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

# IN CONVENTION, BOSTON, *January* 9, 1788.

ON motion, *Ordered*, That the Hon. Nathaniel Gorham, John Carnes, Esq., Dr. Charles Jarvis, Hon. Tristam Dalton, Hon. Walter Spooner, Hon. Caleb Davis, and Hon. John Taylor, be a committee to receive the returns of the several towns.

*Ordered*, That a committee of five persons be appointed to collect, count, and sort the votes for a secretary; and the Hon. Caleb Davis, Tristam Dalton, Aaron Wood, Eleazer Brooks, and Charles Turner, Esquires, were appointed.

The Convention then proceeded to the choice of a secretary by ballot, and, the votes being taken, it appeared that George Richards Minot, Esq. was chosen, who accepted of the choice, and was duly sworn to qualify him for exercising the duties of that office.

*Voted*, That Mr. Jacob Kuhn, the messenger of the General Court, be appointed messenger to this Convention.

*Voted*, That five monitors be chosen, and the following gentlemen were elected, viz., the Hon. Noah Goodman, Mr. Phanuel Bishop, Mr. Daniel Cooley, Hon. Azor Orne, and Mr. Thomas Davis.

*Voted*, That a committee of seven be appointed to prepare rules and orders for the regulation of the Convention. The Hon. Nathaniel Gorham, Dr. Charles Jarvis, Hon. John Taylor, Mr. William Widgery, Hon. Tristam Dalton, Hon. Theodore Sedgwick, and James Bowdoin, Jun., Esq., were then appointed on the said committee.

*Afternoon. —* The Convention proceeded to the choice of a president by ballot, according to assignment; and, a committee of five being appointed to collect, count, and sort the votes, it appeared that his Excellency, John Hancock, was chosen.

*Voted*, That the Convention proceed to the choice of a vice-president. — The Convention then proceeded to the choice of a vice-president accordingly, by ballot; and, a committee being appointed to collect, count, and sort the votes, it appeared that the Hon. William Cushing was chosen; who by request took the chair.

*Voted*, That a committee of five be appointed to wait upon his Excellency, John Hancock, and acquaint him that this Convention have made choice of him for their president, and to request his Excellency's acceptance of that appointment.

On motion of the Hon. Mr. Adams, *Voted*, That the Convention will attend morning prayers, daily, and that the gentlemen of the clergy, of every denomination, be requested to officiate in turn.

The members from Boston were appointed to wait upon them, and acquaint them thereof.

A vote of the church in Brattle Street, in Boston, offering the use of their meeting-house to the Convention, being communicated by the Hon. Mr. Bowdoin, *Voted*, That a committee of nine be appointed, to view the accommodations of the said meeting-house, and report.

Mr. Sedgwick, Mr. Lincoln, Dr. Taylor, Gen. Brooks of Lincoln, Dr. Jarvis, Dr. Holton, Mr. Strong, Mr. Nason, and Mr. Thatcher, were then appointed on said committee

THURSDAY, *January* 10. — The committee appointed to examine the returns of delegates, desired a rule, whereby they might determine whether the towns had exceeded their privilege to send members. After a long debate, a motion was made, that the valuation of the different towns, returned in 1784, should be the rule to determine the number.

An offer having been made, by the church in Brattle Street, of that meeting-house, for the use of the Convention, and a committee having viewed the accommodation, it was voted that when the Convention do adjourn, that it adjourn to meet at three o'clock, at the meeting-house in Brattle Street.

# FRIDAY, 11*th*. —

Committees were raised to inquire respecting the contested elections, and enjoined to sit immediately.

*Afternoon. —* The house in which the Convention were sitting, on account of the difficulty of hearing, being found inconvenient, a committee was raised to provide one more suitable, after which it was voted to adjourn to Saturday morning, then to meet in the representatives' chamber.

# SATURDAY, 12*th*. —

The Honorable Convention met again in the representatives' chamber, where they decided all the disputed elections in favor of the members returned. The sense of the Convention was twice taken against removing to any other place.

# MONDAY, *January* 14. —

The Constitution for the United States of America, as reported by the Convention of delegates, held at Philadelphia, in May last, together with the resolutions of the General Court of this commonwealth, for calling a Convention, agreeably to the recommendation of Congress, were ordered to be read.

On motion of Mr. Strong, *Voted*, That this Convention, sensible how important it is that the great subject submitted to their determination should be discussed and considered with moderation, candor, and deliberation, will enter into a free conversation on the several parts thereof, by paragraphs, until every member shall have had an opportunity to express his sentiments on the same; after which the Convention will consider and debate at large the question whether this Convention will adopt and ratify the proposed Constitution, before any vote is taken expressive of the sense of the Convention, upon the whole or any part thereof.

The resolve of the General Court of this commonwealth, of March, 1787, appointing delegates for the Convention of the states, held at Philadelphia, was ordered to be read.

A motion was made and passed, that the Hon. Elbridge Gerry be requested to take a seat in the Convention, to answer any questions of fact, from time to time, that the Convention may ask, respecting the passing of the Constitution.

*Afternoon. — Ordered*, That a committee of three be appointed to wait upon the Hon. Elbridge Gerry, and acquaint him with the vote of this morning, requesting him to take a seat in the Convention, to answer to any questions of fact, from time to time, that the Convention may ask, respecting the passing the Constitution.

Agreeably to the resolution passed in the forenoon, the Convention proceeded to consider the first section of the Constitution, and, after a short conversation, entered upon the discussion of the second section, the first paragraph of which caused a lengthy debate.

The Convention entered upon the consideration of the proposed Constitution, and, having debated thereon through the day, postponed the further consideration thereof to the next morning.

It had been mentioned by some gentlemen, that the introduction of tyranny into several nations had been by lengthening the duration of their parliaments or legislative bodies; and the fate of those nations was urged as a caution against lengthening the period for which Congress is to be chosen.

## Mr. SEDGWICK

Wished to know what were the nations which had been thus deprived of their liberties; he believed they were few in number; in fact, he did not recollect any. After showing, by several examples, how nations had been deprived of their liberties, he continued, — Is it not necessary, Mr. President, that the federal representatives should be chosen for two years? Annual elections, in a single state, may be the best for a variety of reasons; but when the great affairs of thirteen states — where their commerce may he extended, and where it is necessary to be restricted — what measures may be most expedient, and best adapted to promote the general prosperity thereof, are to be the objects of deliberation, is not such a period too short? Can a man, called into public life, divest himself of local concerns, and instantly initiate himself into a general knowledge of such extensive and weighty matters? After several other arguments in favor of the section, he begged the indulgence of the Convention while he made a personal observation: "It has been given out, sir, by several persons, that I have said the Constitution must go down, right or wrong; I beg leave to declare, sir, on my honor, that, so far from having made such a declaration, the idea of it has not ever entered my mind."

## Mr. G. DENCH

Wished to know how the representation was secured; as, by the 4th section, Congress were empowered to make or alter the regulation of the times, places, and manner of holding elections. Mr. D. was continuing, but was called to order by Mr. Parsons, who said the subject in debate was the *expediency of biennial elections*, and that an answer to the gentleman from Hopkinton would more properly be given when the 4th section was under consideration.

## 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.

## The Hon. Mr. SPRAGUE

Was in favor of the section as it stood. He thought the same principles ought not to guide us when considering the election of a body whose jurisdiction was coextensive with a great continent, as when regulating that of one whose concerns are only those of a single state.

## Mr. T. DAWES

After a short exordium, said he had not heard it mentioned by any gentleman who had spoken in the debate, that the right of electing representatives in the Congress, as provided for in the proposed Constitution, will be the acquisition of a new privilege by the people, as it really will be. The people will then be immediately represented in the federal government; at present they are not; therefore it will be in favor of the people, if they are chosen for forty instead of two years; — and he adduced many reasons to show that it would not conduce to the interests of the United States, or the security of the people, to have them for a shorter period than two years.

## The Hon. Mr. WHITE

Said he was opposed to the section; he thought the security of the people lay in frequent elections; for his part, he would rather they should be for six months than for two years; — and concluded by saying he was in favor of annual elections.

Dr. JARVIS, Gen. BROOKS, Gen. HEATH, and Mr. TURNER, each spoke a few words on the subject, when a motion was made to postpone the consideration of the 2d section until the next meeting, which passing, the Convention adjourned.

# TUESDAY, *January* 15. —

A motion was made by Mr. DANA, that the vote of yesterday, prescribing the manner of proceeding in the consideration of the Constitution, should be reconsidered, for the purpose of making the following addition thereto, viz.: —

"It is, nevertheless, the opinion of this Convention, that, if any member conceives any other clause or paragraph of the Constitution to be connected with the one immediately under consideration, that he have full liberty to take up such other clause or paragraph for that purpose." And the question of reconsideration, being put, passed in the affirmative.

On the question whether the addition should be made, it was determined in the affirmative.

## The Hon. Mr. STRONG

Rose to reply to the inquiry of the Hon. Mr. Adams, why the alteration of *elections* from annual to biennial was made; and to correct an inaccuracy of the Hon. Mr. Gorham, who, the day before, had said that *that* alteration was made to gratify South Carolina. He said he should then have arisen to put his worthy colleague right, but his memory was not sufficiently retentive to enable him immediately to collect every circumstance. He had since recurred to the original plan. When the subject was at first discussed in Convention, some gentlemen were for having the term extended for a considerable length of time; others were opposed to it, as it was contrary to the ideas and customs of the Eastern States; but a majority was in favor of three years, and it was, he said, urged by the Southern States, which are not so populous as the Eastern that the expense of more frequent elections would be great; — and concluded by saying that a general concession produced the term as it stood in the section, although it was agreeable to the practice of South Carolina.

## Mr. AMES

I do not regret, Mr. President, that we are not unanimous upon this question. I do not consider the diversity of sentiment which prevails as an impediment in our way to the discovery of truth. In order that we may think alike upon this subject at last, we shall be compelled to discuss it by ascending to the principles upon which the doctrine of representation is grounded.

Without premeditation, in a situation so novel, and awed by the respect which I feel for this venerable assembly, I distrust extremely my own feelings, as well as my competency to prosecute this inquiry. With the hope of an indulgent hearing, I will attempt to proceed. I am sensible, sir, that the doctrine of frequent elections has been sanctioned by antiquity, and is still more endeared to us by our recent experience and uniform habits of thinking. Gentlemen have expressed their zealous partiality for it. They consider this as a leading question in the debate, and that the merits of many other parts of the Constitution are involved in the decision. I confess, sir, and I declare that my zeal for frequent elections is not inferior to their own. I consider it as one of the first securities for popular liberty, in which its very essence may be supposed to reside. But how shall we make the best use of this pledge and instrument of our safety?

A right principle, carried to an extreme, becomes useless. It is apparent that a declaration for a very short term, as for a single day, would defeat the design of representation. The election, in that case, would not seem to the people to be of any importance, and the person elected would think as lightly of his appointment. The other extreme is equally to be avoided. An election for a very long term of years, or for life, would remove the member too far from the control of the people, would be dangerous to liberty, and in fact repugnant to the purposes of the delegation. The truth, as usual, is placed somewhere between the extremes, and I believe is included in this proposition: The term of election must be so long, that the representative may understand the interest of the people, and yet so limited, that his fidelity may be secured by a dependence upon their approbation.

Before I proceed to the application of this rule, I cannot forbear to premise some remarks upon two opinions, which have been suggested.

Much has been said about the people divesting themselves of power, when they delegate it to representatives; and that all representation is to their disadvantage, because it is but an image, a copy, fainter and more imperfect than the original, the people, in whom the light of power is primary and unborrowed, which is only reflected by their delegates. I cannot agree to either of these opinions. The representation of the people is something more than the people. I know, sir, but one purpose which the people can effect without delegation, and that is to destroy a government. That they cannot erect a government, is evinced by our being thus assembled on their behalf. The people must govern by a majority, with whom all power resides. But how is the sense of this majority to be obtained? It has been said that a pure democracy is the best government for a small people who assemble in person. It is of small consequence to discuss it, as it would be inapplicable to the great country we inhabit. It may be of some use in this argument, how ever, to consider, that it would be very burdensome, subject to faction and violence; decisions would often be made by surprise, in the precipitancy of passion, by men who either understand nothing or care nothing about the subject; or by interested men, or those who vote for their own indemnity. It would be a government not by laws, but by men.

Such were the paltry democracies of Greece and Asia Minor, so much extolled, and so often proposed as a model for our imitation. I desire to be thankful that our people (said Mr. Ames) are not under any temptation to adopt the advice. I think it will not be denied that the people are gainers by the election of representatives. They may destroy, but they cannot exercise, the powers of government in person, but by their servants *they* govern: they do not renounce their power; they do not sacrifice their rights; they become the true sovereigns of the country when they delegate that power, which they cannot use themselves to their trustees.

I know, sir, that the people talk about the liberty of nature, and assert that we divest ourselves of a portion of it when we enter into society. This is declamation against matter of fact. We cannot live without society; and as to liberty, how can I be said to enjoy that which another may take from me when he pleases? The liberty of one depends not so much on the removal of all restraint from him, as on the due restraint upon the liberties of others. Without such restraint, there can be no liberty. Liberty is so far from being endangered or destroyed by this, that it is extended and secured. For I said that we do not enjoy that which another may take from us. But civil liberty cannot be taken from us, when any one may please to invade it; for we have the strength of the society on our side.

I hope, sir, that these reflections will have some tendency to remove the ill impressions which are made by proposing to divest the people of their power.

That they may never be divested of it, I repeat that I am in favor of frequent elections. They who commend annual elections are desired to consider, that the question is, whether biennial elections are a defect in the Constitution; for it does not follow, because annual elections are safe, that biennial are dangerous; for both may be good. Nor is there any foundation for the fears of those, who say that if we, who have been accustomed to choose for one year only, now extend it to two, the next stride will be to five or seven years, and the next for term of life; for this article, with all its supposed defects, is in favor of liberty. Being inserted in the Constitution, it is not subject to be repealed by law. We are sure that it is the worst of the case. It is a fence against ambitious encroachments, too high and too strong to be passed. In this respect, we have greatly the advantage. of the people of England, and of all the world. The law which limits their Parliaments is liable to be repealed.

I will not defend this article by saying that it was a matter of compromise in the federal Convention. It has my entire approbation as it stands. I think that we ought to prefer, in this article, biennial elections to annual; and my reasons for this opinion are drawn from these sources: —

From the extent of the country to be governed;

The objects of their legislation;

And the more perfect security of our liberty.

It seems obvious that men who are to collect in Congress from this great territory, perhaps from the Bay of Fundy, or from the banks of the Ohio, and the shore of Lake Superior, ought to have a longer term in office, than the delegates of a single state, in their own legislature. It is not by riding post to and from Congress that a man can acquire a just knowledge of the true interests of the Union. This term of election is inapplicable to the state of a country as large as Germany, or as the Roman empire in the zenith of its power.

If we consider the objects of their delegation, little doubt will remain. It is admitted that annual elections may be highly fit for the state legislature. Every citizen grows up with a knowledge of the local circumstances of the state. But the business of the federal government will be very different. The objects of their power are few and national. At least two years in office will be necessary to enable a man to judge of the trade and interests of the state which he never saw. The time, I hope, will come, when this excellent country will furnish food, and freedom, (which is better than food, which is the food of the soul,) for fifty millions of happy people. Will any man say that the national business can be understood in one year?

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.

But, sir, the representatives are the grand inquisition of the Union. They are, by **impeachment**, to bring great offenders to justice. One year will not suffice to detect guilt, and to pursue it to conviction; therefore they will escape, and the balance of the two branches will be destroyed, and the people oppressed with impunity. The senators will represent the sovereignty of the states. The representatives are to represent the people. The offices ought to bear some proportion in point of importance. This will be impossible if they are chosen for one year only.

Will the people, then, blind the eyes of their own watchmen? Will they bind the hands which are to hold the sword for their defence? Will they impair their own power by an unreasonable jealousy of themselves?

For these reasons, I am clearly of opinion that the article is entitled to our approbation as it stands; and as it has been demanded, why annual elections were not preferred to biennial, permit me to retort the question, and to inquire, in my turn, what reason can be given, why, if annual elections are good, biennial elections are not better?

The inquiry in the latter part of Mr. Ames's speech being directed to the Hon. Mr. Adams, that gentleman said, he only made the inquiry for information, and that he had heard sufficient to satisfy himself of its propriety.

## Mr. DENCH

Said his objections to biennial elections were removed; but he wished to recur to the 4th section, and to inquire, whether *that election was secured*, as, by this section, Congress has power to regulate the time, place, and manner of holding it.

[A question now arose, whether the consideration of the 4th section was in order, and much debate was had thereon; but the propriety, as expressed by a worthy member, of "elucidating scripture by scripture," being generally admitted, the motion made by the Hon. Mr. Dana passed, which put an end to the conversation.]

## The Hon. Mr. BOWDOIN

Remarked on the idea suggested by the honorable gentleman from Scituate, [Mr. Turner,] who had said that nature pointed out the propriety of *annual* elections, by the *annual* renewal, *and* observed, that if the revolution of the heavenly bodies is to be the principle to regulate elections, it was not fixed to any period, as in some of the systems it would be very short; and in the last-discovered planet it would be eighty of our years. Gentlemen, he said, who had gone before him in debate, had clearly pointed out the alteration of the election of our federal representatives, from annual to biennial, to be justifiable. Annual elections may be necessary in this state, but in the choice of representatives from the continent, it ought to be longer; nor did he see any danger in its being so. Who, he asked, are the men to be elected? Are they not to be from among us? If they were to be a distinct body, then the doctrine of precaution, which gentlemen use, would be necessary; but, sir, they can make no laws, nor levy any taxes, but those to which they themselves must be subservient; they themselves must bear a part; therefore our security is guarantied by their being thus subject to the laws, if by nothing else.

## Gen. HEATH

Mr. President, I consider myself not as an inhabitant of Massachusetts, but as a citizen of the United States. My ideas and views are commensurate with the continent; they extend in length from the St. Croix to the St. Maria, and in breadth from the Atlantic to the Lake of the Woods; for over all this extensive territory is the federal government to be extended.

I should not have risen on this paragraph, had it not been for some arguments which gentlemen have advanced respecting elections, and which, I think, tend to make dangerous impressions on the minds of the rising generation. It has been the general opinion that the liberties of the people are principally secured by the frequency of elections, and power returning again into their own hands. The first Parliament ever called in Europe was called by Constantine the Third, and to continue for one year. The worthy gentleman from Boston [Mr. Dawes] has mentioned a writer as a good authority, and who, he says, was twenty years compiling his works. I will produce one observation from this celebrated writer, Baron Montesquieu; it is as follows: "The greatness of power must be compensated by the brevity of the duration; most legislators have fixed it to a year; a longer space would be dangerous." Here, sir, we have not only the opinion of this celebrated writer, but he has also mentioned that most legislators were of the like opinion; but I shall come to our own country, where we shall find in what respect annual elections have always been held. This was the wisdom of our ancestors; it has been confirmed by time; therefore, sir, before we change it, we should carefully examine whether it be for the better. Local circumstances may render it expedient; but we should take care not to hold up to the rising generation, that it is a matter of in difference whether elections be annual or not; and this is what induced me to rise.

It is a novel idea, that representatives should be chosen for a considerable time, in order that they may learn their duty. The representative is one who appears in behalf of, and acts for, others; he ought, therefore, to be fully acquainted with the feelings, circumstances, and interests of the persons whom he represents; and this is learnt among them, not at a distant court. How frequently, on momentary occasions, do the members of the British Parliament wish to go home and consult their constituents, before they come to decision! This shows from what quarter they wish to obtain their information. With respect to the obtaining a knowledge of the circumstances and abilities of the other states, in order to an equal taxation, this must be acquired from the returns of the number of inhabitants, &c., which are to be found on the files of Congress; for I know not how length of time could furnish other information, unless the members should go from state to state, in order to find out the circumstances of the different states. I think representatives ought always to have a general knowledge of the interests of their constituents, as this alone can enable them properly to represent them.

