exceptions. In either case, the people retain what is not conferred on the general government, as it is by their positive grant that it has any of its powers. In England, in all disputes between the king and people, recurrence is had to the enumerated rights of the people, to determine. Are the rights in dispute secured? Are they included in Magna Charta, Bill of Rights, &c.? If not, they are, generally speaking, within the king's prerogative, In disputes between Congress and the people, the reverse of the proposition holds. Is the disputed right enumerated? If not, Congress cannot meddle with it.

Which is the most safe? The people of America know what they have relinquished for certain purposes. They also know that they retain every thing else, and have a right to resume what they have given up, if it be perverted from its intended object. The king's prerogative is general, with certain exceptions. The people are, therefore, less secure than we are,

Magna Charta, Bill of Rights, &c., secure their liberty. Our Constitution itself contains an English Bill of Rights. The English Bill of Rights declares that Parliaments shall be held frequently. Our Constitution says that Congress shall sit annually. The English Declaration of Rights provides that no laws shall be suspended. The Constitution provides that no laws shall be suspended, except one, and that in time of rebellion or invasion, which is the writ of *habeas corpus*. The Declaration of Rights says that there should be no army in time of peace without the consent of Parliament. Here we cannot have an army even in time of war, with the approbation of our representatives, for more than two years.

The liberty of the press is secured. What secures it in England? Is it secured by Magna Charta, the Declaration of Rights, or by any other express provision? It is not. They have no express security for the liberty of the press. {247} They have a reliance on Parliament for its protection and security. In the time of King William, there passed an act for licensing the press. That was repealed. Since that time, it has been looked upon as safe. The people have depended on their representatives. They will not consent to pass an act to infringe it, because such an act would irritate the nation. It is equally secure with us. As to the trial by jury, consider in what situation it is by the state Constitution. It is not on a better footing. It is by implication under the control of the legislature, because it has left particular cases to be decided by the legislature. Here it is secured in criminal cases, and left to the legislatures in civil cases. One instance will prove the evil tendency of fixing it in the Constitution. It will extend to all cases. Causes in chancery, which, strictly speaking, never are, nor can be, well tried by a jury, would then be tried by that mode, and could not be altered, though found to be inconvenient.

SATURDAY, *June 14*, 1788

Mr. DAWES said, he was very sorry to hear so many objections raised against the paragraph under consideration. He thought them wholly unfounded; that the black inhabitants of the Southern States must be considered either as slaves, and as so much property, or in the character of so many freemen; if the former, why should they not be wholly represented? Our own state laws and constitution would lead us to consider these blacks as freemen, and so indeed would our own ideas of natural justice. If, then, they are freemen, they might form an equal basis for representation as though they were all white inhabitants. In either view, therefore, he could not see that the Northern States would suffer, but directly to the contrary. He thought, however, that gentlemen would do well to connect the passage in dispute with another article in the Constitution, that permits Congress, in the year 1808, wholly to prohibit the importation of slaves, and in the mean time to impose a duty of ten dollars a head on such blacks as should be imported before that period. Besides, by the new Constitution, every particular state is left to its own option totally to prohibit the introduction of slaves into its own territories. What could the Convention do more? The members of the Southern States, like ourselves, have their prejudices. It would not do to abolish slavery, by an act of Congress, in a moment, and so destroy what our southern brethren consider as property. But we may say, that, although slavery is not smitten by an apoplexy, yet it has received a mortal wound, and will die of a consumption.

SATURDAY, *June 19*, 1788

Mr. GEORGE MASON. No man has a greater regard for the military gentlemen than I have. I admire their intrepidity, perseverance, and valor. But when once a standing army is established in any country, the people lose their liberty. When, against a regular and disciplined army, yeomanry are the only defence, — yeomanry, unskilful and unarmed, — what chance is there for preserving freedom? Give me leave to recur to the page of history, to warn you of your present danger. Recollect the history of most nations of the world. What havoc, desolation, and destruction, have been perpetrated by standing armies! An instance within the memory of some of this house will show us how our militia may be destroyed. Forty years ago, when the resolution of enslaving America was formed in Great Britain, the British Parliament was advised by an artful man, [1] who was governor of Pennsylvania, to disarm the people; that it was the best and most effectual way to enslave them; but that they should not do it openly, but weaken them, and let them sink gradually, by totally disusing and neglecting the militia. [Here Mr. Mason quoted sundry passages to this effect.] This was a most iniquitous project. Why should we not provide against the danger of having our militia, our real and natural strength, destroyed? The general government ought, at the same time, to have some such power. But we need not give them power to abolish our militia. If they neglect to arm them, and prescribe proper discipline, they will be of no use. I am not

acquainted with the military profession. I beg to be excused for any errors I may commit with respect to it. But I stand on the general principles of freedom, whereon I dare to meet any one. I wish that, in case the general government should neglect to arm and discipline the militia, there should be an express declaration that the state governments might arm and discipline them. With this single exception, I would agree to this part, as I am conscious the government ought to have the power.

Mr. MADISON. Mr. Chairman, I most cordially agree, with the honorable member last up, that a standing army is one of the greatest mischiefs that can possibly happen. It is a great recommendation for this system, that it provides against this evil more than any other system known to us, and, particularly, more than the old system of confederation. The most effectual way to guard against a standing army, is to render it unnecessary. The most effectual way to render it unnecessary, is to give the general government full power to call forth the militia, and exert the whole natural strength of the Union, when necessary. Thus you will furnish the people with sure and certain protection, without recurring to this evil; and the certainty of this protection from the whole will be a strong inducement to individual exertion. Does the organization of the government warrant a belief that this power will be abused? Can we believe that a government of a federal nature, consisting of many coëqual sovereignties, and particularly having one branch chosen from the people, would drag the militia unnecessarily to an immense distance? This, sir, would be unworthy the most arbitrary despot. {382} They have no temptation whatever to abuse this power; such abuse could only answer the purpose of exciting the universal indignation of the people, and drawing on themselves the general hatred and detestation of their country...

The honorable member is under another mistake. He wishes martial law to be exercised only in time of war, under an idea that Congress can establish it in time of peace. The states are to have the authority of training the militia according to the congressional discipline; and of governing them at all times when not in the service of the Union. Congress is to govern such part of them as may be employed in the actual service of the United States; and such part only can be subject to martial law. The gentlemen in opposition have drawn a most tremendous picture of the Constitution in this respect. Without considering that the power was absolutely indispensable, they have alarmed us with the possible abuse of it, but have shown no inducement or motive to tempt them to such abuse. Would the legislature of the state drag the militia of the eastern shore to the western frontiers, or those of the western frontiers to the eastern shore, if the local militia were sufficient to effect the intended purpose? There is something so preposterous, and so full of mischief, in the idea of dragging the militia unnecessarily from one end of the continent to the others that I think there can be no ground of apprehension, If you limit their power over the militia, you give them a pretext for substituting a standing army. If you put it in the power of the state governments to refuse the militia, by requiring their consent, you destroy the general government, and sacrifice particular states. The same principles and motives which produce disobedience to requisitions, will produce refusal in this case.

MONDAY, *June* 16, 1788

Mr. HENRY. Mr. Chairman, the necessity of a bill of rights appears to me to be greater in this government than ever it was in any government before. I have observed already, that the sense of the European nations, and particularly Great Britain, is against the construction of rights being retained which are not expressly relinquished. I repeat, that all nations have adopted this construction — that all rights not expressly and unequivocally reserved to the people are impliedly and incidentally relinquished to rulers, as necessarily inseparable from the delegated powers. It is so in Great Britain; for every possible right, which is not reserved to the people by some express provision or compact, is within the king's prerogative. It is so in that country which is said to be in such full possession of freedom. It is so in Spain, Germany, and other parts of the world. Let us consider the sentiments which have been entertained by the people of America on this subject. At the revolution, it must be admitted that it was their sense to set down those great rights which ought, in all countries, to be held inviolable and sacred. Virginia did so, we all remember. She made a compact to reserve, expressly, certain rights...

A bill of rights may be summed up in a few words. What do they tell us? — That our rights are reserved. Why not say so? Is it because it will consume too much paper? Gentlemen's reasoning against a bill of rights does not satisfy me. Without saying which has the right side, it remains doubtful. A bill of rights is a favorite thing with the Virginians and the people of

the other states likewise. It may be their prejudice, hut the government ought to suit their geniuses; otherwise, its operation will be unhappy. A bill of rights, even if its necessity be doubtful, will exclude the possibility of dispute; and, with great submission, I think the best way is to have no dispute. In the present Constitution, they are restrained from issuing general warrants to search suspected places, or seize persons not named, without evidence of the commission of a fact, &c. There was certainly some celestial influence governing those who deliberated on that Constitution; for they have, with the most cautious and enlightened circumspection, guarded those indefeasible rights which ought ever to be held sacred! The officers of Congress may come upon you now, fortified with all the terrors of paramount federal authority. Excisemen may come in multitudes; for the limitation of their numbers no man knows. They may, unless the general government be restrained by a bill of rights, or some similar restriction, go into your cellars and rooms, and search, ransack, and {449} measure, every thing you eat, drink, and wear. They ought to be restrained Within proper bounds. With respect to the freedom of the press, I need say nothing; for it is hoped that the gentlemen who shall compose Congress will take care to infringe as little as possible the rights of human nature. This will result from their integrity. They should, from prudence, abstain from violating the rights of their constituents. They are not, however, expressly restrained. But whether they will intermeddle with that palladium of our liberties or not, I leave you to determine.