But, sir, if there be charms in the paragraph now under consideration, they are these: Congress, at present, are continually sitting; but under the new Constitution, it is intended that Congress shall sit but once annually, for such time as may be necessary, and then adjourn. In this view, every gentleman acquainted with the business of legislation knows that there is much business, in every session, which is taken up and partly considered, but not finished; an adjournment keeps all this business alive; and at the next session it is taken up and completed, to the benefit of the people, in a great saving of expense, which would otherwise be lost; for a new legislature would not see through the eyes of those who went before them; consequently all business partly finished would be time lost, to the injury of the public. Therefore, as it seems to be intended that Congress shall have but two sessions in the two years for which the representatives are to be chosen, this consideration has reconciled me to the paragraph, and I am in favor of biennial elections.

## Mr. TURNER

in reply to the Hon. Mr. Bowdoin, said he thought it an important consideration whether the elections were to be for one or for two years. He was, he said, greatly in favor of annual elections, and be thought, in the present instance, it would be establishing a dangerous precedent to adopt a change; for, says he, the principle may so operate, as, in time, our elections will be as *seldom* as the revolution of the star the honorable gentleman talks of.

## Mr. DAWES

In answer to Gen. Heath, said, that the passage quoted from Montesquieu applied to *single* governments, and not to *confederate* ones.

## Gen. BROOKS, (of Medford,)

In reply to Gen. Heath, said, he recollected the passage of Montesquieu, but he also recollected that that writer had spoken highly of the British government. He then adverted to the objection to this section of Gen. Thompson and others, that biennial elections were a novelty, and said, we were not to consider whether a measure was new, but whether it was proper. Gentlemen had said that it had been the established custom of this country to elect annually; but, he asked, have we not gone from a colonial to an independent situation? We were then provinces; we are now an independent empire; our measures, therefore, says he, must change with our situation. Under our old government, the objects of legislation were few and divided; under our present, there are many, and must be united; and it appears necessary that, according to the magnitude and multiplicity of the business, the duration should be extended, he did not, he said, undertake to say how far. He then went into a view of the history of Parliaments: the modern northern nations, he said, had Parliaments; but they were called by their kings; and the time, business, &c., of them, depended wholly on their wills.

We can, therefore, says he, establish nothing from these. One general remark was, that, in the reigns of weak princes, the *power* and importance of Parliaments increased; in the reigns of strong and arbitrary kings, they always declined; and, says he, they have been *triennial*, and they have been *septennial*. The general combated the idea *that the liberties of the people depended on the duration of Parliament*, with much ability. Do we hear, asked he, that the people of England are deprived of their liberties? or that they are not as free now as when they had short Parliaments? On the contrary, do not writers agree, that life, liberty, and property, are nowhere better secured than in Great Britain, and that this security arises from their Parliaments being chosen for seven years? As such is the situation of the people of England, and as no instance can be given wherein biennial elections have been destructive to the liberties of the people, he concluded by asking, whether so much danger is to be apprehended from such elections as gentlemen imagined.

## Gen. THOMPSON

Sir, gentlemen have said a great deal about the history of old times. I confess I am not acquainted with such history; but I am, sir, acquainted with the history of my own country. I had the honor to be in the General Court last year, and am in it this year. I think, sir, that had the last administration continued one year longer, our liberties would have been lost, and the country involved in blood. Not so much, sir, from their bad conduct, but from the suspicions of the people of them. But, sir, a change took place; from this change pardons have been granted to the people, and peace is restored. This, sir, I say, is in favor of frequent elections.

[Gen. T. was called to order, on the idea that he reflected on the last administration. A debate ensued, which ended on the Hon. Mr. White's saying, he wished to pat out every spark of the fire that appeared to be kindling; therefore moved to adjourn.]

*Afternoon*. — Dr. TAYLOR opened the conversation of the afternoon, by calling upon Gen. Thompson to proceed.

## Gen. THOMPSON

Accordingly said, that, however just, however good, and however upright the administration may be, there was still a great necessity for annual elections.

He thought a change of election was for the best, even if the administration pleased the people. Do the members of Congress, says he, displease us, we call them home, and they obey. Now, where is the difference of their having been elected for one or two years? It is said that the members cannot learn sufficiently in that time. Sir, I hope we shall never send men who are *not learned*. Let these members know their dependence upon the people, and I say it will be a check on them, even if they were not good men. Here the general broke out in the following pathetic apostrophe: "O my country, never give up your annual elections! young men, never give up your jewel!" He apologized for his zeal. He then drew a comparison between the judges, &c., of this country before the revolution, who were dependent on Great Britain for their salaries, and those representatives dependent on the Continent. He concluded by hoping that the representatives would be annually elected, and thereby feel a greater dependence on the people.

## Mr. GORE

It has been observed, that, in considering this great and momentous question, we ought to consult the sentiments of wise men, who have written on the subject of government, and thereby regulate our decision on this business. A passage is adduced from Montesquieu, stating that, where the people delegate great power, it ought to be compensated for by the shortness of the duration. Though strictly agreeing with the author, I do not see that it applies to the subject under consideration. This might be perfectly applicable to the ancient governments, where they had no idea of representation, or different checks in the legislature or administration of government; but, in the proposed Constitution, the powers of the whole government are limited to certain national objects, and are accurately defined. The House of Representatives is but one branch of the system, and can do nothing of itself. Montesquieu, in the sentiment alluded to, must have had in his mind the Epistates of Athens, or the Dictators of Rome; but certainly observations drawn from such sources can have no weight in considering things so efficiently different. Again, sir, gentlemen have said that annual elections were necessary to the preservation of liberty, and that, in proportion as the people of different nations have lengthened, beyond the term of a year, the duration of their representatives, they have lost their liberties, and that all writers have agreed in this. I may mistake; but I know no such thing as a representation of the people in any of the ancient republics. In England, from whence we receive many of our ideas on this subject, King John covenanted with his people to summon certain classes of men to Parliament. By the constitution of that country, the king alone can convoke, and be alone, previous to the revolution, could dissolve, the Parliament; but in the reign of William the Third, the patriots obtained an act limiting the duration of Parliament to three years. Soon after, a Parliament then sitting, and near expiring, a rebellion broke out, and the tories and Jacobites were gaining strength to support the Pretender's claim to the crown. Had they dissolved themselves, and a new Parliament been convoked, probably many of the very opponents to the government might have been elected. In that case they might have effected by law what they in vain attempted by arms.

The Parliament, therefore, extended their duration from triennial to septennial. This was acquiesced in by the people, and the next Parliament sanctioned the act. No evil, but great good, has been supposed to follow from their duration being thus extended; and if Montesquieu and Dr. Adams think the British constitution so perfect, how much greater must be our security, when we reflect that our representation is equal; that the powers of the government are so limited, and the checks so nicely appointed! If there be a representation of the people in any other countries, and annual elections therein have been considered as the basis of their freedom, I pray gentlemen to mention the instances; I confess I know none. People adopt a position which is certainly true, viz., that elections ought to be frequent; but, then, as we have been in the custom of choosing our representatives annually, we have determined annually to be frequent, and that biennial, or any longer term than annual, is not frequent; but if gentlemen will only consider the objects over which this government is to have rule and authority, and the immense and wide-extended tracts of country over which the representatives are to pass before they reach the seat of government, I think they will be convinced that two years is a short time for the representatives to hold their office. Further, sir, we must consider this subject with respect to the general structure of the Constitution. The Senate represents the sovereignty of the states; the House of Representatives the people of the United States. The former have a longer term in their office; it is then necessary that that body which represents the people should have a permanence in their office, to resist any operations of the Senate, which might be injurious to the people. If they were annual, I submit it to the good sense of this house whether they would be able to preserve that weight in the system which the Constitution intended they should have, and which is absolutely necessary for the security of the rights of the people.

## The Hon. Mr. KING

Said he would not detain the Convention by any exordium for the purpose of obtaining their attention. He declared, however, that he thought the subject might be freed from certain prejudices connected with its examination, and that thereby the question might receive a fairer decision: this should be the object of his address.

The honorable gentleman observed, that the Convention would do well to lay aside the terms *annual* or *biennial*, and consider the subject as it could be supported by principles. Much had been said of the instruction to be derived from history on this point; he said he presumed to doubt whether this was the case. From the continent of Europe he believed that we could receive no instruction. Their Parliaments, after the overthrow of the Roman empire, were not constructed upon the principle of a representation of the people. The, conqueror of a given district of the country was, by the feudal system, the prince or king of the people within his conquered territories. When he wished the advice of any persons, he summoned usually a number of his principal officers, or the barons of his kingdom, to give him their counsel; but the people, or, as they were degradingly called, the vassals, were never consulted. This certainly cannot be considered as a representation of the people This mode of assembling a Parliament probably obtained in the early stages of the English history; but those who have written on this subject agree that their information is very imperfect, relative to the origin of English Parliaments; they are not certain who composed the Parliament, how long they held their office, or concerning what points they were consulted.

Nothing clear on this subject appears before the 12th century. Magna Charta is the foundation of the imperfect representation of England. Improvements have since been made in favor of the more equal and certain representation of the people; but it is still extremely imperfect and insecure. Perhaps the people of America are the first, who, by the social compact, ever obtained a right to a full and fair representation, in making the laws of their country.

If, then, [continued Mr. K.,] history can afford little or no instruction on this subject, the Convention must determine the question upon its own principles. It seems proper that the representative should be in office time enough to acquire that information which is necessary to form a right judgment; but that the time should not be so long as to remove from his mind the powerful check upon his conduct, that arises from the frequency of elections, whereby the people are enabled to remove an unfaithful representative, or to continue a faithful one. If the question is examined by this standard, perhaps it will appear that an election for two years is short enough for a representative in Congress. If one year is necessary for a representative to be useful in the state legislature, where the objects of his deliberations are local, and within his constant observation, two years do not appear too long, where the objects of deliberation are not confined to one state, but extend to thirteen states; where the complicated interests of united America are mingled with those of foreign nations; and where the great duties of national sovereignty will require his constant attention. When the representatives of the colony of Massachusetts were first chosen, the country was not settled more than twenty miles from Boston; they then held their offices for one year. The emigrants from Massachusetts, who settled on Connecticut River, appointed the representatives to meet in the General Court of that colony for only six months. Massachusetts, although her settlements have extended over almost her whole territory, has continued to depute representatives for only one year, and Connecticut for only six months; but as, in each of these colonies, when under the British government, the duties of the representatives were merely local, the great duties of sovereignty being vested in their king, so, since the revolution, their duties have continued local, many of the authorities of sovereignty being vested in Congress. It is now proposed to increase the powers of Congress; this will increase the duties of the representatives, and they must have a reasonable time to obtain the information necessary to a right discharge of their office.

It has been said that our ancestors never relinquished the idea of annual elections: this is an error. In 1643, the colonies of Plymouth, Massachusetts, Connecticut, and New Haven, united in a confederacy, which continued about forty years; each colony sent two commissioners as their representatives, and by the articles they were to be annually elected. About the year 1650, the General Court of Massachusetts instructed their commissioners to propose that the elections, instead of being annual, should be only once in three years. The alteration did not take place, but the anecdote proves that our ancestors have not had a uniform predilection for annual elections.

Mr. K. concluded by observing that, on a candid examination of this question, he presumed that the Constitution would not be objected to on account of the biennial election of the House of Representatives.

## Judge DANA

Mr. President, the feeble state of my health will not permit me to enter so largely into the debates of this house, as I should be otherwise inclined to do. The intention of my rising, at present, is to express my perfect acquiescence in the sentiments advanced by the honorable gentleman from Newburyport, [Mr. King,] in favor of *the expediency of biennial elections* of our federal representatives. From my own experience, I think them preferable to *annual* elections. I have, sir, seen gentlemen in Congress, and delegates from this state too, silting in that honorable body, without a voice; without power to open their mouths, or lift up their hands, when matters of the highest importance to their state have been under consideration. I have seen members in Congress, for the space of three months, without power, sir, waiting for evidence of their reduction. Besides, sir, that the *more frequent* elections are, the oftener states will be exposed to be deprived of their voice and influence in national councils. I think annual elections are too short for so extensive an empire. They keep the members always travelling about; and I am of opinion that elections for two years are in no way subversive of the liberties of the *people*. I, sir, am one of the people, thank God! and am happy in having an opportunity of expressing my personal satisfaction of such elections. For these and a variety of other reasons, Mr. D. suggested that he thought this state ought to be the first to adopt this method of elections.

## The Hon. Mr. WHITE

Still thought that Congress might perpetuate themselves, and so reign emperors over us.

## Hon. Mr. GORHAM

Observed, (in continuation of Mr. Dana's observation,) that there was not now a Congress; although the time of their meeting had considerably elapsed. Rhode Island, Connecticut, and several other states, had not gone on; that there was now only five states in Congress, when there ought to have been thirteen two months ago.

## Mr. CARNES

Rose to confirm it, and accordingly read part of a letter from the Hon. Mr. Otis, the purport of which was, that there was much business to do; that only five states were represented, and that the probability of Indian war, &c., evinced the great necessity of the establishment of an efficient federal government, which will be the result of the adoption of the proposed Constitution.

## Dr. TAYLOR

Rose to answer two objections which had been made against annual elections: The *distance of place* was not so great but the delegates might reach Philadelphia in a fortnight; and as they were answerable to the people for their conduct, he thought it would prevent a *vacancy*, and concluded by saying, he did not conceive the arguments in favor of *biennial* elections well founded.

A letter from the Hon. Elbridge Gerry, informing that he would attend the Convention, agreeable to their vote of yesterday, was received and read.

On motion of Mr. NASON, *Ordered*, That a committee be appointed to provide a more convenient place for the Convention to sit in.

# WEDNESDAY, *January* 16. —

The 2d part of the 2d section of the 3d article was read at the table a desultory conversation ensued on the mode of conducting the discussion; it was *again* agreed, that, in the debate on any paragraph, gentlemen might discuss any other part they might suppose had relation to that under consideration.

## Mr. PIERCE, (from Partridgefield,)

### Morally Bankrupt

After reading the 4th section, wished to know the opinion of gentlemen on it, as Congress appeared thereby to have a power to regulate the *time, place, and manner* of holding elections. In respect to the manner, said Mr. P., suppose the legislature of this state should prescribe that the choice of the federal representatives should be in the same manner as that of governor, — a majority of all the votes in the state being necessary to make it such, — and Congress should deem it an improper *manner*, and should order that it be as practised in several of the Southern States, where the highest number of votes make a choice; — have they not power by this section to do so? Again, as to the *place*, continues Mr. P., may not Congress direct that the election for Massachusetts shall be held in Boston? and if so, it is possible that, previous to the election, a number of the electors may meet, agree upon the eight delegates, and propose the same to a few towns in the vicinity, who, agreeing in sentiment, may meet on the day of election, and carry their list by a major vote. He did not, he said, say that this would be the case; but he wished to know if it was not a possible one. As the federal representatives, who are to form the democratical part of the general government, are to be a check on the representatives of the sovereignty, the senate, he thought the utmost caution ought to be used to have their elections as free as possible. He observed that, as men have ever been fond of power, we must suppose they ever will continue so; and concluded by observing, that our caution ought in the present case to be greater, as, by the proposed Constitution, no qualification of property was required in a representative; and it might be in the power of some people thereby to choose a bankrupt for a representative, in order to give such representatives employment, or that he might make laws favorable to such a description of the people.

## Gen. PORTER (from Hadley)

endeavored to obviate the objections of Mr. Pierce, by showing the almost *impossibility* of Congress making a law whereby eight men could be elected, as Mr. Pierce had supposed; and he thought it equally impossible for the people to choose a person to take care of their property, who had none himself.

## Mr. BISHOP

Rose, and observed that, by the 4th section, Congress would be enabled to control the elections of representatives. It has been said, says he, that this power was given in order that refractory states may be made to do their duty. But if so, sir, why was it not so mentioned? If that was the intention, he asked why the clause did not run thus: "The times, places, and manner of holding elections for senators and representatives, shall be prescribed in each state by the legislature thereof; but," *if any state shall refuse or neglect so to do*, "Congress may," &c. This, he said, would admit of no prevarication. I am, says Mr. B., for giving Congress as much power to do good as possible. It has been said, Mr. President, that the conduct of Rhode Island, in recalling its delegates from Congress, has demonstrated the necessity of such a power being lodged in Congress. I have been informed by people belonging to Rhode Island, sir, that that state never has recalled her delegates from Congress. I do not believe it has. And I call upon the gentleman who mentioned it to authenticate the fact.

# NOTE States as Bad Actors

## The Hon. Mr. KING

rose, and assured the Convention that the state of Rhode Island did, by a solemn resolution, some time since, recall its delegates from Congress.

## The Hon. Mr. GORHAM

Confirmed what Mr. K. had said, and added, that, during the session of the federal Convention, when seven states only were represented in Congress, application was made by two companies for the purchase of lands, the sale of which would have sunk seven or eight millions of dollars of the Continental debt, and the most pressing letters were sent on to Rhode Island to send on its delegates; but that state refused: the consequence was, the contract could not then be made.

## Mr. BISHOP

Confessed himself convinced of the fact. He proceeded to observe, that, if the states shall refuse to do their duty, then let the power be given to Congress to oblige them to do it. But if they do their duty, Congress ought not to have the power to control elections. In an uncontrolled representation, says Mr. B., lies the security of freedom; and he thought by these clauses, that that freedom was sported with. In fact, says he, the moment we give Congress this power, the liberties of the yeomanry of this country are at an end. But he trusted they would never give it; and he felt a consolation from the reflection.

The 4th section, which provides that the state legislatures shall prescribe the time, place, and manner of holding elections, and that Congress may at any time make or alter them, except in those of senators, [*though not in regular order*,] under deliberation.

## The Hon. Mr. STRONG

# Election attendance

Followed Mr. Bishop, and pointed out the necessity there is for the 4th section. The power, says he, to regulate the elections of our federal representatives must be lodged somewhere. I know of but two bodies wherein it can be lodged — *the legislatures of the several states, and the general Congress*, If the legislative bodies of the states, who must be supposed to know at what time, and in what place and manner, the elections can best be held, should so appoint them, it cannot be supposed that Congress, by the power granted by this section, will alter them; but if the legislature of a state should refuse to make such regulations, the consequence will be, that the representatives will not be chosen, and the general government will be dissolved. In such case, can gentlemen say that a power to remedy the evil is not necessary to be lodged somewhere? And where can it be lodged but in Congress? I will consider its advantage in another respect. We know, sir, that a negligence in the appointment of rulers is the characteristic of all nations. In this state, and since the establishment of our present constitution, the first officers of government have been elected by less than one tenth part of the electors of the state. We also know that our town meetings, for the choice of officers, are generally attended by an inconsiderable part of the qualified voters. People attend so much to their private interest, that they are apt to neglect this right. Nations have lost their liberties by neglecting their privileges; consequently Congress ought to have an interposing power to awaken the people when thus negligent. Even supposing, sir, the provisional clause suggested by the worthy gentleman from Norton should be added, would not Congress then be the judges whether the elections in the several states were constitutional and proper? If so, it will then stand on the same ground it now does. It appears evident that there must be a general power to regulate general elections. Gentlemen have said, the proposed Constitution was in some places ambiguous. I wish they would point out the particular instances of ambiguity, for my part, I think the whole of it is expressed in the plain, common language of mankind If any parts are not so explicit as they could be, it cannot be attributed to any design; for I believe a great majority of the men who formed it were sincere and honest men.

## Mr. BISHOP

Said the great difficulty with him was, that the power given by the 4th section was unlimited; and he did not yet see that any advantage would arise from its being so.

## Mr. CABOT, (of Beverly,)

Not having spoken upon the question of biennial elections of representatives, begged leave to revert to that subject, so far as to add to what had been said by others, that we should consider the particular business which that body will be frequently called upon to transact, especially in the way of revenue. We should consider that, on a question of supplies of money to support a war, or procure a treaty, it will be impossible for those representatives to judge of the expediency or inexpediency of such supplies, until they shall have had time to become acquainted with the general system of federal politics, in its connection or relation to foreign powers; because upon the situation of those must depend the propriety or impropriety of granting supplies. If to this be added a due attention to the easiest way of raising such supplies, it must appear that biennial elections are as frequent as is consistent with using the power of the representatives for the benefit of their constituents.