TUESDAY, *June 17, 1788*

Mr. GEORGE MASON, Mr. Chairman, this is a fatal section, which has created more dangers than any other. The first clause allows the importation of slaves for twenty years. Under the royal government, this evil was looked upon as a great oppression, and many attempts were made to prevent it; but the interest of the African merchants prevented its prohibition. No sooner did the revolution take place, than it was thought of. It was one of the great causes of our separation from Great Britain. Its exclusion has been a principal object of this state, and most of the states in the Union. The augmentation of slaves weakens the states; and such a trade is diabolical in itself, and disgraceful to mankind; yet, by this Constitution, it is continued for twenty years. As much as I value a union of all the states, I would not admit the Southern States into the Union unless they agree to the discontinuance of this disgraceful trade, because it would bring weakness, and not strength, to the Union. And, though this infamous traffic be continued, we have no security for the property of that kind which we have already. There is no clause in this Constitution to secure it; for they may lay such a tax as will amount to manumission. And should the government be amended, still this detestable kind of commerce cannot be discontinued till after the expiration of twenty years; for the 5th article, {453} which provides for amendments, expressly excepts this clause. I have ever looked upon this as a most disgraceful thing to America. I cannot express my detestation of it. Yet they have not secured us the property of the slaves we have already. So that "they have done what they ought not to have done, and have left undone what they ought to have done."

Mr. MADISON, Mr. Chairman, I should conceive this clause to be impolitic, if it were one of those things which could be excluded without encountering greater evils. The Southern States would not have entered into the Union of America without the temporary permission of that trade; and if they were excluded from the Union, the consequences might be dreadful to them and to us. We are not in a worse situation than before. That traffic is prohibited by our laws, and we may continue the prohibition. The Union in general is not in a worse situation. Under the Articles of Confederation, it might be continued forever; but, by this clause, an end may be put to it after twenty years. There is, therefore, an amelioration of our circumstances. A tax may be laid in the mean time; but it is limited; otherwise Congress might lay such a tax as would amount to a prohibition. From the mode of representation and taxation, Congress cannot lay such a tax on slaves as will amount to manumission. Another clause secures us that property which we now possess. At present, if any slave elopes to any of those states where slaves are free, he becomes emancipated by their laws; for the laws of the states are uncharitable to one another in this respect. But in this Constitution, "no person held to service or labor 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 labor; but shall be delivered up on claim of the party to whom such service or labor shall be due." This clause was expressly inserted, to enable owners of slaves to reclaim them.

FRIDAY, *June 27*, 1788

Mr. WYTHE reported, from the committee appointed, such *amendments* to the proposed Constitution of government for the United States as were by them deemed necessary to be recommended to the consideration of the Congress which shall first assemble under the said Constitution, to be acted upon according to the mode prescribed in the 5th article thereof; and he read the same in his place, and afterwards delivered them in at the clerk's table, where the same were again read, and are as follows: —

#### AMENDMENTS TO THE CONSTITUTION.

- 1st. That each state in the Union shall respectively retain every power, jurisdiction, and right, which is not by this Constitution delegated to the Congress of the United States, or to the departments of the federal government.
- 2nd. That there shall be one representative for every thirty thousand, according to the enumeration or census mentioned in the Constitution, until the whole number of representatives amounts to two hundred; after which, that number shall be continued or increased, as Congress shall direct, upon the principles fixed in the Constitution, by apportioning the representatives of each state to some greater number of people, from time to time, as population increases.
- 3rd. When the Congress shall lay direct taxes or excises, they shall immediately inform the executive power of each state, of the quota of such state, according to the census herein directed, which is proposed to be thereby raised; and if the legislature of any state shall pass a law which shall be effectual for raising such quota at the time required by Congress, the taxes and excises laid by Congress shall not be collected in such state.
- 4th. That the members of the Senate and House of Representatives shall be ineligible to, and incapable of holding, any civil office under the authority of the United States, during the time for which they shall respectively be elected.
- 5th. That the journals of the proceedings of the Senate and House of Representatives shall be published at least once in every year. except such {660} parts thereof, relating to treaties, alliances, or military operations, as, in their judgment, require secrecy.
- 6th. That a regular statement and account of the receipts and expenditures of public money shall be published at least once a year.
- 7th. That no commercial treaty shall be ratified without the concurrence of two thirds of the whole number of the members of the Senate; and no treaty ceding, contracting, restraining, or suspending, the territorial rights or claims of the United States, or any of them, or their, or any of their rights or claims to fishing in the American seas, or navigating the American rivers, shall be made, but in cases of the most urgent and extreme necessity; nor shall any such treaty be ratified without the concurrence of three fourths of the whole number of the members of both houses respectively.
- 8th. That no navigation law, or law regulating commerce, shall be passed without the consent of two thirds of the members present, in both houses.
- 9th. That no standing army, or regular troops, shall be raised, or kept up, in time of peace, without the consent of two thirds of the members present, in both houses.
- 10th. That no soldier shall be enlisted for any longer term than four years, except in time of war, and then for no longer term than the continuance of the war.
- 11th. That each state respectively shall have the power to provide for organizing, arming, and disciplining its own militia, whensoever Congress shall omit or neglect to provide for the same. That the militia shall not be subject to martial law, except when in actual service, in time of war, invasion, or rebellion; and when not in the actual service of the United States, shall be subject only to such fines, penalties, and punishments, as shall be directed or inflicted by the laws of its own state.