Mr. C. then turned to the 4th section, now under debate, and said, It gives me pain to see the anxiety of different gentlemen concerning this paragraph under consideration, as it evinces a conviction in their minds of what I believe to be true — *that a free and equal representation is the best, if not the only foundation upon which a free government can be built*; and, consequently, that the greatest care should be taken in laying it. I am, sir, one *of the people*; such I shall continue; and, with their feelings, I hold "that the *right* of electing persons to represent the *people* in the federal government, is an important and sacred right." The opinions that have been offered upon the manner in which the exercise of this right is provided for by the 4th section, satisfies me that we are all solicitous for the same end, and that we only differ as to the means of attaining it; and for my own part, I confess that I prize the 4th section as highly as any in the Constitution; because I consider the *democratic* branch of the national government, the branch chosen immediately for the people, as intended to be a *check* on the *federal* branch, which latter is not an immediate representation of the people of America, and is not chosen by them, but is a representation of the sovereignty of the individual states, and its members delegated by the several state legislatures; and if the state legislatures are suffered to regulate conclusively the elections of the democratic branch, they may, by such an interference, first weaken, and at last destroy, that check, they may at first diminish, and finally annihilate, that control of the general government, which the people ought always to have through their immediate representatives. As one of the *people*, therefore, I repeat, that, in my mind, the 4th section is to be as highly prized as any in the Constitution.

## Mr. PARSONS

Contended for vesting in Congress the powers contained in the 4th section, not only as those powers were necessary for preserving the union, but also for securing to the people their equal rights of election. He considered the subject very fully; but we are able to give our readers very imperfectly the heads of his speech. In the Congress, not only the sovereignty of the states is represented in the Senate, but, to balance their power, and to give the people a suitable and efficient check upon them, the federal representatives are introduced into Congress. The legislatures of the several states are the constituents of the Senate, and the people are the constituents of the Representatives. These two branches, therefore, have different constituents, and as they are designed as mutual checks upon each other, and to balance the legislative powers, there will be frequent struggles and contentions between them. The Senate will wish to control, depress, and render inefficient the Representatives; the same disposition in the Representatives towards the Senate, will produce the like exertions on their part. The Senate will call upon their constituents, the legislatures, for aid; the Representatives will look up to the people for support. If, therefore, the power of making and altering the regulations defined in this section, is vested absolutely in the legislature, the Representatives will very soon be reduced to an undue dependence upon the Senate, because the power of influencing and controlling the election of the representatives of the people, will be exerted without control by the constituents of the senators. He further observed, that there was much less danger in trusting these powers in Congress, than in the state legislatures. For if the federal representatives wished to introduce such regulations as would secure to them their places, and a continuance in office, the federal Senate would never consent, because it would increase the influence and check of the Representatives; and, on the other hand, if the Senate were aiming at regulations to increase their own influence by depressing the Representatives, the consent of the latter would never be obtained; and no other regulations would ever obtain the consent of both branches of the legislature, but such as did not affect their neutral rights and the balance of government; and those regulations would be for the benefit of the people. But a state legislature, under the influence of their senators, who would have their fullest confidence, or under the influence of ambitious or popular characters, or in times of popular commotion, and when faction and party spirit run high, would introduce such regulations as would render the rights of the people insecure and of little value. They might make an unequal and partial division of the states into districts for the election of representatives, or they might even disqualify one third of the electors. Without these powers in Congress, the people can have no remedy; but the 4th section provides a remedy, a controlling power in a legislature, composed of senators and representatives of twelve states, without the influence of our commotions and factions, who will hear impartially, and preserve and restore to the people their equal and sacred rights of election. Perhaps it then will be objected, that from the supposed opposition of interests in the federal legislature, they may never agree upon any regulations; but regulations necessary for the interests of the people can never be opposed to the interests of either of the branches of the federal legislature; because that the interests of the people require that the mutual powers of that legislature should be preserved unimpaired, in order to balance the government. Indeed, if the Congress could never agree on any regulations, then certainly no objection to the 4th section can remain; for the regulations introduced by the state legislatures will be the governing rule of elections, until Congress can agree upon alterations.

## Mr. WIDGERY

Insisted that we had a right to be jealous of our rulers, who ought never to have a power which they could abuse. The 4th section ought to have gone further; it ought to have had the provision in it mentioned by Mr. Bishop; there would then be a mutual check. And he still wished it to be further explained. The worthy gentleman contested the similitude made by the honorable gentleman from Newburyport, between the power to be given to Congress by the 4th section, to compel the states to send representatives, and the power given to the legislatures by our own constitution, to oblige towns to send representatives to the General Court, by observing that the case was materially different; as, in the latter, if any town refuses to send representatives, a power of *fining* such towns only is given. It is in vain. said Mr. Widgery, to say that rulers are not subject to passions and prejudices. In the late General Court, of which I was a member, I would willingly have deprived the three western counties from sending delegates to this house, as I *then* thought it necessary. But, sir, what would have been the consequence? A large part of the state would have been deprived of their dearest privileges. I mention this, sir, to show the force of passion and prejudice.

## The Hon. Mr. WHITE

Said, we ought to be jealous of rulers. All the godly men we read of have failed; nay, he would not trust a "flock of Moseses." If we give up this section, says he, there is nothing left. Suppose the Congress should say that none should be electors but those worth 50 or a £100 sterling; cannot they do it? Yes, said he, they can; and if any lawyer (alluding to Mr. Parsons) can beat me out of it, I will give him ten guineas.

## Col. JONES (of Bristol)

Thought, by this power to regulate elections, Congress might keep themselves in to all duration.

## The Rev. Mr. PERLEY

Wished Mr. Gerry might be asked some questions on this section. [But Mr. Gerry was not in the house.]

## Mr. J. C. JONES

Said, it was not right to argue the *possibility of the abuse of any measure* against its adoption. The power granted to Congress by the 4th section, says he, is a *necessary* power; it will provide against *negligence* and *dangerous designs*. The senators and representatives of this state, Mr. President, are now chosen by a small number of electors; and it is likely we shall grow equally negligent of our federal elections; or, sir, a state may *refuse* to send to Congress its representatives, as Rhode Island has done Thus we see its necessity.

To say that the power may be abused, is saying what will apply to all *power*. The federal representatives will represent *the people*; they will be *the people*; and it is not *probable* they will abuse themselves. Mr. J. concluded with repeating, that the arguments against this power could be urged against any power whatever.

## Dr. JARVIS

Many gentlemen have inferred from the right of regulating elections, by the 4th section, being invested in the federal head, that the powers of wresting this essential privilege from the people would be equally delegated. But it appeared to him, he said, that there is a very material distinction in the two cases; for, however possible it may be that this controlling authority may be abused, it by no means followed that Congress, in any situation, could strip the people of their right to a direct representation. If he could believe in this, he should readily join in sentiment with gentlemen on the other side of the house, that this section alone would be a sufficient objection to the Constitution itself. The right of election, founded on the principle of equality, was, he said, the basis on which the whole superstructure was erected; this right was inherent in the people; it was unalienable in its nature, and it could not be destroyed without presuming a power to subvert the Constitution, of which this was the principal; and by recurring to the 2d section, it would appear that "*representatives and direct taxes shall be apportioned among the several states according to their respective numbers*;" it equally appeared that 30,000 inhabitants were entitled to send a representative, and that wherever this number was found, they would have a right to be represented in the federal legislature. If it was argued that Congress might abuse their power, and, by varying the places of election, distress the people, it could only be observed, that such a wanton abuse could not be supposed; but, if it could go to the annihilation of the right, he contended the people would not submit. He considered the Constitution as an elective democracy, in which the sovereignty still rested in the people, and he by no means could believe that this article was so alarming in its nature, or dangerous in its tendency, as many gentlemen had supposed.

## Mr. HOLMES

In reply to Dr. Jarvis, said, the worthy gentleman's superstructure must fall to the ground; for the Constitution does not provide that every 30,000 shall send a representative, but that it shall not exceed one for every 30,000.

# THURSDAY, *January* 17. —

The 4th section still under deliberation.

## Hon. Mr. TURNER

# Paper Money

Mr. President, I am pleased with the ingenuity of some gentlemen in defence of this section. I am so impressed with the love of our liberty, so dearly bought, that I heartily acquiesce to compulsory laws, for the people ought to be obliged to attend to their interest. But I do not wish to give Congress a power which they can abuse; and I wish to know whether such a power is not contained in this section? I think it is. I now proceed, sir, to the consideration of an idea, that Congress may alter the place for choosing representatives in the general Congress: they may order that it may be at the extremity of a state, and, by their influence, may there prevail that persons may be chosen, who otherwise would not; by reason that a part of the qualified voters, in part of the state, would be so incommoded thereby, as to be debarred from their right as much as if they were bound at home. If so, such a circumstance would militate against the Constitution, which allows every man to vote. Altering the *place* will put it so far in the power of Congress, as that the representatives chosen will not be the true and genuine representatives of the people, but creatures of the Congress; and so far as they are so, so far are the people deprived of their rights, and the choice will be made in an irregular and unconstitutional manner. When this alteration is made by Congress, may we not suppose whose reëlection will be provided for? Would it not be for those who were chosen before? The great law of self-preservation will prevail. It is true, they might, one time in a hundred, provide for a friend; but most commonly for themselves. But, however honorable the Convention may be who proposed this article, I think it is a genuine power for Congress to perpetuate themselves — a power that cannot be unexceptionably exercised in any case whatever. Knowing the numerous arts that designing men are prone to, to secure their election and perpetuate themselves, it is my hearty wish that a rotation may be provided for. I respect and revere the Convention who proposed this Constitution. In order that the power given to Congress may be more palatable, some gentlemen are pleased to hold up the idea, that we may be blessed with sober, solid, upright men in Congress. I wish that we may be favored with such rulers; but I fear they will not all, if most, be the best moral or political characters. It gives me pain, and I believe it gives pain to others, thus to characterize the country in which I was born. I will endeavor to guard against any injurious reflections against my fellow-citizens. But they must have their true characters; and if I represent them wrong, I am willing to make concessions. I think that the operation of paper money, and the practice of privateering, have produced a gradual decay of morals; introduced pride, ambition, envy, lust of power; produced a decay of patriotism, and the love of commutative justice; and I am apprehensive these are the invariable concomitants of the luxury in which we are unblessedly involved, almost to our total destruction. In the lower ranks of people, luxury and avarice operate to the want of public duty and the payment of debts. These demonstrate the necessity of an energetic government. As people become more luxurious, they become more incapacitated for governing themselves. And are we not so? Alike people, alike prince. But suppose it should so happen, that the administrators of this Constitution should be preferable to the corrupt mass of the people, in point of manners, morals, and rectitude; power will give a keen edge to the principles I have mentioned. Ought we not, then, to put all checks and controls on governors for the public safety? Therefore, instead of giving Congress powers they may not abuse, we ought to withhold our hands from granting such as must be abused if exercised. This is a general observation. But to the point; at the time of the restoration, the people of England were so vexed and worn down by the *anarchical* and confused state of the nation, owing to the commonwealth not being well digested, that they took an opposite career; they run mad with loyalty, and would have given Charles any thing he could have asked. Pardon me, sir, if I say I feel the want of an energetic government, and the dangers to which this dear country is reduced, as much as any citizen of the United States; but I cannot prevail on myself to adopt a government which wears the face of power, without examining it. Relinquishing a *hair's breadth* in a constitution, is a great deal; for by small degrees has liberty, in all nations, been wrested from the hands of the people. I know great powers are necessary to be given to Congress, but I wish they may be well guarded.

## Judge SUMNER

Remarking on Gen. Thompson's frequent exclamation of "*O my country!*" expressed from an apprehension that the Constitution would be adopted, said, that expression might be used with great propriety, should this Convention reject it. The honorable gentleman then proceeded to demonstrate the necessity of the 4th section; the absurdity of the supposition that Congress would remove the places of election to remote parts of the states; combated the idea that Congress would, when chosen, act as bad as possible; and concluded by asking, if a war should take place, (and it was supposable,) if France and Holland should send an army to collect the millions of livres they have lent us in the time of our distresses, and that army should be in possession of the seat of government of any particular state, (as was the case when Lord Cornwallis ravaged Carolina,) and that the state legislature could not appoint electors, — is not a power to provide for such elections necessary to be lodged in the general Congress?

## Mr. WIDGERY

Denied the statement of Dr. Jarvis (that every 30,000 persons can elect one representative) to be just, as the Constitution provides that the number *shall not exceed* one to every 30,000; it did not follow, he thought, that the 30,000 shall elect one. But, admitting that they have a right to choose one, — we will suppose Congress should order an election to be in Boston in January, and from the scarcity of money, &c., not a fourth part could attend; would not three quarters of the people be deprived of their right?

## Rev. Mr. WEST

I rise to express my astonishment at the arguments of some gentlemen against this section. They have only started *possible* objections. I wish the gentlemen would show us that what they so much deprecate is *probable*. Is it probable that we shall choose men to ruin us? Are we to object to all governments? and because power *may* be abused, shall we be reduced to anarchy and a state of nature? What hinders our state legislatures from abusing their powers? They may violate the Constitution; they may levy taxes oppressive and intolerable, to the amount of all our property. An argument which proves too much, it is said, proves nothing. Some say Congress may remove the place of elections to the state of South Carolina. This is inconsistent with the words of the Constitution, which says, "*that the elections, in each state, shall be prescribed by the legislature thereof*," &c., and that representation be apportioned according to numbers; it will frustrate the end of the Constitution, and is a reflection on the gentlemen who formed it. Can we, sir, suppose them so wicked, so vile, as to recommend an article so dangerous? Surely, gentlemen who argue these *possibilities*, show they have a very weak cause. That we may all be free from passions, prepossessions, and party spirit, I sincerely hope; otherwise, reason will have no effect. I hope there are none here but who are open to conviction, as it is the surest method to gain the suffrage of our consciences. The honorable gentleman from Scituate has told us that the people of England, at the restoration, *on account of the inconveniences of the confused state of the commonwealth, run mad with loyalty*. If the gentleman means to apply this to us, we ought to adopt this Constitution; for if the people are *running mad* after an energetic government, it is best to stop now, as by this rule they may run farther, and get a worse one; therefore the gentleman's arguments turn right against himself. Is it possible that imperfect men can make a perfect constitution? Is it possible that a frame of government can be devised by such weak and frail creatures, but what must savor of that weakness? Though there are some things that I do not like in this Constitution, yet I think it necessary it should he adopted. For may we not rationally conclude, that the persons we shall choose to administer it will be, in general, good men?

## Gen. THOMPSON.

Mr. President, I have frequently heard of the abilities of the learned and reverend gentleman last speaking, and now I am witness to them; but, sir, one thing surprises me: it is, to hear the worthy gentleman insinuate that our federal rulers would undoubtedly be *good men*, and that, therefore, we have little to fear from their being intrusted with all power. This, sir, is quite contrary to the common language of the clergy, who are continually representing mankind as reprobate and deceitful, and that we really grow worse and worse day after day. I really believe we do, sir, and I make no doubt to prove it before I sit down, and from the Old Testament. When I consider the man that slew the lion and the bear, and that he was a man after *God's own heart*, — when I consider his son, blessed with *all wisdom*, and the errors they fell into, — I extremely doubt the infallibility of human nature. Sir, I suspect my own heart, and I shall suspect our rulers.

## Dr. HOLTON

Thought this paragraph necessary to a complete system of government. [*But the honorable gentleman spoke so low that he could not be heard distinctly throughout*.]

## Capt. SNOW

It has been said, Mr. President, that there is too much power delegated to Congress by the section under consideration. I doubt it; I think power the hinge on which the whole Constitution turns. Gentlemen have talked about Congress moving the place of election from Georgia to the Mohawk River; but I never can believe it. I will venture to conjecture we shall have some honest men in our Congress. We read that there were two who brought a *good report* — Caleb and Joshua. Now, if there are but two in Congress who are honest men, and Congress should attempt to do what the gentlemen say they will, (which will be *high treason*,) they will bring a *report* of it; and I stand ready to leave my wife and family, sling my knapsack, travel westward, to cut their heads off. I, sir, since the war, have had commerce with six different nations of the globe; I have inquired in what estimation America is held; and if I may believe good, honest, credible men, I find this country held in the same light, by foreign nations, as a well-behaved negro is in a gentleman's family. Suppose, Mr. President, I had a chance to make a good voyage, but I tie my captain up to such strict orders, that he can go to no other island to sell my cargo, although there is a certainty of his doing well; the consequence is, he returns, but makes a bad voyage, because he had not power enough to act his judgment; (for honest men do right.) Thus, sir, Congress cannot save us from destruction, because we tie their hands, and give them no power; (I think people have lost their privileges by not improving them;) and I like this power being vested in Congress as well as any paragraph in the Constitution; for, as the man is accountable for his conduct, I think there is no danger. Now, Mr. President, to take all things into consideration, something more must be said to convince me to the contrary.

[Several other gentlemen went largely into the debate on the 4th section, which those in favor of it demonstrated to be necessary; first, as it may be used to correct a negligence in elections; secondly, as it will prevent the dissolution of the government by designing and refractory states; thirdly, as it will operate as a check, in favor of the people, against any designs of the federal Senate, and their constituents, the state legislatures, to deprive the people of their right of election; and fourthly, as it provides a remedy for the evil, should any state, by invasion, or other cause, not have it in its power to appoint a place, where the citizens thereof may meet to choose their federal representatives. Those. against it urged that the power is unlimited and unnecessary.]

[The committee appointed to provide a more suitable place for the Convention to sit in, reported that the meeting-house in Long Lane, in Boston, was prepared for that purpose; whereupon, Voted, That when this Convention adjourn, they will adjourn to that place.]

*Afternoon*. — The second paragraph of the 2d section of the 1st article was reverted to, and some debate had thereon.

## Gen. THOMPSON

Thought that there should have been some *qualification of property* in a representative; for, said he when men have *nothing to lose*, they have *nothing to fear*.

## Hon. Mr. SEDGWICK

Said, that this *objection* was founded on an anti-democratical principle, and was surprised that gentlemen who appeared so strenuously to advocate the rights of the people, should wish to exclude from the federal government a *good* man, because he was not a *rich* one.

## Mr. KING

Said, that gentlemen had made it a question, why a qualification of property in a representative is omitted, and that they thought the provision of such a qualification necessary. He thought otherwise; he never knew that *property* was an index to abilities. We often see men, who, though destitute of property, are superior in knowledge and rectitude. The men who have most injured the country have most commonly been rich men. Such a qualification was proposed in Convention; but by the delegates of Massachusetts it was contested that it should not obtain. He observed, that no such qualification is required by the Confederation. In reply to Gen. Thompson's question, why disqualification of age was not added, the honorable gentleman said, that it would not extend to all parts of the continent alike. Life, says he, in a great measure, depends on climate. What in the Southern States would be accounted *long life*, would be but the *meridian* in the Northern; what here is the time of *ripened judgment* is *old age* there. Therefore the want of such a disqualification cannot be made an objection to the Constitution.

The third paragraph of the 2d section being read,

## Mr. KING

### Welfare

Rose to explain it. There has, says he, been much misconception of this section. It is a principle of this Constitution, that representation and taxation should go hand in hand. This paragraph states that the number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three fifths of all other persons. These persons are the *slaves*. By this rule are representation and taxation to be apportioned. And it was adopted, because it was the language of all America. According to the Confederation, ratified in 1781, the sums for the general welfare and defence should be apportioned according to the surveyed lands, and improvements thereon, in the several states; but that it hath never been in the power of Congress to follow that rule, the returns from the several states being so very imperfect.

## Dr. TAYLOR

Thought that the number of members to be chosen for the House of Representatives was too small. The whole Union was entitled to send but 65; whereas, by the old Confederation, they send 91 — a reduction of 30 per cent. He had heard it objected, that, if a larger number was sent, the house would be unwieldy. He thought our House of Representatives, which sometimes consists of 150, was not unwieldy; and if the number of the federal representatives was enlarged to twice 65, he thought it would not be too large. He then proceeded to answer another objection, "that an increase of numbers would be an increase of expense," and by calculation demonstrated that the salaries of the full number he wished, would, in a year, amount only to £2,980, about one penny on a poll; and by this increase, he thought every part of the commonwealth would be represented. The distresses of the people would thereby be more fully known and relieved.

## Mr. WIDGERY

Asked, if a boy of six years of age was to be considered as a free person.