- 12th. That the exclusive power of legislation given to Congress over the federal town and its adjacent district, and other places, purchased or to be purchased by Congress of any of the states, shall extend only to such regulations as respect the police and good government thereof.
- 13th. That no person shall be capable of being President of the United States for more than eight years in any term of sixteen years.
- 14th. That the judicial power of the United States shall be vested in one Supreme Court, and in such courts of admiralty as Congress may from time to time ordain and establish in any of the different states. The judicial power shall extend to all cases in law and equity arising under treaties made, or which shall be made, under the authority of the United States; to all cases affecting ambassadors, other foreign ministers, and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more states, and between parties claiming lands under the grants of different states. In all cases affecting ambassadors, other foreign ministers, and consuls, and those in which a state shall be a party, the Supreme Court shall have original jurisdiction; in all other cases before mentioned, the Supreme Court shall have appellate jurisdiction, as to matters of law only, except in cases of equity, and of admiralty, and maritime jurisdiction, in which the Supreme Court shall have appellate jurisdiction both as to law and fact, with such exceptions and under such regulations as the Congress shall make: but the judicial power of {661} the United States shall extend to no case where the cause of action shall have originated before the ratification of the Constitution, except in disputes between states about their territory, disputes between persons claiming lands under, the grants of different states, and suits for debts due to the United States.
- 15th. That, in criminal prosecutions, no man shall be restrained in the exercise of the usual and accustomed right of challenging or excepting to the jury.
- 16th. That Congress shall not alter, modify, or interfere in the times, places, or manner of holding elections for senators and representatives, or either of them, except when the legislature of any state shall neglect, refuse, or be disabled, by invasion or rebellion, to prescribe the same.
- 17th. That those clauses which declare that Congress shall not exercise certain powers, be not interpreted, in any manner whatsoever, to extend the powers of Congress; but that they be construed either as making exceptions to the specified powers where this shall be the case, or otherwise, as inserted merely for greater caution.
- 18th. That the laws ascertaining the compensation of senators and representatives for their services, be postponed, in their operation, until after the election of representatives immediately Succeeding the passing thereof; that excepted which shall first be passed on the subject.
- 19th. That some tribunal other than the Senate be provided for trying impeachments of senators.
- 20th. That the salary of a judge shall not be increased or diminished during his continuance in office, otherwise than by general regulations of salary, which may take place on a revision of the subject at stated periods of not less than seven years, to commence from the time such salaries shall be first ascertained by Congress.

## THE DEBATES IN THE CONVENTION OF THE STATE OF NEW YORK, ON THE ADOPTION OF THE FEDERAL CONSTITUTION.

In Convention, Poughkeepsie 1788

[selections]

FRIDAY, *June 20*, 1788

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

Sir, I have formerly had occasion to declare to the public...

Sir, I have formerly had occasion to declare to the public my apprehensions that a consolidated government, partaking in a great degree of republican principles, and which had in object the control of the inhabitants of the extensive territory of the United States, by its sole operations could not preserve the essential rights and liberties of the people. I have not as yet discovered any reason to change that sentiment; on the contrary, reflection has given it additional force. But I stand here the representative of others, and, as far as I can ascertain the views of my constituents, it is my duty to promote them with the utmost assiduity; and in no one pursuit can I be better supported by the almost unanimous opinion of my fellow-citizens in the county I have the honor to represent, than in proposing amendments to the Constitution which is now the subject of our deliberations, as the mode of introducing amendments was the only point of difference. Influenced by these considerations, every amendment which I am convinced will have a tendency to lessen the danger of invasion of civil liberty by the general government, will receive my sincere approbation. But none which can, in the remotest degree, originate in local views, will meet my concurrence; and I trust an intention will not be attributed to me to preserve the consequence of official state establishments

Mr. SMITH. He would now proceed to state his objections to the clause just read, (section 2, of article 1, clause 3.) His objections were comprised under three heads: 1st, the rule of apportionment is unjust; 2d, there is no precise number fixed on, below which the house shall not be reduced; 3d, it is inadequate. In the first place, the rule of apportionment of the representatives is to be according to the whole number of the white inhabitants, with three fifths of all others; that is, in plain English, each state is to send representatives in proportion to the number of freemen, and three fifths of the slaves it contains. He could not see any rule by which slaves were to be included in the ratio of representation. The principle of a representation being that every free agent should be concerned in governing himself, it was absurd in giving that power to a man who could not exercise it. Slaves have no will of their own. The very operation of it was to give certain privileges to those people who were so wicked as to keep slaves. He knew it would be admitted that this rule of apportionment was founded on unjust principles, but that it was the result of accommodation; which, he supposed, we should be under the necessity of admitting, if we meant to be in union with the Southern States, though utterly repugnant to his feelings. In the second place, the number was not fixed by the Constitution, but left at the discretion of the legislature; perhaps he was mistaken; it was his wish to be informed. He understood, from the Constitution, that sixty-five members were to compose the House of Representatives for three years; that, after that time, the census was to be

taken, and the numbers to be ascertained by the legislature, on the following principles: 1st, they shall be apportioned to the respective states according to numbers; 2d, each state shall have one, at least; 3d, they shall never exceed one to every thirty thousand. If this was the case, the first Congress that met might reduce the number below what it now is — a power inconsistent with every principle of a free government, to leave it to the discretion of the rulers to determine the number of representatives of the people. There was no kind of security except in the integrity of the men who were intrusted; and if you have no other security, it is idle to contend about constitutions. In the third place, supposing Congress should declare that there should be one representative for every thirty thousand of the people, in his opinion, it would be incompetent to the great purposes of representation. It was, he said, the fundamental principle of a free government, that the people should make the laws by which they were to be governed. He who is controlled by another is a slave; and that government which is directed by the will of any one, or a few, or any number less than is the will of the community, is a government for slaves.