## Mr. KING

in answer, said, all persons born free were to be considered as freemen; and, to make the idea of *taxation by numbers* more intelligible, said that *five negro children* of South Carolina are to pay as much tax as the three governors of New Hampshire, Massachusetts, and Connecticut.

## Mr. GORHAM

Thought the proposed section much in favor of Massachusetts; and if it operated against any state, it was Pennsylvania, because they have more *white persons bound* than any other. Mr. G. corrected an observation of Dr. Taylor's that the states now send 91 delegates to Congress; which was not the case. The states do not, he said, send near the number, and instanced Massachusetts, which sends but four. He concluded by saying that the Constitution provides for an increase of members as numbers increase, and that in fifty years there will be 360; in one hundred years, 14 or 1500, if the Constitution last so long.

## Judge DANA

remarking on the assertions of Dr. Taylor, that the *number of representatives* was too small; that the whole Union was now entitled to send but 65, whereas by the Confederation they might send 91, — a reduction of 30 per cent., — said, if the Constitution under consideration was in fact what its opposers had often called it, a consolidation of the states, he should readily agree with that gentleman that the representation of the people was much too small; but this was a charge brought against it without any foundation in truth. So far from it, that it must be apparent to every one, that the federal government springs out of, and can alone be brought into existence by, the state governments. Demolish the latter, and there is an end of the former. Had the Continental Convention, then, doubled the representation, agreeably to that gentleman's ideas, would not the people of this Commonwealth have been the first to complain of it as an unnecessary burden laid upon them — that, in addition to their own domestic government, they have been charged with the support of so numerous a national government? Would they not have contended for the demolition of the one or the other, as being unable to support both? Would they have been satisfied by being told that doubling the representation would yearly amount only "to about one penny upon a poll"? Does not the gentleman know that the expense of our own numerous representation has excited much ill-will against the government? Has he never heard it said among the people that our public affairs would be as well conducted by half the number of representatives? If he has not, I have, sir, and believe it to be true. But the gentleman says that there is a reduction of 30 per cent. in the federal representation, as the whole Union can send but 65, when under the Confederation they may send 91. The gentleman has not made a fair calculation. For, if to the 65 representatives under the proposed Constitution we add 2 senators from each state, amounting to 26 in all, we shall have the same number, 91; so that in this respect there is no difference. Besides, this representation will increase with the population of the states, and soon become sufficiently large to meet that gentleman's ideas. I would just observe, that by the Confederation this state has a right to send seven members to Congress; yet, although the legislature hath sometimes chosen the whole number, I believe at no time have they had, or wished to have, more than four of them actually in Congress. Have any ill consequences arisen from this small representation in the national council? Have our liberties been endangered by it? No one will say they have. The honorable gentleman drew a parallel between the Eastern and Southern States, and showed the injustice done the former by the present mode of apportioning taxes, according to surveyed land and improvements, and the consequent advantage therefrom to the latter, their property not lying in improvements, in buildings, &c.

In reply to the remark of some gentlemen, that the Southern States were favored in this mode of apportionment, by having five of their *negroes* set against *three persons* in the Eastern, the honorable judge observed, that the *negroes* of the Southern States work no longer than when the eye of the driver is on them. Can, asked he, that land nourish like this, which is cultivated by the hands of freemen? and are not *three* of these independent freemen of more real advantage to a state than *five* of those poor slaves? As a friend to equal taxation, he rejoiced that an opportunity was presented, in this Constitution, to change this unjust mode of apportionment. Indeed, concluded he, from a survey of every part of the Constitution, I think it the best that the wisdom of men could suggest.

## Mr. NASSON

Remarked on the statement of the Hon. Mr King, by saying that the honorable gentleman should have gone further, and shown us the other side of the question. It is a good rule that works both ways; and the gentleman should also have told us, that *three of our infants in the cradle* are to be rated as *five of the working negroes* of Virginia. Mr. N. adverted to a statement of Mr. King, who had said that five negro children of South Carolina were equally ratable as three governors of New England, and wished, he said, the honorable gentleman had considered this question upon the other side, as it would then appear that this state will pay as great a tax for three children in the cradle, as any of the Southern States will for five hearty, working negro men. He hoped, he said, while we were making a new government, we should make it better than the old one; for, if we had made a bad bargain before, as had been hinted, it was a reason why we should make a better one now.

## Mr. RANDALL

Begged leave to answer a remark of the Hon. Mr. Dana, which, he thought, reflected on the barrenness of the Southern States. He spoke from his own personal knowledge, be said, and be could say, that the land in general, in those states, was preferable to any he ever saw.

## Judge DANA

Rose to set the gentleman right; he said it was not the *quality of* the land he alluded to, but the manner of tilling it that he alluded to.

# FRIDAY, *January* 18. —

The third paragraph of the 2d section of article one still under consideration.

## Hon. Mr. DALTON

opened the conversation with some remarks on Mr. Randall's positive assertions of the fertility of the Southern States; who said, from his own observation, and from accounts he had seen, which were better, he could say, that the gentleman's remark was not perfectly accurate. The honorable gentleman showed why it was not so, by stating the inconsiderable product of the land, which, though it might in part be owing to the faithlessness and ignorance of the slaves who cultivate it, he said, was in a greater measure owing to the want of heart in the soil.

## Mr. RANDALL.

Mr. President, I rise to make an observation on the suggestion of the honorable gentleman from Newbury. I have, sir, travelled into the Southern States, and should be glad to compare our knowledge on the subject together. In Carolina, Mr. President, if they don't get more than twenty or thirty bushels of corn from an acre, they think it a small crop. On the low lands they sometimes get forty. I hope, sir, these great men of eloquence and learning will not try to *make* arguments to make this Constitution go down, right or wrong. An old saying, sir, is, that "a good thing don't need praising;" but, sir, it takes the best men in the state to gloss this Constitution, which they say is the best that human wisdom can invent. In praise of it we hear the reverend clergy, the judges of the Supreme Court, and the ablest lawyers, exerting their utmost abilities. Now, sir, suppose all this artillery turned the other way, and these great men would speak half as much against it, we might complete our business and go home in forty-eight hours. Let us consider, sir, we are acting for the people, and for ages unborn; let us deal fairly and above board. Every one comes here to discharge his duty to his constituents, and I hope none will be biased by the best orators; because we are not acting for ourselves. I think Congress ought to have power, such as is for the good of the nation; but what it is, let a more able man than I tell us.

## 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. D. said, the paragraph in debate related only to the *rule* of apportioning internal taxes; but the gentleman had gone into a consideration of the question, whether Congress should have the power of laying and collecting such *taxes*; which, he thought, would be more properly discussed under the section relative to the *powers* of Congress; but as objections had been suggested, the answers might be hinted as we went along. By the old articles, said he, Congress have a right to ascertain what are necessary for the Union, and to appropriate the same, but have no authority to draw such moneys from the states. The states are under an *honorary* obligation to raise the moneys; but Congress cannot compel a compliance with the obligation. So long as we withhold that authority from Congress, so long we may be said to give it to other nations. Let us contemplate the loan we have made with the Dutch. Our ambassador has bound us all, jointly and severally, to pay the money borrowed. When pay-day shall come, how is the money to be raised? Congress cannot collect it. If any one state shall disobey a requisition, the Dutch are left, in such a case, to put their own demand in force for themselves. They must raise by arms what we are afraid Congress shall collect by the law of peace. There is a prejudice, said Mr. Dawes, against direct taxation, which arises from the manner in which it has been abused by the errors of the old Confederation. Congress had it not in their power to draw a revenue from commerce, and therefore multiplied their requisitions on the states. Massachusetts, willing to pay her part, made her own trade law, on which the trade departed to such of our neighbors as made no such impositions on commerce; thus we lost what little revenue we had, and our only course was, to a direct taxation. In addition to this, foreign nations, knowing this inability of Congress, have on that account been backward in their negotiations, and have lent us money at a premium which bore some proportion to the risk they had of getting payment; and this extraordinary expense has fallen at last on the land.

Some gentlemen have said, that Congress may draw their revenue wholly by direct taxes; but they cannot be induced so to do; it is easier for them to have resort to the impost and excise; but as it will not do to overburden the impost, (because that would promote smuggling, and be dangerous to the revenue,) therefore Congress should have the power of applying, in extraordinary cases, to direct taxation. War may take place, in which case it would not be proper to alter those appropriations of impost which may be made for peace establishments. It is inexpedient to divert the public funds; the power of direct taxation would, in such circumstances, be a very necessary power. As to the rule of apportioning such taxes, it must be by the quantity of lands, or else in the manner laid down in the paragraph under debate. But the quantity of lands is an uncertain rule of wealth. Compare the lands of different nations of Europe, some of them have great comparative wealth and less quantities of lands, whilst others have more land and less wealth. Compare Holland with Germany. The rule laid down in the paragraph is the best that can be obtained for the apportionment of the little direct taxes which Congress will want.

*Afternoon. —* Messrs. King, Gore, Parsons, and Jones, of Boston, spoke of the advantage to the *Northern States* the rule of apportionment in the third paragraph (still under debate) gave to them; as also the

## Hon. Judge DANA,

The sketch of whose speech is as follows: —

The learned judge began with answering some objections to this paragraph, and urging the necessity of Congress being vested with power to levy *direct taxes* on the states, and it was not to be supposed that they would levy such, unless the impost and excise should be found insufficient in case of a war. If, says he, a part of the Union is attacked by a foreign enemy, and we are disunited, how is it to defend itself? Can it by its own internal force? In the late war, this state singly was attacked, and obliged to make the first defence. What has happened may happen again. The state oppressed must exert its whole power, and bear the whole charge of the defence; but common danger points out for common exertion; and this Constitution is excellently designed to make the danger equal. Why should one state expend its blood and treasure for the whole? Ought not a controlling authority to exist, to call forth, if necessary, the whole force and wealth of all the states? If disunited. the time may come when we may be attacked by our natural enemies. Nova Scoria and New Brunswick, filled with tories and refugees, stand ready to attack and devour these states, one by one. This will be the case, if we have no power to draw forth the wealth and strength of the whole, for a defence of a part. Then shall we, continued the honorable gentleman, see, but too late, the necessity of a power being vested somewhere, that could command that wealth and strength when wanted. I speak with earnestness, said he, but it is for the good of my native country. By God and nature made equal, it is with remorse I have heard it suggested by some, that those gentlemen who have had the superior advantages of education, were enemies to the rights of their country. Are there any among this honorable body, who are possessed of minds capable of such narrow prejudices? If there are, it is in vain to reason with them; we had better come to a decision, and go home.

After dilating on this matter a short time, the learned judge begged gentlemen to look around them, and see who were the men that composed the assembly. Are they not, he asked, men who have been foremost in the cause of their country, both in the cabinet and in the field? and who, with halters about their necks, boldly and intrepidly advocated the rights of America, and of humanity, at home and in foreign countries? And are they not to be trusted? Direct *taxation* is a tremendous idea; but may not necessity dictate it to bo unavoidable? We all wish to invest Congress with more power. We disagree only in the quantum, and manner, in which Congress shall levy taxes on the states. A capitation tax is abhorrent to the feelings of human nature, and, I venture to trust, will never be adopted by Congress. The learned judge pointed out, on various grounds, the utility of the power to be vested in the Congress, and concluded by observing, that the proposed Constitution was the best that could be framed; that, if adopted, we shall be a great and happy nation; if rejected, a weak and despised one; we shall fall as the nations of ancient times have fallen; that this was his firm belief; and, said he, I would rather be annihilated than give my voice for, or sign my name to, a constitution which in the least should betray the liberties or interests of my country.

## Mr. WIDGERY.

I hope, sir, the honorable gentleman will not think hard of it, if we ignorant men cannot see as clear as he can. The strong must bear with the infirmities of the weak; and it must be a weak mind indeed that could throw such illiberal reflections against gentlemen of education, as the honorable gentleman complains of. To return to the paragraph. If Congress, continued Mr W., have this power of taxing directly, it will be in their power to enact a poll tax. Can gentlemen tell why they will not attempt it, and by this method make the poor pay as much as the rich?

## Mr. DENCH

Was at a loss to know how Congress could levy the tax, in which he thought the difficulty of money consisted; yet had no doubt but that Congress would direct that these states should pay it *in their own way*.

## The Hon. Mr. FULLER

Begged to ask Mr. Gerry, "why, in the last requisition of Congress, the portion required of this state was thirteen times as much as of Georgia; and yet we have but eight representatives in the general government, and Georgia has three." Until this question was answered, he was at a loss to know how taxation and representation went hand in hand.

[It was then voted that this question be asked Mr. Gerry. A long and desultory debate ensued on the manner in which the answer should be given: it was at last voted that Mr. G. reduce his answer to writing.]

# SATURDAY, *January* 19, 1788, A. M. —

## 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.

## Gen. BROOKS, (of Medford.) —

If good men are appointed, government will be administered well. But what will prevent bad men from mischief, is the question. If there should be such in the Senate, we ought to be cautious of giving power; but when that power is given, with proper checks, the danger is at an end. When men are answerable, and within the reach of responsibility, they cannot forget that their political existence depends upon their good behavior. The Senate can frame no law but by consent of the Representatives, and is answerable to that house for its conduct. If that conduct excites suspicion, they are to be impeached, punished, (or prevented from holding any office, which is great punishment.) If these checks are not sufficient, it is impossible to devise such as will be so.

[Mr. Gerry's answer to Mr. Fuller's question was read. The purport is, that Georgia had increased in its numbers by emigration; and if it had not then, would soon be entitled to the proportion assigned her.]

## Hon. Mr. KING.

It so happened that I was both of the Convention and Congress at the same time; and if I recollect right, the answer of Mr. G. does not materially vary. In 1778, Congress required the states to make a return of the houses and lands surveyed; but one state only complied therewith — New Hampshire. Massachusetts did not. Congress consulted no rule: it was resolved that the several states should be taxed according to their ability, and if it appeared any state had paid more than her just quota, it should be passed to the credit of that state, with lawful interest.

## Mr. DALTON

said we had obtained a great deal by the new Constitution. By the Confederation each state had an equal vote. Georgia is now content with three eighths of the voice of Massachusetts.

## Col. JONES, (of Bristol,)

Objected to the length of time. If men continue in office four or six years, they would forget their dependence on the people, and be loath to leave their places. Men elevated so high in power, they would fall heavy when they came down.

## Mr. AMES

Observed, that an objection was made against the Constitution, because the senators are to be chosen for *six years*. It has been said, that they will be removed too far from the control of the people, and that, to keep them in proper dependence, they should be chosen annually. It is necessary to premise, that no argument against the new plan has made a deeper impression than this, that it will produce a consolidation of the states. This is an effect which all good men will deprecate. For it is obvious, that, if the state powers are to be destroyed, the representation is too small. The trust, in that case, would be too great to be confided to so few persons. The objects of legislation would be so multiplied and complicated, that the government would be unwieldy and impracticable. The state governments are essential parts of the system, and the defence of this article is drawn from its tendency to their preservation. The *senators* represent the *sovereignty of the states*; in the other house, individuals are represented. The Senate may not originate bills. It need not be said that they are principally to direct the affairs of wars and treaties. They are in the quality of ambassadors of the states, and it will not be denied that some permanency in their office is necessary to a discharge of their duty. Now, if they were chosen yearly, how could they perform their trust? If they would be brought by that means more immediately under the influence of the people, then they will represent the state legislatures less, and become the representatives of individuals. This belongs to the other house. The absurdity of this, and its repugnancy to the federal principles of the Constitution, will appear more fully, by supposing that they are to be chosen by the people at large. If there is any force in the objection to this article, this would be proper. But whom, in that case, would they represent? — Not the legislatures of the states, but the people. This would totally obliterate the federal features of the Constitution. What would become of the state governments, and on whom would devolve the duty of defending them against the encroachments of the federal government? A consolidation of the states would ensue, which, it is conceded, would subvert the new Constitution, and against which this very article, so much condemned, is our best security. Too much provision cannot be made against a consolidation. The state governments represent the wishes, and feelings, and local interests, of the people. They are the safeguard and ornament of the Constitution; they will protract the period of our liberties; they will afford a shelter against the abuse of power, and will be the natural avengers of our violated rights.

A very effectual *check* upon the power of the Senate is provided. A third part is to retire from office every two years. By this means, while the senators are seated for six years, they are admonished of their responsibility to the state legislatures. If one third new members are introduced, who feel the sentiments of their states, they will awe that third whose term will be near expiring. This article seems to be an excellence of the Constitution, and affords just ground to believe that it will be, in practice as in theory, a *federal* republic.

*Afternoon*. — The third section respecting the *construction of the Senate* under debate, —

## Col. JONES

Said his objections still remained — that *senators* chosen for so long a time will forget their duty to their constituents. We cannot, said he, recall them. The choice of representatives was too long; the Senate was much worse; it is, said he, a bad precedent, and is unconstitutional.

## Mr. KING

said, as the Senate preserved the equality of the states, their appointment is equal. To the objection to this branch, that it is chosen for too long a period, he observed, if the principle of classing them is considered, although it appears long, it will not be found so long as it appears. One class is to serve two years, another four years, and another *six years*; the average, therefore, is four years. The senators, said Mr. K., will have a powerful check in those men who wish for their seats, who will watch their whole conduct in the general government, and will give the alarm in case of misbehavior. And the state legislatures, if they find their delegates erring, can and will instruct them. Will not this be a check? When they hear the voice of the people solemnly dictating to them their duty, they will be bold men indeed to act contrary to it. These will not be *instructions* sent them in a private letter, which can be put in their pockets; they will be public instructions, which all the country will see, and they will be hardy men indeed to violate them. The honorable gentleman said, the powers to control the Senate are as great as ever was enjoyed in any government; and that the members, therefore, will be found not to be chosen for too long a time. They are, says he, to assist the executive in the designation and appointment of officers; and they ought to have time to mature their judgments. If for a shorter period, how can they be acquainted with the rights and interests of nations, so as to form advantageous treaties? To understand these rights is the business of education. Their business being naturally different, and more extensive, than the other branch, they ought to have different qualifications; and their duration is not too long for a right discharge of their duty.

## Dr. TAYLOR

Said, he hoped the honorable gentleman did not mean to deceive us, by saying, that the Senate are not to be chosen for six years; for they really are to be chosen for six years; and as to the idea of classing, he did not know who, when chosen for that time, would go out at a shorter. He remarked on Mr. King's idea of checks, and observed, that such indeed were the Articles of Confederation, which provide for delegates being chosen annually; for rotation, and the right of recalling. But in this, they are to be chosen for six years; but a shadow of rotation provided for, and no power to recall; and concluded by saying, that if they are once chosen, they are chosen forever.

## Mr. STRONG

Mentioned the difficulty which attended the construction of the Senate in the Convention; and that a committee, consisting of one delegate from each state, was chosen to consider the subject, who reported as it now stands; and that Mr. Gerry was on the committee from Massachusetts.

## Mr. GERRY

Rose, and informed the president that he was then preparing a letter on the subject in debate; and would set the matter in its true light; and which he wished to communicate. This occasioned considerable conversation, which lasted until the Convention adjourned.

# MONDAY, *January* 21. —

Fourth section considered in its order.

## Mr. AMES

Rose to answer several *objections*. He would forbear, if possible, to go over the ground which had been already well trodden. The fourth section had been, he said, well discussed, and he did not mean to offer any formal argument or new observations upon it. It had been said, the power of regulating *elections* was given to Congress. He asked, if a motion was brought forward in Congress, on that particular, subjecting the states to any inconvenience, whether it was probable such a motion could obtain. It has been also said, that our federal legislature would endeavor to perpetuate themselves in office; and that the love of power was predominant. Mr. Ames asked how the gentlemen prevailed on themselves to trust the state legislature. He thought it was from a degree of confidence that was placed in them. At present we trust Congress with power; nay, we trust the representatives of Rhode Island and Georgia. He thought it was better to trust the general government than a foreign state. Mr. A. acknowledged he came with doubts of the fourth section. Had his objections remained, he would have been obliged to vote against the Constitution; but now he thought, if all the Constitution was as clear as this section, it would meet with little opposition.

## Judge DANA.

# Corporations

This section, Mr. President, has been subject to much dispute and difficulty. I did not come here approving of every paragraph of this Constitution. I supposed this clause dangerous; it has been amply discussed; and I am now convinced that this paragraph is much better as it stands, than with the amendment, which is, that Congress be restricted in the appointing of "*time, place*, &c.," unless when the state legislatures refuse to make them. I have altered my opinion on this point; these are my reasons: — It is apparent, the intention of the Convention was to set Congress on a different ground; that a part should proceed directly from the people, and not from their substitutes, the legislatures; therefore the legislature ought not to control the elections. The legislature of Rhode Island has lately formed a plan to alter their representation to corporations, which ought to be by numbers. Look at Great Britain, where the injustice of this mode is apparent. Eight tenths of the people there have no voice in the elections. A borough of but two or three cottages has a right to send two representatives to *Parliament*, while Birmingham, a large and populous manufacturing town, lately sprung up, cannot send one. The legislature of Rhode Island are about adopting this plan, in order to deprive the towns of Newport and Providence of their weight, and that thereby the legislature may have a power to counteract the will of a majority of the people.

## Mr. COOLEY (of Amherst)

Thought Congress, in the present instance, would, from the powers granted by the Constitution, have authority to control elections, and thereby endanger liberty.

## Dr. TAYLOR

Wished to ask the gentleman from Newburyport, whether the two branches of Congress could not agree to play into each other's hands; and, by making the *qualifications* of electors £100 by their power of regulating elections, fix the matters of elections so as to keep themselves in.

## Hon. Mr. KING

### The Use of Corporations

Rose to pursue the inquiry why the "*place and manner*" of holding elections were omitted in the section under debate. It was to be observed, he said, that, in the Constitution of Massachusetts and other states, the *manner and place* of elections were provided for; the manner was by ballot, and the places, towns; for, said he, we happened to settle originally in townships. But it was different in the Southern States: he would mention an instance. In Virginia, there are but fifteen or twenty towns, and seventy or eighty counties; therefore no rule could be adopted to apply to the whole. If it was practicable, he said, it would be necessary to have a district the fixed place; but this is liable to exceptions; as a district that may now be fully settled, may in time be scarcely inhabited; and the back country, now scarcely inhabited, may be fully settled. Suppose this state thrown into eight *districts*, and a member apportioned to each; if the numbers increase, the representatives and districts will be increased. The matter, therefore, must be left subject to the regulation of the state legislature, or the general government. Suppose the state legislature, the circumstances will be the same. It is truly said, that our representatives are but a part of the Union; that they may be subject to the control of the rest; but our representatives make a ninth part of the whole; and if any authority is vested in Congress, it must be in our favor. But to the subject. In Connecticut they do not choose by numbers, but by corporations. Hartford, one of their largest towns, sends no more delegates than one of their smallest corporations, each town sending two, except latterly, when a town was divided. The same rule is about to be adopted in Rhode Island. The inequality of such representation, where every corporation would have an equal right to send an equal number of representatives, was apparent. In the Southern States, the inequality is greater. By the constitution of South Carolina, the city of Charleston has a right to send thirty representatives to the General Assembly; the whole number of which amounts to two hundred. The back parts of Carolina have increased greatly since the adoption of their constitution, and have frequently attempted an alteration of this unequal mode of representation; but the members from Charleston, having the balance so much in their favor, will not consent to an alteration; and we see that the delegates from Carolina in Congress have always been chosen by the delegates of that city. The representatives, therefore, from that state, will not be chosen *by the people*, but will be the representatives of a faction of that state. If the general government cannot control in this case, how are the people secure? The idea of the honorable gentleman from Douglass, said he, transcends my understanding; for the power of control given by this section extends to the *manner* of election, not the *qualifications* of the electors. The qualifications are age and residence, and none can be preferable.

On motion, *Resolved*, as follows, viz.: —

Whereas there is a publication in "The Boston Gazette, and the Country Journal," of this day, as follows, viz.: —

# "Bribery and Corruption!!!

"The most diabolical plan is on foot to corrupt the members of the Convention, who oppose the adoption of the new Constitution. Large sums of money have been brought from a neighboring state for that purpose, contributed by the wealthy. If so, is it not probable there may be collections for the same accursed purpose nearer home?

"CENTINEL."

*Resolved*, That this Convention will take measures for inquiring into the subject of the said publication, and for ascertaining the truth or falsehood of the suggestion therein contained.

*Ordered*, That the messenger be directed to request the printers of the said Gazette to appear before this Convention forthwith, to give information respecting the said publication.

*Afternoon*. — The messenger informed the Convention that he had acquainted the printers of the Boston Gazette, &c., of the order of the forenoon respecting them, and was answered that one of them would attend the convention this afternoon.

A letter from Messrs. Benjamin Edes and Son, printers of the Boston Gazette, &c., relative to the publication entered this morning. Read, and committed to Mr. Parsons, Mr. Nasson, Mr. Gorham, Mr. Widgery, Mr. Porter, Mr. Gore, and Mr. Thomas of Plymouth.

The 5th section being read, —

## Dr. TAYLOR

Wished to know the meaning of the words "from time to time," in the third paragraph. Does it mean, says he, from year to year, from month to month, or from day to day?

## The Hon. Mr. KING

Rose, and explained the term.

## Mr. WIDGERY

Read the paragraph, and said, by the words, "except such parts as may require secrecy," Congress might withhold the whole *journals* under this pretence, and thereby the people be kept in ignorance of their doings.

## The Hon. Mr. GORHAM

Exposed the absurdity of any public body *publishing* all their *proceedings*. Many things in great bodies are to be kept secret, and records must be brought to maturity before published. In case of treaties with foreign nations, would it be policy to inform the world of the extent of the powers to be vested in our ambassador, and thus give our enemies opportunity to defeat our negotiations? There is no provision in the constitution of this state, or of Great Britain, for any publication of the kind; and yet the people suffer no inconveniency. The printers, no doubt, will be interested to obtain the journals as soon as possible for publication, and they will be published in a book, by Congress, at the end of every session.

## Rev. Mr. PERLEY

Described the alarms and anxiety of the people at the commencement of the war, when the whole country, he said, cried with one voice, "Why don't General Washington march into Boston, and drive out the tyrants? " But, said he, Heaven gave us a commander who knew better than to do this. The reverend gentleman said, he was acquainted with the Roman history, and the Grecian too, and he believed there never was, since the creation of the world, a greater general than Washington, except, indeed, Joshua, who was inspired by the Lord of Hosts, the God of the armies of Israel. Would it, he asked, have been prudent for that excellent roan, General Washington, previous to the American army's taking possession of Dorchester Heights, to have published to the world his intentions of doing so? No, says he, it would not.

The first paragraph of the 6th section read.

## Dr. TAYLOR.

Mr. President, it has hitherto been customary for the gentlemen of Congress to be *paid* by the several state legislatures out of the state treasury. As no state has hitherto failed paying its delegates, why should we leave the good old path? Before the revolution it was considered as a grievance that the governors, &c., received their pay from Great Britain. They could not, in that case, feel their dependence on the people, when they received their appointments and salaries from the crown. I know not why we should not pay them now, as well as heretofore.

## Gen. PORTER.

Have not delegates been retained from Congress, which is virtually recalling them, because they have not been paid? Has not Rhode Island failed to pay their delegates? Should there not be an equal charge throughout the United States, for the payment of the delegates, as there is in this state for the payment of the members of this Convention, met for the general good? Is it not advantageous to the people at large, that the delegates to this Convention are paid out of the public treasury? If any inconvenience, however, can be shown to flow from this plan, I should be glad to hear it.

## Hon. Mr. SEDGWICK

Hoped gentlemen would consider that the federal officers of government would be responsible for their conduct; and, as they would regard their reputations, will not assess exorbitant *wages*. In Massachusetts, and in every other state, the legislatures have power to provide for their own payment; and, he asked, have they ever established it higher than it ought to be? But, on the contrary, have they not made it extremely inconsiderable? The commons of Great Britain, he said, have the power to assess their own wages; but for two centuries they have never exercised it. Can a man, he asked, who has the least respect for the good opinion of his fellow-countrymen, go home to his constituents, after having robbed them by voting himself an exorbitant salary? This principle will be a most powerful check; and in respect to economy, the power lodged as it is in this section will be more advantageous to the people than if retained by the state legislatures. Let us see what the legislature of Massachusetts have done; they vote the *salaries* of the delegates to Congress, and they have voted them such as have enabled them to live in style suited to the dignity of a respectable state; but these *salaries* have been four times as much, for the same time, as they ever voted themselves. Therefore, concluded the honorable gentleman, if left to themselves to provide for their own payment, as long as they wish for the good opinion of mankind, they will assess no more than they really deserve, as a compensation for their services.

## Hon. Mr. KING

Said, if the arguments on the 4th section against an undue control, in the state legislatures, over the federal representatives, were in any degree satisfactory, they are so on this.

## Gen. THOMPSON.

Mr. President, the honorable gentleman means well, and is honest in his sentiments; it is all alike. When we see matters at large, and what it all is, we will know what to do with it.

## Mr. PARSONS.

In order that the general governmemt should preserve itself, it is necessary it should preserve justice between the several states. Under the Confederation, the power of this section would not be just; for each state has a right to send seven members to Congress, though some of them do not pay one tenth as much of the public expenses as others. It is a mere federal government of states, neither equal nor proportionate. If gentlemen would use the same candor that the honorable gentleman from Topsham (Gen. Thompson) does, considering all the parts as connected with others, the Constitution would receive a better discussion.

The second paragraph of the 6th section read.

## Mr. GORHAM

said that this Constitution contained restrictions which were not to be found in any other; and he wished gentlemen who had objected to every paragraph which had been read, would give to the Convention credit for those parts which must meet the approbation of every man.

The 8th section of article 1, containing the *powers of Congress*, being read, —

## Gen. BROOKS (of Lincoln)

Said this article contained more matter than any one yet read; and he wished to know whether there are not to be some general restrictions to the general articles.

## Mr. KING.

### NOTE

Mr. President, it is painful for me to obtrude my sentiments on the Convention so frequently. However, sir, I console myself with the idea that my motives are as good as those of more able gentlemen, who have remained silent. Sir, this is a very important clause, and of the highest consequence to the future fortune of the people of America. It is not my intention to go into any elaborate discussion of the subject. I shall only offer those considerations which have influenced my mind in favor of the article, in the hope that it may tend to reconcile gentlemen to it. It shall not be with a view of exhibiting any particular knowledge of mine; for such is not my intention. Hitherto we have considered the construction of the general government. We now come, sir, to the consideration of the powers with which that government shall be clothed. The introduction to this Constitution is in these words: "*We, the people*," &c. The language of the Confederation is, "*We, the states*," &c. The latter is a mere federal government of states. Those, therefore, that assemble under it, have no power to make laws to apply to the individuals of the states confederated; and the attempts to make laws for collective societies necessarily leave a discretion to comply with them or not. In no instance has there been so frequent deviation from first principles, as in the neglect or refusal to comply with the requisitions of general governments for the collection of moneys.

In the ancient governments, this has been the principal defect. In the United Provinces of the. Netherlands, it has been conspicuously so. A celebrated political writer — I mean *John Dewitt*, formerly pensioner of Holland — said that, in the confederacy of 1570, though the articles were declared equally binding on the several provinces, yet any one had it in its power to comply with the requisitions of the generality or not; and some provinces, taking advantage of this discretionary power, never paid any thing. During forty years of war with Spain, the province of Holland paid fifty-eight parts of a hundred of all the expenses thereof. Two or three of the provinces never so much as passed a resolution to pay any thing; and *Dewitt* says that two of them paid not a single guilder. What was the consequence? In one instance, Holland compelled a neighboring province to comply with the requisitions, by marching a force into it. This was a great instance of usurpation, made in the time of a war. The Prince of Orange, and the generality, found that they could not continue the war in this manner. What was to be done? They were obliged to resort to the expedient of *doubling* the ordinary requisitions on the states. Some of the provinces were prevailed upon to grant these requisitions fully, in order to induce Holland to do the same. She, seeing the other states appearing thus forward, not only *granted* the requisitions, but *paid* them. The others did not. Thus was a single province obliged to bear almost the whole burdens of the war; and, one hundred years after, the accounts of this war were unsettled. What was the reason? Holland had but one voice in the States-General. That voice was feeble when opposed by the rest.

# Money - Debt

This fact is true. The history of our own country is a melancholy proof of a similar truth. Massachusetts has paid while other states have been delinquent. How was the war carried on with the paper money? Requisitions on the states for that money were made. Who paid them? Massachusetts and a few others. A requisition of 29,000,000 dollars were quotaed on Massachusetts, and it was paid. This state has paid in her proportion of the old money. How comes it, then, that gentlemen have any of this money by them? Because the other states have shamefully neglected to pay their quotas. Do you ask for redress? You are scoffed at. The next requisition was for 11,000,000 of dollars, 6,000,000 of which were to be paid in facilities, the rest in silver money, for discharging the interest of the national debt. If the legislatures found a difficulty in paying the hard money, why did they not pay the paper? But 1,200,000 dollars have been paid. And six states have not paid a farthing of it.

After mentioning another requisition, equally disregarded, Mr. King said, two states have not paid a single farthing from the moment they signed the Confederation to this day, if my documents are to be depended on, and they are open to the inspection of all. Now, sir, what faith is to be put in requisitions on the states, for moneys to pay our domestic creditors, and discharge our foreign debts, for moneys lent us in the day of difficulty and distress? Sir, experience proves, as well as any thing can be proved, that no dependence can be placed on such requisitions. What method, then, can be devised to compel the delinquent states to pay their quotas? Sir, I know of none. Laws, to be effective, therefore, must not be laid on states, but upon individuals. Sir, it has been objected to the proposed Constitution, that the power is too great, and by this Constitution is to be sacred. But if the want of power is the *defect in the old Confederation*, there is a fitness and propriety in adopting what is here proposed, which gives the necessary power wanted. Congress now have power to call for what moneys, and in what proportion, they please; but they have no authority to compel a compliance therewith. It is an objection in some gentlemen's minds, that Congress should possess the power of the *purse* and the *sword*. But, sir, I would ask, whether any government can exist, or give security to the people, which is not possessed of this power. The first revenue will be raised from the impost, to which there is no objection, the next from the excise; and if these are not sufficient, direct taxes must be laid. To conclude, sir, if we mean to support an efficient federal government, which, under the old Confederation, can never be the case, the proposed Constitution is, in my opinion, the only one that can be substituted.

## Hon. Mr. WHITE

Said, in giving this power, we give up every thing; and Congress, with the purse-strings in their hands, will use the sword with a witness.

## Mr. DAWES

Said, he thought the powers in the paragraph under debate should be fully vested in Congress. We have suffered, said he, for want of such authority in the federal head. This will be evident if we take a short view of our agriculture, commerce, and manufactures. Our *agriculture* has not been encouraged by the imposition of national duties on rival produce; nor can it be, so long as the several states may make contradictory laws. This has induced our farmers to raise only what they wanted to consume in their own families; I mean, however, after raising enough to pay their own taxes; for I insist that, upon the old plan, the land has borne the burden; for, as Congress could not make laws, whereby they could obtain a revenue, in their own way, from *impost* or *excise*, they multiplied their requisition on the several states. When a state was thus called on, it would perhaps impose new duties on its own trade, to procure money for paying its quota of federal demands. This would drive the trade to such neighboring states as made no such new impositions; thus the revenue would be lost with the trade, and the only resort would be a direct tax.

### Commerce

As to *commerce*, it is well known that the different states now pursue different systems of duties in regard to each other. By this, and for want of general laws of prohibition through the Union, we have not secured even our own domestic traffic that passes from state to state. This is contrary to the policy of every nation on earth. Some nations have no other commerce. The great and nourishing empire of China has but little commerce beyond her own territories; and no country is better circumstanced than we for an exclusive traffic from state to state; yet even in this we are rivalled by foreigners — by those foreigners to whom we are the least indebted. A vessel from Roseway or Halifax finds as hearty a welcome with its fish and whalebone at the southern ports, as though it was built, navigated, and freighted from Salem or Boston. And this must be the case, until we have laws comprehending and embracing alike all the states in the Union.

But it is not only our coasting trade — our whole *commerce* is going to ruin. Congress has not had power to make even a trade law, which shall confine the importation of foreign goods to the ships of the producing or consuming country. If we had such a law, we should not go to England for the goods of other nations; nor would British vessels be the carriers of American produce from our sister states. In the states southward of the Delaware, it is agreed that three fourths of the produce are exported, and three fourths of the returns are made, in British bottoms. It is said that, for exporting timber, one half the property goes to the carrier; and of the produce in general, it has been computed that, when it is shipped for London from a southern state, to the value of one million of dollars, the British merchant draws from that sum three hundred thousand dollars under the names of freight and charges. This is money which belongs to the New England states, because we can furnish the ships as well as, and much better than, the British. Our sister states are willing that we should receive these benefits, and that they should be secured to us by national laws; but until this is done, their private merchants will, no doubt, for the sake of long credit, or some other such temporary advantage, prefer the ships of foreigners; and yet we have suffered these ignominious burdens, rather than trust our own representatives with power to help us; and we call ourselves free and independent states! We are independent of each other, hut we are slaves to Europe. We have no uniformity in duties, imposts, excises, or prohibitions. Congress has no authority to withhold advantages from foreigners, in order to obtain advantages from them. By the 9th of the old articles, Congress may enter into treaties and alliances under certain provisoes; but Congress cannot pledge that a single state shall not render the whole treaty of commerce a nullity.

Our manufactures are another great subject, which has received no encouragement by national duties on foreign manufactures, and they never can by any authority in the Confederation. It has been said that no country can produce manufactures until it be overstocked with inhabitants. It is true that the United States have employment, except in the winter, for their citizens in agriculture — the most respectable employment under heaven; but it is now to be remembered, that, since the old Confederation, there is a great emigration of foreign artisans hither, some of whom are left here by the armies of the last war, and others who have more lately sought the new world, from hopes of mending their condition; these will not change their employments. Besides this, the very face of our country leads to manufactures. Our numerous falls of water, and places for mills, where paper, snuff, gunpowder, iron works, and numerous other articles, are prepared, — these will save us immense sums of money, that would otherwise go to Europe. The question is, Have these been encouraged? Has Congress been able, by national laws, to prevent the importation of such foreign commodities as are made from such raw materials as we ourselves raise? It is alleged that the citizens of the United States have contracted debts within the last three years, with the subjects of Great Britain, for the amount of near six millions of dollars, and that consequently our lands are mortgaged for that sum. So Corsica was once mortgaged to the Genoese merchants for articles which her inhabitants did not want, or which they could not have made themselves; and she was afterwards sold to a foreign power. If we wish to encourage our own manufactures, to preserve our own commerce, to raise the value of our own lands, we must give Congress the powers in question.

The honorable gentleman from Norton, last speaking. says, that, if Congress will have the power of laying and collecting *taxes*, they will use the power of the sword. I hold the reverse to be true. The doctrine of requisitions, or of demands upon a whole state, implies such a power; for surely a whole state, a whole community, can be compelled only by an army; but taxes upon an individual imply only the use of a collector of taxes. That Congress, however, will not apply to the power of *direct taxation*, unless in cases of emergency, is plain; because, as thirty thousand inhabit ants will elect a representative, eight tenths of which electors perhaps are yeomen, and holders of farms, it will be their own faults if they are not represented by such men as will never permit the land to be injured by unnecessary taxes.

## Mr. BODMAN

Said, that the power given to Congress, to lay and collect duties, taxes, &c., as contained in the section under consideration, was certainly unlimited, and therefore dangerous; and wished to know whether it was necessary to give Congress power to do harm, in order to enable them to do good. It had been said, that the *sovereignty of the states* remains with them; but if Congress has the power to lay taxes, and, in cases of negligence or non-compliance, can send a power to collect them, he thought that the idea of sovereignty was destroyed. This, he said, was an essential point, and ought to be seriously considered. It has been urged that gentlemen were jealous of their rulers. He said, he thought they ought to be so; it was just they should be so; for jealousy was one of the greatest securities of the people in a republic. The power in the 8th section, he said, ought to have been denned; that he was willing to give power to the federal head, but he wished to know what that power was.