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

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

SATURDAY, *June 21*, 1788

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

Mr. HAMILTON. It has been asserted that the interests, habits, and manners of the thirteen states are different; and hence it is inferred that no general free government can suit them. This diversity of habits, &c., has been a favorite theme with those who are disposed for a division of our empire, and, like many other popular objections, seems to be founded on fallacy. I acknowledge that the local interests of the states are in some degree various, and that there is some difference in the manners and habits. But this I will presume to affirm, that, from New Hampshire to Georgia, the people of America are as uniform in their interests and manners as those of any established in Europe. This diversity, to the eye of a speculatist, may afford some marks of characteristic discrimination, but cannot form an impediment to the regular operation of those general powers which the Constitution gives to the united government. Were the laws of the Union to new-model the internal police of any state; were they to alter, or abrogate at a blow, the whole of its civil and criminal institutions; were they to penetrate the recesses of domestic life, and control, in all respects, the private conduct of individuals, — there might be more force in the objection; and the same Constitution, which was happily calculated for one state, might sacrifice the welfare of another. Though the difference of interests may create some difficulty, and apparent partiality, in the first operations of government, yet the same spirit of accommodation, which produced the plan under discussion, would be exercised in lessening the weight of unequal burdens. Add to this, that, under the regular and gentle influence of general laws, these varying interests will be constantly assimilating, till they embrace each other, and assume the same complexion.

TUESDAY, *June 24*, 1788

Mr. DAWES said, he was very sorry to hear so many objections raised against the paragraph under consideration. He thought them wholly unfounded; that the black inhabitants of the Southern States must be considered either as slaves, and as so much property, or in the character of so many freemen; if the former, why should they not be wholly represented? Our own state laws and constitution would lead us to consider these blacks as freemen, and so indeed would our own ideas of natural justice. If, then, they are freemen, they might form an equal basis for representation as though they were all white inhabitants. In either view, therefore, he could not see that the Northern States would suffer, but directly to the contrary. He thought, however, that gentlemen would do well to connect the passage in dispute with another article in the Constitution, that permits Congress, in the year 1808, wholly to prohibit the importation of slaves, and in the mean time to impose a duty of ten dollars a head on such blacks as should be imported before that period. Besides, by the new Constitution, every particular state is left to its own option totally to prohibit the introduction of slaves into its own territories. What could the Convention do more? The members of the Southern States, like ourselves, have

their prejudices. It would not do to abolish slavery, by an act of Congress, in a moment, and so destroy what our southern brethren consider as property. But we may say, that, although slavery is not smitten by an apoplexy, yet it has received a mortal wound, and will die of a consumption.

Mr. HAMILTON. There are two objects in forming systems of government — *safety* for the people, and *energy* in the administration. When these objects are united, the certain tendency of the system will be to the public welfare. If the latter object be neglected, the people's security will be as certainly sacrificed as by disregarding the former. Good constitutions are formed upon a comparison of the liberty of the individual with the strength of government: if the tone of either be too high, the other will be weakened too much. It is the happiest possible mode of conciliating these objects, to institute one branch peculiarly endowed with sensibility, another with knowledge and firmness. Through the opposition and mutual control of these bodies, the government will reach, in its operations, the perfect balance between liberty and power. The arguments of the gentlemen chiefly apply to the former branch — the House of Representatives. If they will calmly consider the different nature of the two branches, they will see that the reasoning which justly applies to the representative house, will go to destroy the essential qualities of the Senate. If the former is calculated perfectly upon the principles of caution, why should you impose the same principles upon the latter, which is designed for a different operation? Gentlemen, while they discover a laudable anxiety for the safety of the people, do not attend to the important distinction I have drawn. We have it constantly held up to us, that, as it is our chief duty to guard against tyranny, it is our policy to form all the branches of government for this purpose...