## Mr. SEDGWICK,

In answer to the gentleman last speaking, said, if he believed the adoption of the proposed Constitution would interfere with the state legislatures, he would be the last to vote for it; but he thought all the sources of revenue ought to be put into the hands of government, who were to protect and secure us; and powers to effect this had always been necessarily unlimited. Congress would necessarily take that which was easiest to the people; the first would be impost, the next excise; and a direct tax will be the last; for, said the honorable gentleman, drawing money from the people, by direct taxes, being difficult and uncertain, it would be the last source of revenue applied to by a wise legislature; and hence, said he, the people may be assured that the delegation of a power to levy them would not be abused. Let us suppose, — and we shall not be thought extravagant in the supposition, — continued Mr. S., that we are attacked by a foreign enemy; that in this dilemma our treasury was exhausted, our credit gone, our enemy on our borders, and that there was no possible method of raising impost or excise; in this case, the only remedy would be a direct tax. Could, therefore, this power, being vested in Congress, lessen the many advantages which may be drawn from it?

## Mr. SINGLETARY

Thought no more power could be given to a despot, than to give up the purse-strings of the people.

## Col. PORTER

Asked, if a better rule of yielding power could be shown than in the Constitution; for what we do not give, said he, we retain.

## Gen. THOMPSON.

### Convention

Mr. President, I totally abhor this paragraph. Massachusetts has ever been a leading state; now let her give good advice to her sister states. Suppose nine states adopt this Constitution; who shall touch the other four? Some cry out, Force them. I say, Draw them. We love liberty. Britain never tried to enslave us until she told us we had too much liberty. The Confederation wants amendments; shall we not amend it?

The Convention were sent on to Philadelphia to amend this Confederation; but they made a new creature; and the very setting out of it is unconstitutional. In the Convention, Pennsylvania had more members than all New England, and two of our delegates only were persuaded to sign the Constitution. Massachusetts once shut up the harbors against the British. There, I confess, I was taken in. Don't let us be in a hurry again. Let us wait to see what our sister states will do. What shall we suffer if we adjourn the consideration of it for five or six months? It is better to do this than adopt it so hastily. Take care we don't disunite the states. By uniting we stand, by dividing we fall.

## Major KINGSLEY.

Mr. President, after so much has been said on the powers to be given to Congress, I shall say but a few words on the subject. By the Articles of Confederation the people have three checks on their delegates in Congress — the *annual election* of them, their *rotation*, and the power to recall any, or all of them, when they see fit. In view of our federal rulers, they are the servants of the people. In the new Constitution, we are deprived of annual elections, have no rotation, and cannot recall our members; therefore our federal rulers will be masters, and not servants. I will examine what powers we have given to our masters. They have power to lay and collect all taxes, duties, imposts, and excises; raise armies; fit out navies; to establish themselves in a federal town of ten miles square, equal to four middling townships; erect forts, magazines, arsenals, &c. Therefore, should the Congress be chosen of designing and interested men, they can perpetuate their existence, secure the resources of war, and the people will have nothing left to defend themselves with. Let us look into ancient history. The Romans, after a war, thought themselves safe in a government of ten men, called the *decemviri*; these ten men were invested with all power, and were chosen for three years. By their arts and designs, they secured their second election; but, finding, from the manner in which they had exercised their power, they were not able to secure their third election, they declared themselves masters of Rome, impoverished the city, and deprived the people of their rights.

It has been said that there was no such danger here. I will suppose they were to attempt the experiment, after we have given them all our money, established them in a federal town, given them the power of coining money and raising a standing *army*, and to establish their arbitrary government; what resources have the people left? I cannot see any. The Parliament of England was first chosen annually; they afterwards lengthened their duration to three years; and from triennial they became septennial. The government of England has been represented as a good and happy government; but some parts of it their greatest political writers much condemn; especially that of the duration of their Parliaments. Attempts are yearly made to shorten their duration, from septennial to triennial; but the influence of the ministry is so great that it has not yet been accomplished. From this duration, bribery and corruption are introduced. Notwithstanding they receive no pay, they make great interest for a seat in Parliament, one or two years before its dissolution, and give from five to twenty guineas for a vote; and the candidates sometimes expend £10,000 to £30,000. Will a person throw away such a fortune, and waste so much time, without the probability of replacing such a sum with interest? Or can there be security in such men? Bribery may be introduced here as well as in Great Britain; and Congress may equally oppress the people; because we cannot call them to an account, considering that there is no annual election, no rotation, no power to recall them, provided for.

# TUESDAY, *January* 22. —

Section 8th still under consideration.

## Judge SUMNER.

### Delegated Powers

The powers proposed to be delegated in this section are very important, as they will, in effect, place the purse-strings of the citizens in the hands of Congress for certain purposes. In order to know whether such powers are necessary, we ought, sir, to inquire what the design of uniting under one government is. It is that the national dignity may be supported, its safety preserved, and necessary debts paid. Is it not necessary, then, to afford the means by which alone those objects can be attained? Much better, it appears to me, would it be for the states not to unite under one government, which will be attended with some expense, than to unite, and at the same time withhold the powers necessary to accomplish the design of the union. Gentlemen say, *the power to raise money* may be abused. I grant it; and the same may be said of any other delegated power. Our General Court have the same power; but did they ever dare abuse it? Instead of voting themselves 6s. 8d., they might vote themselves £12 a day; but there never was a complaint of their voting themselves more than what was reasonable. If they should make an undue use of their power, they know a loss of confidence in the people would be the consequence, and they would not be reëlected; and this is one security in the hands of the people. Another is, that all *money bills* are to originate with the House of Representatives. And can we suppose the representatives of Georgia, or any other state, more disposed to burden their constituents with taxes, than the representatives of Massachusetts? It is not to be supposed; for, whatever is for the interest of one state, in this particular, will be the interest of all the states, and no doubt attended to by the House of Representatives. But why should we alarm ourselves with imaginary evils? An impost will probably be a principal source of revenue; but if that should be insufficient, other taxes, especially in time of war, ought to supply the deficiency. It is said that requisitions on the states ought to be made in cases of emergency; but we all know there can be no dependence on requisitions. The honorable gentleman from Newburyport gave us an instance from the history of the United Provinces to prove it, by which it appears they would have submitted to the arms of Spain, had it not been for the surprising exertions of one province. But there can be no need of recurring to ancient records, when the history of our country furnishes an instance where requisitions have had no effect. But some gentlemen object further, and say the delegation of these great powers *will destroy the state legislatures*; but I trust this never can take place, for the general government depends on the state legislatures for its very existence. The President is to be chosen by electors under the regulation of the state legislature; the Senate is to be chosen by the state legislatures; and the representative body by the people, under like regulations of the legislative body in the different states. If gentlemen consider this, they will, I presume, alter their opinion; for nothing is clearer than that the existence of the legislatures, in the different states, is essential to the *very being* of the general government. I hope, sir, we shall all see the necessity of a federal government, and not make objections, unless they appear to us to be of some weight.

## Mr. GORE.

This section, Mr. President, has been the subject of many observations, founded on real or pretended jealousies of the powers herein *delegated* to the general government; and, by comparing the proposed Constitution with things in their nature totally different, the mind may be seduced from a just determination on the subject. Gentlemen have compared the authority of Congress to levy and collect taxes from the people of America to a similar power assumed by the Parliament of Great Britain. If we but state the relation which these two bodies bear to America, we shall see that no arguments drawn from one can be applicable to the other. The House of Commons, in the British Parliament, which is the only popular branch of that assembly, was composed of men, chosen exclusively by the inhabitants of Great Britain, in no sort amenable to, or dependent upon, the people of America, and secured, by their local situation, from every burden they might lay on this country. By impositions on this part of the empire, they might be relieved from their own taxes, but could in no case be injured themselves. The Congress of the United States is to be chosen, either mediately or immediately, by the people. They can impose no burdens but what they participate in common with their fellow-citizens. The senators and representatives, during the time for which they shall be elected, are incapable of holding any office which shall be created, or the emoluments thereof be increased, during such time. This is taking from candidates every lure to office, and from the administrators of the government every temptation to create or increase emoluments to such degree as shall be burdensome to their constituents.

Gentlemen, who candidly consider these things, will not say that arguments against the assumption of power by Great Britain can apply to the Congress of the United States. Again, sir, it has been said, that because ten men of Rome, chosen to compile a body of laws for that people, remained in office after the time for which they were chosen, therefore the Congress of America will perpetuate themselves in government. The *decemviri*, in their attainment to their exalted station, had influence enough over the people to obtain a temporary sovereignty, which superseded the authority of the senate and the consuls, and gave them unlimited control over the lives and fortunes of their fellow-citizens. They were chosen for a year. At the end of this period, under pretence of not having completed their business, they, with the alteration of some few of their members, were continued for another year. At the end of the second year, notwithstanding the business for which they were chosen was completed, they refused to withdraw from their station, and still continued in the exercise of their power. But to what was this owing? If history can be credited, it was to an idea universally received by the Roman people, that the power of the magistrate was supposed to determine by his own resignation, and not by expiration of the time for which he was chosen. This is one, among many instances, which might be produced of the small attainments of the Roman people in political knowledge; and I submit it. sir, to the candor of this Convention, whether any conclusions can be fairly drawn against vesting the proposed government with the powers mentioned in this section, because the magistrates of the ancient republics usurped power, and frequently attempted to perpetuate themselves in authority.

Some gentlemen suppose it is unsafe and unnecessary to vest the proposed government with authority to "lay and collect taxes, duties, imposts, and excises." Let us strip the subject of every thing that is foreign, and refrain from likening it with governments, which, in their nature and administration, have no affinity; and we shall soon see that it is not only safe, but indispensably necessary to our peace and dignity, to vest the Congress with the powers described in this section. To determine the necessity of investing that body with the authority alluded to, let us inquire what duties are incumbent on them. To pay the debts, and provide for the common defence and general welfare of the United States; to declare war, &c.; to raise and support armies; to provide and maintain a navy; — these are authorities and duties incident to every government. No one has, or, I presume, will deny, that whatever government may be established over America, ought to perform such duties. The expense attending these duties is not within the power of calculation; the exigencies of government are in their nature illimitable; so, then, must be the authority which can meet these exigencies. Where we demand an object, we must afford the means necessary to its attainment. Whenever it can be clearly ascertained what will be the future exigencies of government, the expense attending them, and the product of any particular tax, duty, or impost, then, and not before, can the people of America limit their government to amount and fund. Some have said, that the impost and excise would be sufficient for all the purposes of government in times of peace; and that, in war, requisitions should be made on the several states for sums to supply the deficiencies of this fund. Those who are best informed suppose this sum inadequate to, and none pretend that it can exceed, the expenses of a peace establishment. What, then, is to be done? Is America to wait until she is attacked, before she attempts a preparation at defence? This would certainly be unwise; it would be courting our enemies to make war upon us. The operations of war are sudden, and call for large sums of money; collections from states are at all times slow and uncertain; and, in case of refusal, the non-complying state must be coerced by arms, which, in its consequences, would involve the innocent with the guilty, and introduce all the horrors of a civil war. But, it is said, we need not fear war; we have no enemies. Let the gentlemen consider the situation of our country; they will find we are circumscribed with enemies from Maine to Georgia. I trust, therefore, that, upon a fair and candid consideration of the subject, it will be found indispensably requisite to peace, dignity, and happiness, that the proposed government should be vested with all the powers granted by the section under debate.

## Hon. Mr. PHILLIPS, (of Boston.)

### Welfare

I rise to make a few observations on this section, as it contains powers absolutely necessary. If social government did not exist, there would be an end of individual government. Therefore our very being depends on social government. On this article is founded the main pillar of the building; take away this pillar, and where is your government? Therefore, I conceive, in this view of the case, this power is absolutely necessary. There seems to be a suspicion that this power will be abused; but is not all delegation of power equally dangerous? If we have a castle, shall we delay to put a commander into it, for fear he will turn his artillery against us? My concern is for the majesty of the people. If there is no virtue among them, what will the Congress do? If they had the meekness of Moses, the patience of Job, and the wisdom of Solomon, and the people were determined to be slaves, sir, could the Congress prevent them? If they set Heaven at defiance, no arm of flesh can save them. Sir, I shall have nothing to do in this government. But we see the situation we are in. We are verging towards destruction, and every one must be sensible of it. I suppose the New England States have a treasure offered to them better than the mines of Peru; and it cannot be to the disadvantage of the Southern States. Great Britain and France come here with their vessels, instead of our carrying our produce to those countries in American vessels, navigated by our citizens. When I consider the extensive sea-coast there is to this state alone, so well calculated for commerce, viewing matters in this light, I would rather sink all this continent owes me, than this power should be withheld from Congress. Mention is made that Congress ought to be restricted of the power to keep an army except in time of war. I apprehend that great mischief would ensue from such a restriction. Let us take means to prevent war, by granting to Congress the power of raising an army. If a declaration of war is made against this country, and the enemy's army is coming against us, before Congress could collect the means to withstand this enemy, they would penetrate into the bowels of our country, and every thing dear to us would be gone in a moment. The honorable gentleman from Topsham has made use of the expression, "*O my country!*" from an apprehension that the Constitution should be adopted; I will cry out, "*O my country!*" if it is not adopted. I see nothing but destruction and inevitable ruin if it is not. The more I peruse and study this article, the more convinced am I of the necessity of such a power being vested in Congress. The more I hear said against it, the more I am confirmed in my sentiments of its expediency; for it is like the pure metal — the more you rub it, the brighter it shines. It is with concern I hear the honorable gentleman from Topsham make use of language against the gentlemen of the law. Sir, I look on this order of men to be essential to the liberties and rights of the people, and whoever speaks against them as speaking against an ordinance of Heaven. Mr. President, I hope every gentleman will offer his sentiments candidly on this momentous affair; that he will examine for himself, and consider that he has not only the good of this commonwealth under consideration, but the welfare of the United States.

## 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.

## Hon. Mr. CABOT

Went fully into a continuation of the arguments of the honorable gentleman last up. In a clear and elegant manner, he analyzed the ancient governments mentioned by Dr. Willard, and, by comparing them with the proposed system, fully demonstrated the superiority of the latter, and in a very particular manner the proposed section under debate.

## 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.

*Afternoon*. —

## Mr. SYMMES.

Mr. President, in such an assembly as this, and on a subject that puzzles the oldest politicians, a young man, sir, will scarcely dare to *think* for himself; but, if he venture *to speak*, the effort must certainly be greater. This Convention is the first representative body in which I have been honored with a seat, and men will not wonder that a scene at once so new and so august should confuse, oppress, and almost disqualify me to proceed.

Sir, I wish to bespeak the candor of the Convention — that candor, which, I know, I need but ask, to have it extended to me, while I make a few indigested observations on the paragraph now in debate. I have hitherto attended with diligence, but no great anxiety, to the reasoning of the ablest partisans on both sides of the question. Indeed, I could have wished for a more effectual, and, if I may term it so, a more *feeling* representation in the Lower House, and for a representation of the *people* in the Senate. I have been, and still am, desirous of a rotation in office, to prevent the final perpetuation of power in the same men; and I have not been able clearly to see why the *place* and *manner* of holding elections should be in the disposal of Congress.

But, sir, in my humble opinion, these things are comparative by the lesser things of the law. They, doubtless, have their influence in the grand effect, and so are essential to the system. But, sir, I view the section to which we have at length arrived, as the cement of the fabric, and this clause as the keystone, or (if I may apply the metaphor) the magic talisman, on which the fate of it depends.

Allow me, sir, to recall to your remembrance that *yesterday*, when states were in doubt about granting to Congress a 5 per cent. impost, and the simple power of regulating trade — the time when, so delicate was the patriotic mind, that power was to be transferred with a reluctant, with a sparing hand, and the most obvious utility could scarcely extort it from the people. It appears to me of some importance to consider this matter, and to demand complete satisfaction upon the question, why an unlimited power in the affair of taxation is so soon required. Is our situation so vastly different, that the powers so lately sufficient are now but the dust of the balance? I observe, sir, that many men, who, within a few years past, were strenuous opposers of an augmentation of the power of Congress, are now the warmest advocates of power so large as not to admit of a comparison with those which they opposed. Cannot some of them state their reasons then, and their reasons now, that we may judge of their consistency? or shall we be left to suppose that the opinions of politicians, like those of the multitude, vibrate from one extreme to the other, and that we have no men among us to whom we can intrust the. philosophic task of pointing out the golden mean?

At present, Congress have no power to lay taxes, &c., not even to compel a compliance with their requisitions. May we not suppose that the members of the great Convention had severely felt the impotency of Congress, while they were in, and, therefore, were rather too keenly set for an effectual increase of power? that the difficulties they had encountered in obtaining decent requisitions, had wrought in them a degree of impatience, which prompted them to demand the purse-strings of the nation, as if we were insolvent, and the proposed Congress were to compound with our creditors? Whence, sir, can this great, I had almost said, this bold demand have originated? Will it be said that it is but a consistent and necessary part of the general system? I shall not deny these gentlemen the praise of inventing a system completely consistent with itself, and pretty free from contradiction; but I would ask, — I shall expect to be answered, — how a system can be necessary for us, of which this is a consistent and necessary part. But, sir, to the paragraph in hand: Congress, &c. Here, sir, (however kindly Congress may be pleased to deal with us,) is a very good and valid conveyance of all the property in the United States, — to certain uses indeed, but those uses capable of any construction the trustees may think proper to make. This body is not amenable to any tribunal, and therefore this Congress can do no wrong. It will not be denied that they may tax us to any extent; but some gentlemen are fond of arguing that this body never will do any thing but what is for the common good. Let us consider that matter.

Faction, sir, is the vehicle of all transactions in public bodies; and when gentlemen know this so well, I am rather surprised to hear them so sanguine in this respect. The prevalent faction is the body; these gentlemen, therefore, must mean that the prevalent faction will always be right, and that the true patriots will always outnumber the men of less and selfish principles. From this it would follow that no public measure was ever wrong, because it must have been passed by the majority; and so, I grant, no power ever was, or ever will be, abused. In short, we know that all governments have degenerated, and consequently have abused the powers reposed in them; and why we should imagine better of the proposed Congress than of myriads of public bodies who have gone before them, I cannot at present conceive.

Sir, we ought (I speak it with submission) to consider that what we now grant from certain motives, well grounded at present, will be exacted of posterity as a prerogative, when we are not alive, to testify the tacit conditions of the grant; that the wisdom of this age will then be pleaded by those in power; and that the cession we are now about to make will be actually clothed with the venerable habit of ancestral sanction.

Therefore, sir, I humbly presume we ought not to take advantage of our situation in point of time, so as to bind posterity to be obedient to laws they may very possibly disapprove, nor expose them to a rebellion which, in that period will very probably end only in their further subjugation.

The paragraph in question is an absolute decree of the people. The Congress *shall* have power. It does not say that they shall *exercise* it; but our necessities say they *must*, and the experience of ages say that they *will*; and finally, when the expenses of the nation, by their ambition, are grown enormous, that they will oppress and subject; for, sir, they may lay taxes, duties, imposts, and excises! One would suppose that the Convention, sir, were not at all afraid to multiply words when any thing was to be got by it. By another clause, all imposts or duties on exports and imports, wherever laid, go into the federal chest; so that Congress may not only lay imposts and excises, but all imposts and duties that are laid on imports and exports, by any state, shall be a part of the national revenue; and besides, Congress may lay an impost on the produce and manufactures of the country, which are consumed at home. And all these shall be equal through the states. Here, sir, I raise two objections; first, that Congress should have this power. It is a universal, unbounded permission, and as such, I think, no free people ought ever to consent to it, especially in so important a matter as that of property. I will not descend, sir, to an abuse of the future Congress, until it exists; nor then, until it misbehaves; nor then, unless I dare. But I think that some certain revenue, amply adequate to all necessary purposes, upon a peace establishment, but certain and definite, would have been better; and the collection of it might have been guarantied by every state to every other. We should then have known to what we were about to subscribe, and should have cheerfully granted it. But now we may indeed grant, but who can *cheerfully* grant he knows not what?

Again, sir, I object to the equality of these duties through the states. It matters not with me, in the present argument, which of them will suffer by this proportion. Some probably *will*, as the consumption of dutied articles will not, if we may judge from experience, be united in all.

But some say, with whom I have conversed, it was for this reason that taxes were provided; that, by their assistance, the defect of duties in some states ought to be supplied. Now, then, let us suppose that the duties are so laid, that, if every state paid in proportion to that which paid most, the duties alone would supply a frugal treasury. Some states will pay but half their proportion, and some will scarcely pay any thing. But those in general who pay the least duty, viz., the inland states, are least of all able to pay a land tax; and therefore I do not see but that this tax would operate most against those who are least able to pay it.

### GUNS

I humbly submit it, sir, whether, if each state had its proportion of some certain gross sum assigned, according to its numbers, and a power was given to Congress to collect the same, in case of default in the state, this would not have been a safer Constitution. For, sir, I also disapprove of the power to collect, which is here vested in Congress. It is a power, sir, to burden us with a standing army of ravenous collectors, — harpies, perhaps, from another state, but who, however, were never known to have bowels for any purpose, but to fatten on the life-blood of the people. In an age or two, this will be the case; and when the Congress shall become tyrannical, these vultures, their servants, will be the tyrants of the village, by whose presence all freedom of speech and action will be taken away.

Sir, I shall be told that these are imaginary evils; but I hold to this maxim, that power was never given, (of this kind especially,) but it was exercised; nor ever exercised but it was finally abused. We must not be amused with handsome probabilities; but we must be assured that We *are in no danger*, and that this Congress *could* not distress us, if they were ever so much disposed.

To pay the debts, &c.

These words, sir, I confess, are an ornament to the page, and very musical words; but they are too general to be understood as any kind of limitation of the power of Congress, and not very easy to be understood at all. When Congress have the purse, they are not confined to rigid economy; and the word *debts*, here, is not confined to debts already contracted; or, indeed, if it were, the term "general welfare" might be applied to any expenditure whatever. Or, if it could not, who shall dare to gainsay the proceedings of this body at a future day, when, according to the course of nature, it shall be too firmly fixed in the saddle to be overthrown by any thing but a general insurrection? — an event not to be expected, considering the extent of this continent; and, if it were to be expected, a sufficient reason in itself for rejecting this or any constitution that would tend to produce it.

This clause, sir, contains the very sinews of the Constitution. And I hope the universality of it may be singular but it may be easily seen, that it tends to produce, in time, as universal powers in every other respect. As the poverty of individuals prevents luxury, so the poverty of public bodies, whether sole or aggregate, prevents tyranny. A nation cannot, perhaps, do a more politic thing than to supply the purse of its sovereign with that parsimony which results from a sense of the labor it costs, and so to compel him to comply with the genius of his people, and to conform to their situation, whether he will or not. How different will be our conduct, if we give the entire disposal of our property to a body as yet almost unknown in theory, in practice quite heterogeneous in its composition, and whose maxims are yet entirely unknown!

Sir, I wish the gentlemen who so ably advocate this instrument would enlarge upon this formidable clause; and I most sincerely wish that the effect of their reasoning may be my conviction. For, sir, I will not dishonor my constituents, by supposing that they expect me to resist that which is irresistible — the force of reason. No, sir; my constituents wish for a firm, efficient Continental government, but fear the operation of this which is now proposed. Let them be convinced that their fears are groundless, and I venture to declare in their name, that no town in the commonwealth will sooner approve the form, or be better subjects under it.

## Mr. JONES (of Boston)

### Corporations

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.

[The vice-president having informed the Convention, in the forenoon, that he had received a long letter from the Hon. Mr. Gerry, the same was read as soon as the Convention proceeded to business in the afternoon. When the vice-president had read the letter, Mr. Gore rose, and objected to the reading a state of facts respecting the construction of the Senate in the federal Convention, which accompanied the letter; not, he said, "from a wish to preclude information from his own mind, or from the minds of the Convention, but from his duty to his constituents, and the desire he had to guard against infringements on the orders of the Convention." Mr. Gore was interrupted, as being out of order, but was proceeding on his objection, when the Hon. Judge Dana begged Mr. Gore's leave to say a few words. which he did; after which he retired from the Convention, until the consideration of the letter should be gone through with.]

# WEDNESDAY, *January* 23. —

## Mr. PIERCE

Rose, he said, to make a few observations on the powers of Congress, in this section.

Gentlemen, he said, in different parts of the house, (Messrs. Dalton, Phillips, and Gore,) had agreed that Congress will not lay direct taxes, except in cases of war; for that, to defray the exigencies of peace, the impost and excise would be sufficient; and, as that mode of taxation would be the most expedient and productive, it would undoubtedly be adopted. But it was necessary Congress should have power to lay direct taxes at all times, although they will not use it, because, when our enemies find they have sufficient powers to call forth all the resources of the people, it will prevent their making war, as they otherwise would. As the Hon. Mr. Phillips used this proverb, "*A stitch in time will save nine*," his meaning, I suppose, was, that we should have war nine times, if Congress had not such powers, where we should once if they had such powers. But these arguments to me are not conclusive; for, if our enemies know they do not use such powers except in a war, although granted to them, what will be the difference if they have the powers only in the time of war? But, Mr. President, if Congress have the powers of direct taxes, in the manner prescribed in this section, I fear we shall have that mode of taxation adopted, in preference to imposts and excises; and the reasons of my fears are these: When the impost was granted to Congress in this state, I, then being a member of court, well remember the gentlemen in trade, almost with one consent, agreed that it was an unequal tax, bearing hard on them; for, although it finally was a tax on the consumer, yet, in the first instance, it was paid by persons in trade; and also that they consumed more than the landed interest of dutied articles; and nothing but necessity induced them to submit to grant said impost, as that was the only way Congress could collect money to pay the foreign debt, under the regulations they were then under; and I fear part of this state's members in Congress, when this Constitution is adopted, will resume their own opinion, when they can lay direct taxes; and, as Rhode Island has always been against an impost, and as they have an equal representation in the Senate, and part of Connecticut will be interested with them, and the Southern States having no manufactures of their own, and consuming much more foreign articles than the Northern, it appears to me, we are not certain of availing ourselves of an impost, if we give Congress power to levy and collect direct taxes in time of peace.

### Jurisdiction

While I am up, Mr. President, I would make some observations on what has been passed over, as I think it is within the orders of the house. The Hon. Mr. Sedgwick said, if I understood him right, that, if he thought that this Constitution consolidated the union of the states, he should be the last man that should vote for it; but I take his meaning to be this, according to the reasoning of Mr. Ames — that it is not a consolidation of the Union, because there are three branches in the Union; and therefore it is not a consolidation of the Union; but, sir, I think I cannot conceive of a sovereignty of power existing within a sovereign power, nor do I wish any thing in this Constitution to prevent Congress being sovereign in matters belonging to their jurisdiction; for I *have seen the necessity of their powers in almost all the instances that have been mentioned in this Convention; and also, last winter, in the rebellion, I thought it would be better for Congress to have stilled the people, rather than the people from amongst themselves, who are more apt to be governed by temper than others, as it appeared to me we were, in the disqualifying act, as, in my opinion, we then did not keep strictly to our own constitution; and I believe such a superior power ought to be in Congress.* But I would have it distinctly bounded, that every one may know the utmost limits of it; and I have some doubts on my mind, as to those limits, which I wish to have solved. I have also an objection as to the term for which the Senate are to be in office; for, as the democratical branch of the federal legislature is to continue in office two years, and they are the only check on the federal, and they, the Senate, to continue in office six years, they will have an undue influence on the democratic branch; and I think they ought not to continue in office for a longer time than the other; and also, that, if they conduct ill, we may have a constitutional revolution in as short a period as two years, if needed. The Hon. Mr. King said, some days past, that the Senate going out by classes, if rightly considered, were not for but four years; because one third part was never more than six, another four, and a third two; therefore the medium was four; but I think that way of arguing would argue, that if they were all to go out at the end of six years, that they were but *three* years in office; because half their time they were under the age of three years, and the other half over the age of three years in office; therefore his arguing to me in that respect was not well founded.

## Col. VARNUM,

### Delegated

In answer to an inquiry, why a bill of rights was not annexed to this Constitution, said, that, by the constitution of Massachusetts, the legislature have a right to make all laws not repugnant to the Constitution. Now, said he, if there is such a clause in the Constitution under consideration, then there would be a necessity for a bill of rights. In the section under debate, Congress have an expressed power to levy taxes, &c., and to pass laws to carry their requisitions into execution: this, he said, was express, and required no bill of rights. After stating the difference between delegated power and the grant of all power, except in certain cases, the colonel proceeded to controvert the idea that this Constitution went to a consolidation of the Union. He said it was only a consolidation of strength, and that it was apparent Congress had no right to alter the internal relations of a state. The design in amending the Confederation, he said, was to remedy its defects. It was the interest of the whole to confederate against a foreign enemy, and each was bound to exert its utmost ability to oppose that enemy; but it had been done at our expense in a great measure, and there was no way to provide for a remedy, because Congress had not the power to call forth the resources of every state, nor to coerce delinquent states. But under the proposed government, those states which will not comply with equal requisitions, will be coerced; and this, he said, is a glorious provision. In the late war, said the colonel, the states of New Hampshire and Massachusetts, for two or three years, had in the field half the Continental army under General Washington. Who paid those troops? The states which raised them were called on to pay them. How, unless Congress have a power to levy taxes, can they make the states pay their proportion? In order that this and some other states may not again be obliged to pay eight or ten times their proportion of the public exigencies, he said, this power is highly necessary to be delegated to the federal head. He showed the necessity of Congress being enabled to prepare against the attacks of a foreign enemy; and he called upon the gentleman from Andover, (Mr. Symmes,) or any other gentleman, to produce an instance where any government, consisting of three branches, elected by the people, and having checks on each other, as this has, abused the power delegated to them.

## Mr. CHOATE

Said, that this clause gives power to Congress to levy duties, excises, imposts, &c., considering the trust delegated to Congress, that they are to "provide for the common defence, promote the general welfare," &c. If this is to be the object of their delegation, the next question is, whether they shall not be vested with powers to prosecute it. And this can be no other than an unlimited power of taxation, if that defence requires it. Mr. C. contended that it was the power of the people concentred to a point; that, as all power is lodged in them, this power ought to be supreme. He showed the necessity of its being so, not only for our common defence, but for our advantage in settling commercial treaties. Do we wish to make a treaty with any nation of Europe, we are told we have no stability as a nation. As Congress must provide for the common defence, shall they, asked Mr. C., be confined for the impost and excise? They are alone the judges whether five or one per cent. is necessary or convenient. It has been the practice of all nations to anticipate their resources by loans; this will be the case of the United States in war; and he asked, if our resources are competent and well established, and that no doubt remained of them, whether, in that case, the individuals who have property will not cheerfully offer it for the general defence. After adverting to the idea of some, of its being a consolidation of the Union, Mr. Choate concluded by a brief display of the several checks contained, and securities for the people to be found, in this system.

## Gen. THOMPSON.

Sir, the question is, whether Congress shall have power. Some say that, if this section was left out, the whole would fall to the ground. I think so too, as it is all of a piece. We are now fixing a national consolidation. This section, I look upon it, is big with mischiefs. Congress will have power to keep standing armies. The great Mr. Pitt says, standing armies are dangerous — keep your **militia** in order — we don't want standing armies. A gentleman said, We are a rich state: I say so too. Then why shall we not wait five or six months, and see what our sister states do? We are able to stand our ground against a foreign power; they cannot starve us out; they cannot bring their ships on the land; we are a nation of healthy and strong men; our land is fertile, and we are increasing in numbers. It is said we owe money: no matter if we do; our safety lies in not paying it — pay only the interest. Don't let us go too fast. Shall not Massachusetts be a mediator? It is my wish she may be one of the four dissenting States; then we shall be on our old ground, and shall not act unconstitutionally. Some people cry, It will be a great charge; but it will be a greater charge, and be more dangerous, to make a new one. Let us amend the old Confederation. Why not give Congress power only to regulate trade? Some say, that those we owe will fall upon us; but it is no such thing: the balance of power in the old countries will not permit it; the other nations will protect us. Besides, we are a brave and happy people. Let us be cautious how we divide the states. By uniting we stand, by dividing we fall. We are in our childhood yet: don't let us grow too fast, lest we grow out of shape. I have proved that we are a respectable people, in possession of liberty, property, and virtue, and none in a better situation to defend themselves. Why all this racket? Gentlemen say we are undone if we cannot stop up the Thames; but, Mr. President, nations will mind their own interest, and not ours. Great Britain has found out the secret to pick the subjects' pockets, without their knowing of it: that is the very thing Congress is after. Gentlemen say this section is as clear as the sun, and that all power is retained which is not given. But where is the bill of rights which shall check the power of this Congress; which shall say, *Thus far shall ye come, and no farther*. The safety of the people depends on a bill of rights. If we build on a sandy foundation, is it likely we shall stand? I apply to the feelings of the Convention. There are some parts of this Constitution which I cannot digest; and, sir, shall we swallow a large bone for the sake of a little meat? Some say, Swallow the whole now, and pick out the bone afterwards. But I say, Let us pick off the meat, and throw the bone away.

This section, sir, takes the purse-strings from the people. England has been quoted for their fidelity; but did their constitution ever give such a power as is contained in this Constitution? Did they ever allow Parliament to vote an army but for one year? But here we are giving Congress power to vote an army for two years — to tax us without limitation; no one to gainsay them, and no inquiry yearly, as in Britain; therefore, if this Constitution is got down, we shall alter the system entirely, and have no checks upon Congress.

## Rev. Mr. NILES

Wished the honorable gentleman would point out the limits to be prescribed to the powers given in this section.

## Hon. Mr. BOWDOIN.

Mr. President, on the subject of government, which admits of so great a variety in its parts and combinations, a diversity of opinions is to be expected; and it Was natural to suppose that, in this Convention, respectable for its numbers, but much more so for the characters which compose it, there would be a like diversity concerning the federal Constitution, that is now the subject of our consideration.

### Taxation & The Failing Of The Confederation

In considering it, every gentleman will reflect how inadequate to the purposes of the Union the Confederation has been. When the plan of the Confederation was formed, the enemy were invading us; and this inspired the several states with such a spirit of union and mutual defence, that a mere requisition or recommendation of Congress was sufficient to procure the needful aids, without any power of coercion; and for that reason, among others, no such power was given by the Confederation. But since that reason bad ceased, and the idea of danger being removed by the peace, the requisitions of Congress have, in most of the states, been little regarded, notwithstanding they solemnly pledged their faith to comply with them.

This non-compliance has compelled Congress to increase the foreign debt of the Union, by procuring further loans to pay the interest and instalments due on former loans; and in that way to preserve the public faith, which had been pledged to foreign powers. It has compelled them, in order to prevent the consequences of a breach of faith, as relative to those powers, to enter repeatedly into those ruinous negotiations, by which "the United States jointly, and each of them in particular, together with all their lands, chattels, revenues, and products, and also the imposts and taxes already laid and raised in the same, or in time to come to be laid and raised, are for the whole," mortgaged for the re payment of those loans by instalments, and for the payment of the interest on them annually. These debts *must* be paid, *bona fide*, according to contract, or be further increased by procuring, if procurable, further loans; which, ruinous as the measure is, must be continued, unless the states empower Congress to raise money for the discharging those debts. It will not be in the power of the United States, and I am sure it will not be in their inclination, to rid themselves of those debts in the same base and ignominious manner in which a faction, in one of them, are endeavoring to get rid of theirs. To the same cause (a non-compliance with congressional requisitions) are owing the repeated but necessary breaches of public faith in regard to the payment of the federal domestic debt. And hence, as relative to the joint consolidated debt, the inefficiency of the public finances, and the bankrupt state of the federal treasury, which can never be remedied without empowering Congress to levy adequate duties and taxes. Without such a power, the accumulating debt will never be paid, but by a forcible collection, which our foreign creditors know how, and are able to apply, if, unhappily, it should be necessary. The several loans, which by contract are to be paid by instalments, will, in case of the failure of any of the stipulated payments, become, the whole of them, immediately payable; and any of the property of any of the states, whether public or private, that can be most easily come at, will, in that case, be seized and applied for that purpose.

This mode of reimbursement, or reprisal, will be upon the trade and navigation of the United States; and in proportion as ours of this state may be larger and more extensive than the trade and navigation of other states, we shall be the greatest sufferers. This ruin of our trade will involve in it not only the ruin of the mercantile part of the state, and of the numerous body of mechanics dependent upon it, but will most essentially affect every other class of citizens, and operate most extensively to the injury of the commonwealth.

These are some of the consequences, certain and in fallible, that will flow from the denial of that power to Congress. Shall *we* then, *we* of this state, who are so much interested in this matter, deny them *that* power — a power so essential to our political happiness?

But if we attend to our trade, as it is at present, we shall find that the miserable state of it is owing to a like want of power in Congress. Other nations prohibit our vessels from entering their ports, or lay heavy duties on our exports carried thither; and we have no retaliating or regulating power over their vessels and exports, to prevent it. Hence a decrease of our commerce and navigation, and the duties and revenue arising from them. Hence an insufficient demand for the produce of our lands, and the consequent discouragement of agriculture. Hence the inability to pay debts, and particularly taxes, which by that decrease are enhanced. And hence, as the necessary result of all these, the emigration of our inhabitants. If it be asked, How are these evils, and others that might be mentioned, to be remedied? the answer is short — By giving Congress adequate and proper power. Whether such power be given by the proposed Constitution, it is left with the Conventions from the several states, and with us, who compose one of them, to determine.

In determining on this question, every gentleman will, doubtless, consider the importance of cultivating a spirit of union among ourselves, and with the several states. This spirit procured our emancipation from British tyranny; and the same spirit, by uniting us in the necessary means, must secure to us our dear-bought, blood-purchased liberty and independence, and deliver us from evils which, unless remedied, must end in national ruin. The means for effecting these purposes are within our reach; and the adoption of the proposed Constitution will give us the possession of them. Like all other human productions, it may be imperfect; but most of the imperfections imputed to it are ideal and unfounded, and the rest are of such a nature that they cannot be certainly known but by the operations of the Constitution; and if, in its operation, it should in any respect be essentially bad, it will be amended in one of the modes prescribed by it. I say, *will* be amended, because the Constitution is constructed on such principles, that its bad effects, if any such should arise from it, will injure the members of Congress equally with their constituents; and, therefore, both of them must be equally induced to seek for, and effectuate, if possible, the requisite amendments.

There have been many objections offered against the Constitution; and of these the one most strongly urged has been, the great power vested in Congress. On this subject, I beg leave to make a few general observations, which ought to be attended to, as being applicable to every branch of that power.

It may, therefore, be observed, that the investiture of such power, so far from being an objection, is a most cogent reason for accepting the Constitution. The power of Congress, both in the legislative and executive line, is the power of the people, collected through a certain medium, to a focal point, at all times ready to be exerted for the general benefit, according as circumstances or exigencies may require. If you diminish or annihilate it, you diminish or annihilate the means of your own safety and prosperity; which means, if they were to be measured like mathematical quantities, would be in exact proportion, as the power is greater or less. But this is not the case; for power that does not reach, or is inadequate to the object, is worse than none. An exertion of *such* power would increase the evil it was intended to remove, and at the same time create a further evil, which might be a very great one — the expense of a fruitless exertion.

If we consider the objects of the power, they are numerous and important; and as human foresight cannot extend to many of them, and all of them are in the womb of futurity, the quantum of the power *cannot* be estimated. Less than the whole, as relative to federal purposes, may, through its insufficiency, occasion the dissolution of the Union, and a subjugation or division of it among foreign powers. *Their* attention is drawn to the United States; *their* emissaries are watching our conduct, particularly upon the present most important occasion; and if we should be so unhappy as to reject the federal Constitution proposed to us, and continue much longer our present weak, unenergetic federal government, their policy will probably induce them to plan a division or partition of the states among themselves, and unite their forces to effect it.

But, however *that* may be, *this* is certain — that the respectability of the United States among foreign nations, our commerce with them on the principles of reciprocity, and our forming beneficial treaties with them on those principles, their estimation of our friendship and fear of losing it, our capacity to resent injuries, and our security against interior as well as foreign attacks, must be derived from such a power. In short, the commercial and political happiness, the liberty and property, the peace, safety, and general welfare, both internal and external, of each and all the states, depend on that power; which, as it must be applied to a vast variety of objects, and to cases and exigencies beyond the ken of human prescience, must be very great; and which *cannot* be limited without endangering the public safety.