It has been remarked, that there is an inconsistency in our admitting that the *equal vote in the Senate* was given to secure the rights of the states, and at the same time holding up the idea that their interests should be sacrificed to those of the Union. But the committee certainly perceive the distinction between the rights of a state and its interests. The rights of a state are defined by the Constitution, and cannot be invaded without a violation of it; but the interests of a state have no connection with the Constitution, and may be, in a thousand instances, constitutionally sacrificed. A uniform tax is perfectly constitutional; and yet it may operate oppressively upon certain members of the Union. The gentlemen are afraid that the state governments will be abolished. But, sir, their existence does not depend upon the laws of the United States. Congress can no more abolish the state governments, than they can dissolve the Union. The whole Constitution is repugnant to it, and yet the gentlemen would introduce an additional useless provision against it. It is proper that the influence of the states should prevail to a certain extent. But shall the individual states be the judges how far? Shall an unlimited power be left them to determine in their own favor? The gentlemen go into the extreme: instead of a wise government, they would form a fantastical Utopia. But, sir, while they give it a plausible, popular shape, they would render it impracticable. Much has been said about factions. As far as my observation has extended, factions in Congress have arisen from attachment to state *prejudices*. We are attempting, by this Constitution, to abolish factions, and to unite all parties for the general welfare. That a man should have the power, in private life, of recalling his agent, is proper; because, in the business in which he is engaged, he has no other object but to gain the approbation of his principal. Is this the case with the senator? Is he simply the agent of the state? No. He is an agent for the Union, and he is bound to perform services necessary to the good of the whole, though his state should condemn them.

FRIDAY, *June 27*, 1788

Mr. SMITH. Sir, I contemplate the abolition of the *state constitutions* as an event fatal to the liberties of America. These liberties will not be violently wrested from the people; they will be undermined and gradually consumed. On subjects of the kind we cannot be too critical. The investigation is difficult, because we have no examples to serve as guides. The world has never seen such a government over such a country. If we consult authorities in this matter, they will declare the impracticability of governing a free people on such an extensive plan. In a country where a portion of the people live more than twelve hundred miles from the centre, I think that one body cannot possibly legislate for the whole. Can the legislature frame a system of taxation that will operate with uniform advantages? Can they carry any system into execution? Will it not give occasion for an innumerable swarm of officers, to infest our country and consume our substance? People will be subject to impositions which they cannot support, and of which their complaints can never reach the government.

Mr. HAMILTON. What, then, is the structure of this Constitution? One branch of the legislature is to be elected by the people — by the same people who choose your state representatives. Its members are to hold their offices two years, and then *return to their constituents*. Here, sir, the people govern; here they act by their immediate representatives. You have also a Senate, constituted by your state legislatures, by men in whom you place the highest confidence, and forming another representative branch. Then, again, you have an executive magistrate, created by a form of election which merits universal admiration. In the form of this government, and in the mode of legislation, you find all the checks which the greatest politicians and the best writers have ever conceived. What more can reasonable men desire? Is there any one branch in which the whole legislative and executive powers are lodged? No. The legislative authority is lodged in three distinct branches, properly *balanced*; the executive is divided between two branches; and the judicial is still reserved for an independent body, who hold their office during good behavior. This organization is so complex, so skilfully contrived, that it is next to impossible that an impolitic or wicked measure should pass the scrutiny with success. Now, what do gentlemen mean by coming forward and declaiming against this government? Why do they say we ought to limit its power, to disable it, and to destroy its capacity of blessing the people? Has philosophy suggested, has experience taught, that such a government ought not to be trusted with every thing necessary for the good of society? Sir, when you have divided and nicely balanced the departments of government; when you have strongly connected the virtue of your rulers with their interest; when, in short, you have rendered your system as perfect as human forms can be, — you must place confidence; you must give power.

We have heard a great deal of the sword and the purse. It is said our liberties are in danger, if both are possessed by Congress. Let us see what is the true meaning of this maxim, which has been so much used, and so little understood. It is, that you shall not place these powers either in the legislative or executive, singly; neither one nor the other shall have both, because this would destroy that division of powers on which political liberty is founded, and would furnish one body with all the means of tyranny. But where the purse is lodged in one branch, and the sword in another, there can be no danger. All governments have possessed these powers: they would be monsters without them, and incapable of exertion. What is your state government? Does not your legislature command what money it pleases? Does not your executive execute the laws without restraint? These distinctions between the purse and the sword have no application to the system, but only to its separate branches. Sir, when we reason about the great interests of a free people, it is high time that we dismiss our prejudices, and banish declamation. In order to induce us to consider the powers given by this Constitution as dangerous, in order to render plausible an attempt to take away the life and spirit of the most important power in government, the gentleman complains that we shall not have a true and safe *representation*. I asked him what a safe representation was; and he has given no satisfactory answer. The Assembly of New York has been mentioned as a proper standard; but if we apply this standard to the general government, our Congress will become a mere mob, exposed to every irregular impulse, and subject to every breeze of faction. Can such a system afford security? Can you have confidence in such a body? The idea of taking the ratio of representation, in a small society, for the ratio of a great one, is a fallacy which ought to be exposed. It is impossible to ascertain to what point our representation will increase; it may vary from one, to two, three, or four hundred: it depends upon the progress of population. Suppose it to rest at two hundred; is not this number sufficient to secure it against corruption? Human nature must be a much more weak and despicable thing than I apprehend it to be, if two hundred of our fellow-citizens can be corrupted in two years. But suppose they are corrupted; can they, in two years, accomplish their designs? Can they form a combination, and even lay a foundation for a system of tyranny, in so short a period? It is far from my intention to wound the feelings of any gentleman; but I must, in this most interesting discussion, speak of things as they are, and hold up opinions in the light in which they ought to appear; and I maintain that all that has been said of corruption, of the purse and the sword, and of the danger of giving powers, is not supported by principles or fact; that it is mere verbiage and idle declamation. The true principle of government is this — make the system complete in its structure, give a perfect proportion and balance to its parts, and the powers you give it will never affect your security. The question, then, of the *division of powers* between the general and state governments, is a question of convenience: it becomes a prudential inquiry, what powers are proper to be reserved to the latter; and this immediately involves another inquiry into the proper objects of the two governments. This is the criterion by which we shall determine the just distribution of powers...

Mr. Chairman, it has been advanced as a principle, that no government but a despotism can exist in a very extensive country. This is a melancholy consideration indeed. If it were founded on truth, we ought to dismiss the idea of a republican government, even for the state of New York. This idea has been taken from a celebrated writer, who, by being misunderstood, has been the occasion of frequent fallacies in our reasoning on political subjects. But the position has been misapprehended; and its application is entirely false and unwarrantable: it relates only to democracies, where the whole body of the people meet to transact business, and where representation is unknown. Such were a number of ancient and some modern independent cities. Men who read without attention have taken these maxims respecting the extent of country, and, contrary to their meaning, have applied them to republics in general. This application is wrong in respect to all representative governments. but especially in relation to a confederacy of states, in which the supreme legislature has only general powers, and the civil and domestic concerns of the people are regulated by the laws of the several states. This distinction being kept in view, all the difficulty will vanish, and we may easily conceive that the people of a large country may be represented as truly as those of a small one. An assembly constituted for general purposes may be fully competent to every federal regulation, without being too numerous for deliberate conduct. If the state governments were to be abolished, the question would wear a different face; but this idea is inadmissible. They are absolutely necessary to the system. Their existence must form a leading principle in the most perfect constitution we could form.

SATURDAY, *June 28*, 1788

Mr. LASING.

An honorable gentleman from New York has remarked that the idea of *danger to state governments* can only originate in a distempered fancy: he stated that they were necessary component parts of the system, and informed us how the President and senators were to be elected; his conclusion is, that the liberties of the people cannot be endangered. I shall only observe, that, however fanciful these apprehensions may appear to him, they have made serious impressions upon some of the greatest and best men. Our fears arise from the experience of all ages and our knowledge of the dispositions of mankind. I believe the gentleman cannot point out an instance of the rights of a people remaining for a long period inviolate. The history of Europe has afforded remarkable examples of the loss of liberty by the usurpations of rulers. In the early periods of the government of the United Netherlands, the magistrates were elected by the people; but now they have become hereditary. The Venetians are, at this day, governed by an aristocracy. The senators, once the representatives of the people, were enabled, by gradual encroachments, at last to declare themselves perpetual. The office has since become hereditary, and the government entirely despotic. The gentleman has adduced one historical example, to prove that the members of a government, in the contests with the head, generally prevail. He observed that, in the struggles between the feudal sovereigns of Europe and their barons, the latter were usually victorious. If this were true, I believe the operations of such a system as the feudal will not warrant the general inference he draws. The feudal barons were obliged to assist the monarch, in his wars, with their persons and those of their vassals. This, in the early periods, was the sovereign's sole dependence. Not possessed of pecuniary revenues, or a standing military force, he was, whenever the barons withdrew their aid, or revolted against his authority, reduced to a very feeble situation. While he possessed not the means of carrying on his wars, independently of his nobles, his power was insignificant, and he was unsuccessful. But, sir, the moment he gained the command of revenues and an army, as soon as he obtained *the sword and the purse*, the current of success was turned; and his superiority over his barons was regularly augmented, and at last established. The barons, in their early wars, possessed other peculiar advantages: their number was small, they were actuated by one principle, and had one common object; it was to reduce still lower the feeble powers of the monarch: they were therefore easily brought to act in concert. Sir, wherever the revenues and the military force are, there will rest the power: the members or the head will prevail, as one or the other possesses these advantages. The gentleman, in his reasoning, has taken the wrong part of the example — that part which bears no resemblance to our system. Had he come down to a later period, he would indeed have seen the resemblance, and his historical facts would have directly militated against his argument. Sir, if you do not give the state governments a power to protect themselves, if you leave them no other check upon Congress than the power of appointing senators, they will certainly be overcome, like the barons of whom the gentleman has spoken. Neither our civil nor militia officers will afford many advantages of

opposition against the national government: if they have any powers, it will ever be difficult to concentrate them, or give them a uniform direction. Their influence will hardly be felt, while the greater number of lucrative and honorable places, in the gift of the United States, will establish an influence which will prevail in every part of the continent.

It has been admitted by an honorable gentleman from New York, (Mr. Hamilton,) that the state governments are necessary to secure the liberties of the people. He has urged several forcible reasons why they ought to be preserved under the new system; and he has treated the idea of the general and state governments being hostile to each other as chimerical. I am, however, firmly persuaded that an hostility between them will exist. This was a received opinion in the late Convention at Philadelphia. That honorable gentleman was then fully convinced that it would exist, and argued, with much decision and great plausibility, that the state governments ought to be subverted, at least so far as to leave them only corporate rights, and that, even in that situation, they would endanger the existence of the general government. But the honorable gentleman's reflections have probably induced him to correct that sentiment.

Second, please compose a [broadside](#) of 500 to 600 words in which you argue why the Constitution should be rejected, ratified as is, or accepted with amendments. Your arguments should be based on the materials from the ratification conventions and from the Brutus and Publius essays that you've read. If you need additional information, please consult the resources listed below.

## Additional Resources

1. The Constitutional Convention (<http://teachingamericanhistory.org/convention/>)
2. To Form a More Perfect Union: the Work of the Continental Congress and the Constitutional Convention (<https://www.loc.gov/collections/continental-congress-and-constitutional-convention-from-1774-to-1789/articles-and-essays/to-form-a-more-perfect-union/>)
3. The Constitution: an Enduring Document (<http://iipdigital.usembassy.gov/st/english/publication/2008/06/20080624214615eaifas0.8420832.html#axzz3qkV72tWQ>)
4. The U.S. Constitution and the Bill of Rights (<https://www.whitehouse.gov/1600/constitution>)
5. Time Line, During the Age of Revolution, 1776-1789 (<https://www.loc.gov/collections/continental-congress-and-constitutional-convention-from-1774-to-1789/articles-and-essays/timeline/>)

## Instructor's Annotations

The purpose of this module is to provide students with access to on-line collections of primary documents, and to encourage them to investigate and synthesize information from these sources. It is designed to be used as part of an introductory course in American History – usually the first half of the U.S. survey – or in an upper-level course that would cover the years and topics under consideration.

The activities, in particular the postings to a course Blackboard site, were designed with the limitations of Lehman's IT classroom space in mind. For other campuses, these activities could be done within a computer lab, where it might be more effective to have students work collaboratively, and to share their results with other class members.

Activity One: the links are to the Yale Avalon website for the selections from Madison's Notes. these documents are also available (but with advertising) at: [http://www.constitution.org/dfc/dfc\\_0000.htm](http://www.constitution.org/dfc/dfc_0000.htm) (.). This site, maintained by the Constitution Society, includes a calendar with links to the Notes for every day of the drafting process. The eight dates chosen are ones in which specific aspects and issues were discussed: May 31st (election of the legislature; the limits of democracy); June 1st (the national executive); June 11th (the 3/5 calculus for persons and property); June 26th (the senate); July 9th (ratio for representatives in House; counting slaves for this purpose); August 22nd (legislation regarding the slave trade); September 6th (election of the president); September 17th (Benjamin Franklin's closing remarks; signing the Constitution). So that students can discover and briefly discuss what was under consideration on the respective dates, this information has not been provided to them.

Activity Two: the essays by "Brutus" and "Publius" are also both on Avalon site and the Constitution Society's sites: <http://www.constitution.org/afp.htm>, <http://www.constitution.org/afp/brutus00.htm>, <http://www.constitution.org/fed/federa00.htm>

The Constitution Society sites also include a useful comparison of Anti-Federalist and Federalist essays, and a calendar linking them to the ratification process: <http://www.constitution.org/afp/afpchron.htm> (.).

The paired Brutus and Publius pieces in this activity are concerned with the following topics: Brutus No. 1, Publius No. 14 (the size of republics); Brutus No. 2, Publius No. 84 (the need for a Bill of Rights); Brutus Nos. 3 and 4, Publius Nos. 55, 56 (the ratio for the house of representatives; the 3/5 calculus); Brutus No. 7, Publius No. 23 (taxation); Brutus No. 8, Publius No. 8 (standing armies); Brutus No. 16, Publius No. 62 (the senate). These pairings do not include Federalist No. 10 or No. 51, since the centrality of these particular essays is an artifact of twentieth-century scholarship, not eighteenth-century politics.

Should class members need more background for the drafting of and debates over the Constitution, they should be directed to Digital History's (<http://www.digitalhistory.uh.edu>) sections on "[Drafting the Constitution](#)," "[Compromises](#)," "[Completing the Final Draft](#)," and "[The Bill of Rights](#)." There they will find a clear explanation of the processes and politics involved.

Activity Four: the edited selections from Jonathan Elliot's Debates in the Several State Conventions on the Adoption of the Federal Constitution (1836) are from the Constitution Society's sites: <http://www.constitution.org/elliott.htm> (.). In choosing speakers to excerpt from, clear presentations and characteristic arguments were of most importance. Other module developers in the USHI made the suggestion that students should synthesize what they've read by composing a broadside.

A hyperlink to the Library of Congress's broadside collection, and a short discussion of "What is a Broadside," is included here and in Activity Three. Digital History's "The U.S. Constitution and the Bill of Rights" (above) will provide students with clear summations of what was debated at the state ratification conventions.