### Delegated

It will be, and has been said, this great power may be abused, and, instead of protecting, may be employed by Congress in oppressing, their constituents. A possibility of abuse, as it may be affirmed of all delegated power whatever, is by itself no sufficient reason for withholding the delegation. If it were a sufficient one, no power could be delegated; nor could government of any sort subsist. The possibility, however, should make us careful, that, in all delegations of importance, like the one contained in the proposed Constitution, there should be such checks provided as would not frustrate the end and intention of delegating the power, but would, as far as it could be safely done, prevent the abuse of it; and such *checks* are provided in the Constitution. Some of them were mentioned the last evening by one of my worthy colleagues; but I shall here exhibit all of them in one view.

The two capital departments of government, the legislative and executive, in which the delegated power resides, consisting of the President, Vice-President, Senate and Representatives, are directly, and by the respective legislatures and delegates, chosen by the people.

### Oath

The President, and also the Vice-President, when acting as President, before they enter on the execution of the office, shall each "solemnly swear or affirm, that he will faithfully execute the office of President of the United States, and will, to the best of his ability, preserve, protect, and defend, the Constitution of the United States."

"The senators and representatives before mentioned, and the members of the state legislatures, and all executive and judicial officers, both of the United States and of the several states, shall be bound, by oath or affirmation, to support this Constitution."

"The President and Vice-President, and all civil officers of the United States, shall be removed from office, on **impeachment** for, and conviction of, treason, bribery, or other high crimes or misdemeanors."

"No senator or representative shall, during the time for which he was elected, be appointed to any civil office; which shall have been created, or the emoluments whereof shall have been increased, during such time; and no person holding any office under the United Slates shall be a member of either house, during his continuance in office."

"No title of nobility shall be granted by the United States, or by any particular state; and no person holding any office of profit or trust Under the United States shall, without the consent of the Congress, accept of any present, emolument, office, or title, of any kind whatever, from any king, prince, or foreign state."

"The United States shall guaranty to every state in this Union a republican form of government, and shall protect each of them against invasion and domestic violence."

To these great checks may be added several other very essential ones, as, the negative which each house has upon the acts of the other; the disapproving power of the President, which subjects those acts to a revision by the two houses, and to a final negative, unless two thirds of each house shall agree to pass the returned acts, notwithstanding the President's objections; the printing the journals of each house, containing their joint and respective proceedings; and the publishing, from time to time, a regular statement and account of receipts and expenditures of all public money, none of which shall be drawn from the treasury but in consequence of appropriations made by law.

All these checks and precautions, provided in the Constitution, must, in a great measure, prevent an abuse of power, at least in all flagrant instances, even if Congress should consist wholly of men who were guided by no other principle than their own interest. Under the influence of such checks, this would compel them to a conduct which, in the general, would answer the intention of the Constitution. But the presumption is, — and, if the people duly attend to the objects of their choice, it would be realized, — that the President of the United States and the members of Congress would, for the most part, be men, not only of ability, but of a good moral character; in which case, an abuse of power is not to be apprehended, nor any error in the government, but such as every human institution is subject to.

There is a further guard against the abuse of power, which, though not expressed, is strongly implied in the federal Constitution, and, indeed, in the constitution of every government founded on the principles of equal liberty; and that is, that those who make the laws, and particularly laws for the levying of taxes, do, in common with their fellow-citizens, fall within the power and operation of those laws.

As, then, the individuals in Congress will all share in the burdens they impose, and be personally affected by the good or bad laws they make for the Union, they will be under the strongest motives of interest to lay the lightest burdens possible, and to make the best laws, or such laws as shall not unnecessarily affect either the property or the personal rights of their fellow-citizens.

### Delegated

With regard to rights, the whole Constitution is a declaration of rights, which primarily and principally respect the general government intended to be formed by it. The rights of particular states, or private citizens, not being the object or subject of the Constitution, they are only incidentally mentioned. In regard to the former, it would require a volume to describe them, as they extend to every subject of legislation, not included in the powers vested in Congress; and, in regard to the latter, as all governments are founded on the relinquishment of personal rights in a certain degree, there was a clear impropriety in being very particular about them. By such a particularity the government might be embarrassed, and prevented from doing what the private, as well as the public and general, good of the citizens and states might require.

The public good, in which private is necessarily involved, might be hurt by too particular an enumeration; and the private good could suffer no injury from a deficient enumeration, because Congress could not injure the rights of private citizens without injuring their own, as they must, in their public as well as private character, participate equally with others in the consequences of their own acts. And by this most important circumstance, in connection with the checks above mentioned, the several states at large, and each citizen in particular, will be secured, as far as human wisdom can secure them, against the abuse of the delegated power.

In considering the Constitution, we shall consider it, in all its parts, upon those general principles which operate through the whole of it, and are equivalent to the most extensive bill of rights that can be formed.

These observations, which are principally of a general nature, but will apply to the most essential parts of the Constitution, are, with the utmost deference and respect, submitted to your candid consideration; with the hope that, as they have influenced my own mind decidedly in favor of the Constitution, they will not be wholly unproductive of a like influence on the minds of the gentlemen of the Convention.

If the Constitution should be finally accepted and established, it will complete the temple of American liberty, and, like the keystone of a grand and magnificent arch, be the bond of union to keep all the parts firm and compacted together. May this temple, sacred to liberty and virtue, sacred to justice, the first and greatest political virtue, and built upon the broad and solid foundation of perfect union, be dissoluble only by the dissolution of nature; and may this Convention have the distinguished honor of erecting one of its pillars on that lasting foundation!

## Dr. TAYLOR

### Complaint

Said, the consideration of the 8th section had taken up a great deal of time; that gentlemen had repeated the same arguments over and over again; and, although the order of the Convention was, that the proposed Constitution should be considered by paragraphs, he was pleased, he said, to observe that the honorable gentleman fast speaking had gone into the matter at large, and therefore he hoped that other gentlemen would take the same liberty, and that all further observations might be on the system at large.

## Mr. PARSONS, (of Newburyport.)

Mr. President, a great variety of supposed objections have been made against vesting Congress with some of the powers defined in the 8th section. Some of the objectors have considered the powers as unnecessary, and others, that the people have not the proper security that these powers will not be abused. To most of these objections, answers, convincing, in my opinion, to a candid mind, have been given. But as some of the objections have not been noticed, I shall beg the indulgence of the Convention, while I briefly consider them. And, as it is my intention to avoid all repetition, my observations will necessarily be unconnected and desultory.

It has been said that the grant in this section includes all the possessions of the people, and divests them of every thing; that such a grant is impolitic; for, as the poverty of an individual guards him against luxury and extravagance, so poverty in a ruler is a fence against tyranny and oppression. Sir, gentlemen do not distinguish between the government of an hereditary aristocracy, where the interest of the governors is very different from that of the subjects, and a government to be administered for the common good by the servants of the people, vested with delegated powers by popular elections at stated periods. The federal Constitution establishes a government of the last description, and in this case the people divest themselves of nothing; the government and powers which the Congress can administer, are the mere result of a compact made by the people with each other, for the common defence and general welfare. To talk, therefore, of keeping the Congress poor, if it means any thing, must mean a depriving the people themselves of their own resources. But if gentlemen will still insist that these powers are a grant from the people, and consequently improper, let it then be observed, that it is now too late to impede the grant; it is already completed; the Congress, under the Confederation, are invested with it by solemn compact; they have powers to demand what moneys and forces they judge necessary for the common defence and general welfare — powers as extensive as those proposed in this Constitution. But it may be said, as the ways and means are reserved to the several states, they have a check upon Congress, by refusing a compliance with the requisitions. Sir, is this the boasted check? — a check that can never be exercised but by perfidy and a breach of public faith; by a violation of the most solemn stipulations? It is this check that has embarrassed at home, and made us contemptible abroad; and will any honest man plume himself upon a check which an honest man would blush to exercise?

### Oath –Religious Tests

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 has been objected that we have not as good security against the abuse of power under the new Constitution as the Confederation gives us. It is my deliberate opinion that we have a better security. Under the Confederation, the whole power, executive and legislative, is vested in one body, in which the people have no representation, and where the states, the large and the small states, are equally represented; and all the checks the states have, is a power to remove and disgrace an unfaithful servant, after the mischief is perpetrated. Under this Constitution, an equal representation, immediately from the people, is introduced, who, by their negative, and the exclusive right of originating money bills, have the power to control the Senate, where the sovereignty of the states is represented. But it has been objected that, in the old Confederation, the states could at any time recall their delegates, and there was a rotation. No essential benefit could be derived to the people from these provisions, but great inconveniences will result from them. It has been observed by a gentleman who has argued against the Constitution, that a representative ought to have an intimate acquaintance with the circumstances of his constituents, and, after comparing them with the situation of every part of the Union, so conduct as to promote the common good. The sentiment is an excellent one, and ought to be engraved on the hearts of every representative. But what is the effect of the power of recalling? Your representative, with an operating revocation over his head, will lose all ideas of the general good, and will dwindle to a servile agent, attempting to serve local and partial benefits by cabal and intrigue. There are great and insuperable objections to a rotation. It is an abridgment of the rights of the people, and it may deprive them, at critical seasons, of the services of the most important characters in the nation. It deprives a man of honorable ambition, whose highest duty is the applause of his fellow-citizens, of an efficient motive to great and patriotic exertions. The people, individually, have no method of testifying their esteem hut by a reëlection; and shall they be deprived of the honest satisfaction of wreathing for their friend and patriot a crown of laurel more durable than monarchy can bestow?

It has been objected that the Senate are made too dependent upon the state legislatures. No business under the Constitution of the federal Convention could have been more embarrassing than the constructing the Senate; as that body must conduct our foreign negotiations, and establish and preserve a system of national politics, a uniform adherence to which can alone induce other nations to negotiate with and confide in us. It is certain the change of the men who compose it should not be too frequent, and should be gradual. At the same time, suitable checks should be provided to prevent an abuse of power, and to continue their dependence on their constituents. I think the Convention have most happily extricated themselves from the embarrassment. Although the senators are elected for six years, yet the Senate, as a body composed of the same men, can exist only for two years, without the consent of the states. If the states think proper, one third of that body may, at the end of every second year, be new men. When the Senate act as legislators, they are controllable at all times by the representatives; and in their executive capacity, in making treaties and conducting the national negotiations, the consent of two thirds is necessary, who must be united to a man, (which is hardly possible,) or the new men biennially sent to the Senate, if the states choose it, can control them; and at all times there will also be one third of the Senate, who, at the expiration of two years, must obtain a reëlection, or return to the mass of the people. And the change of men in the Senate will be so gradual as not to destroy or disturb any national system of politics.

It is objected that it is dangerous to allow the Senate a right of proposing alterations or amendments in money bills; that the Senate may by this power increase the supplies, and establish profuse salaries; that for these reasons the lords in the British Parliament have not this power, which is a great security to the liberties of Englishmen. I was much surprised at hearing this objection, and the grounds upon which it was supported. The reason why the lords have not this power, is founded on a principle in the English constitution, that the commons alone represent the whole property of the nation; and as a money bill is a grant to the king, none can make the grant but those who represent the property of the nation; and the negative of the lords is introduced to check the profusion of the commons, and to guard their own property. The manner of passing a money bill is conclusive evidence of these principles; for, after the assent of the lords, it does not remain with the clerk of the Parliament, but is returned to the commons, who, by their speaker, present it to the king as the gift of the commons. But every supposed control the Senate, by this power, may have over money bills, they can have without it; for, by private communications with the representatives, they may as well insist upon the increase of the supplies, or salaries, as by official communications. But had not the Senate this power, the representatives might take any foreign matter to a money bill, and compel the Senate to concur, or lose the supplies. This might be done in critical seasons, when the Senate might give way to the encroachments of the representatives, rather than sustain the odium of embarrassing the affairs of the nation; the balance between the two branches of the legislature would, in this way, be endangered, if not destroyed, and the Constitution materially injured. This subject was fully considered by the Convention for forming the constitution of Massachusetts, and the provision made by that body, after mature deliberation, is introduced into the federal Constitution.

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.

# Acts of usurpation are not obligatory by LAW

The honorable gentleman from Boston has stated at large most of the checks the people have against usurpation, and the abuse of power, under the proposed Constitution; but from the abundance of his matter, he has, in my opinion, omitted two or three, which I shall mention. The oath the several legislative, executive, and judicial officers of the several states take to support the federal Constitution, is as effectual a security against the usurpation of the general government as it is against the encroachment of the state governments. For an increase of the powers by usurpation is as clearly a violation of the federal Constitution as a diminution of these powers by private encroachment; and that the oath obliges the officers of the several states as vigorously to oppose the one as the other. But there is another check, founded in the nature of the Union, superior to all the parchment checks that can be invented. If there should be a usurpation, it will not be on the farmer and merchant, employed and attentive only to their several occupations; it will be upon thirteen legislatures, completely organized, possessed of the confidence of the people, and having the means, as well as inclination, successfully to oppose it. Under these circumstances, none but madmen would attempt a usurpation. But, sir, the people themselves have it in their power effectually to resist usurpation, without being driven to an appeal to arms. An act of usurpation is not obligatory; it is not law; and any man may be justified in his resistance. Let him be considered as a criminal by the general government, yet only his own fellow-citizens can convict him; they are his jury, and if they pronounce him innocent, not all the powers of Congress can hurt him; and innocent they certainly will pronounce him, if the supposed law he resisted was an act of usurpation.

*Afternoon*. —

As soon as the Convention met this afternoon, Mr. NASON, in a short speech, introduced a motion to this effect: "That this Convention so far reconsider their former vote to discuss the Constitution by paragraphs, as to leave the subject at large open for consideration." This motion met with a warm opposition from several parts of the house.

## Mr. WALES

Said, that the time which had been spent in the discussion had been well spent, and that he was much surprised to see gentlemen thus wishing to hurry the matter.

## Mr. WIDGERY

Said, that necessity compelled them to hurry.

## Mr. DALTON.

Mr. President, we have been but six or seven days in the discussion of the Constitution. Sir, has not paragraph after paragraph been considered and explained? Has not great light been thrown upon the articles we have considered? For my part, I profess to have received much light on them. We are now discussing the powers of Congress, sir; shall we pass them over? Shall we pass over the article of the judiciary power, without examination? — I hope, sir, it will be particularly inquired into. I am sorry to hear gentlemen allege that they have been a long time from home, and that the want of money necessitates them to wish for an early decision. Sir, have not the General Court provided for the payment of the members of this Convention? and the treasurer, I am informed, is collecting money to comply with that provision. There are many parts which ought to be explained. I hope we shall attend to them with deliberation, and that, for the sake of saving a little money, we may not pass over the Constitution without well considering it.

## Judge SUMNER

Wished the motion might be withdrawn.

## Mr. NASON

Said, he would withdraw his motion for the present, but mentioned his intention of again making it at ten o'clock to-morrow morning.

# THURSDAY, *January* 24. —

## Mr. NASON

renewed his motion for reconsidering a former vote to discuss the Constitution by paragraphs, so that the whole may be taken up.

## The Hon. Mr. ADAMS

Said, he was one of those who had had difficulties and doubts respecting some parts of the proposed Constitution. He had, he said, for several weeks after the publication of it, laid by all the writings in the public papers on the subject, in order to be enabled leisurely to consider them. He had, he said, still more difficulties on his mind; but that he had chosen rather to be an auditor than an objector, and he had particular reasons therefor. As this was the case with him, and others, he believed, were in a similar situation, he was desirous to have a full investigation of the subject; that thereby such might be confirmed, either in favor or against the Constitution; and was, therefore, against the motion. We ought not, he said, to be stingy of our time, or the public money, when so important an object demanded them; and the public expect that we will not. He was sorry, he said, for gentlemen's necessities; but he would rather support the gentlemen who were so necessitated, or lend them money to do it, than they should hurry so great a subject. He, therefore, hoped that the question would be put, and that we should proceed as we began.

## Mr. PITTS

Said, it was impossible to consider the whole until the parts had been examined. Our constituents, said he, have a right to demand of us the reasons which shall influence us to vote as we shall do. He must, he said, therefore oppose the motion.

The Hon. Mr. KING, Col. SMITH, and several other gentlemen, spoke against the motion.

## Mr. WIDGERY

Opposed the motion's being winked out of sight. He wished, he said, the question might be put, that the sense of the Convention respecting it might be taken.

## Gen. THOMPSON

Said, it was not essential how the matter was considered; but he wished to have the whole subject at large open to discussion, so that every body might apeak to it. A member, says he, gets up and speaks, but he is called to order, as not confining himself to the particular paragraph under debate; and this puts him out. In his opinion, he said, the Constitution, and the reasons which induced gentlemen to frame it, ought to have been sent to the several towns to be considered by them. My town, said he, considered it seven hours, and after this there was not one in favor of it. If this had been done, we should have known the minds of the people on it; and should we dare, he asked, to act different from the sense of the people? It is strange, he said, that a system, which its planners say is so plain, *that he that runs may read it*, should want so much explanation.

[The question being generally called for, the motion was put, and negatived, without a return of the house. The endeavors of gentlemen to hush to silence a small buzz of congratulation, among a few citizens in the gallery, being mistaken by some of the members for a hiss, created a momentary agitation in the Convention, which, however, after a short conversation, subsided.]

The eighth section was again read.

## The Hon. Mr. SEDGWICK

Went into a general answer to the objections which had been started against the powers to he granted to Congress by this section. He showed the absolute necessity there was that the body which had the security of the whole for their object, should have the necessary means allowed them to effect it; and in order to secure the people against the abuse of this power, the representatives and people, he said, are equally subject to the laws, and can, therefore, have but one and the same interest; that they would never lay unnecessary burdens, when they themselves must bear a part of them; and from the extent of their objects, their power ought necessarily to be illimitable. Men, said he, rarely do mischief for the sake of being mischievous. With respect to the power, in this section, to raise armies, the honorable gentleman said, although gentlemen had thought it a dangerous power, and would be used for the purpose of tyranny, yet they did not object to the Confederation in this particular; and by this, Congress could have kept the whole of the late army in the field, had they seen fit. He asked, if gentlemen could think it possible that the legislature of the United States should raise an army unnecessarily, which, in a short time, would be under the control of other persons; for, if it was not to be under their control, what object could they have in raising it? It was, he said, a chimerical idea to suppose that a country like this could ever be enslaved. How is an army for that purpose to be obtained from the freemen of the United States? They certainly, said he, will know to what object it is to be applied. Is it possible, he asked, that an army could be raised for the purpose of enslaving themselves and their brethren? or, if raised, whether they could subdue a nation of freemen, who know how to prize liberty, and who have arms in their hands? He said, it was a deception in gentlemen to say that this power could be thus used. The honorable gentleman said, that in the Constitution every possible provision against an abuse of power was made; and if gentlemen would candidly investigate for themselves, they would find that the evils they lament cannot ensue therefrom.

## Mr. DAWES

### GUNS

Observed, upon the authority of Congress to raise and support armies, that all the objections which had been made by gentlemen against *standing* armies, were inapplicable to the present question, which was, that, as there must be an authority somewhere to raise and support armies, whether that authority ought to be in Congress. As Congress are the *legislature* upon the proposed plan of government, in them only, said he, should be lodged the power under debate. Some gentlemen seem to have confused ideas about *standing armies:* that the legislature of a country should not have power to raise armies, is a doctrine he had never heard before. Charles II., in England, kept in pay an army of five thousand men, and James II. augmented them to thirty thousand. This occasioned a great and just alarm through the nation; and, accordingly, when William III. came to the throne, it was declared unconstitutional to raise or keep a standing army, in time of peace, *without the consent of the legislature*. Most of our own state constitutions have borrowed this language from the English declaration of rights, but none of them restrain their legislatures from raising and supporting armies. Those who never objected to such an authority in Congress, as vested by the old Confederation, surely ought not to object to such a power in Congress, where there is to be a new branch of representation, arising immediately from the people, and which branch alone must originate those very grants that are to maintain an army. When we consider that this branch is to be elected every two years, there is great propriety in its being restrained from making any grants in support of the army for a longer space than that of their existence. If the election of this popular branch were for seven years, as in England, the men who would make the, first grant, might also be the second and third, for the continuance of the army; and such an acquaintance might exist between the representatives in Congress and the leaders of the army as might be unfavorable to liberty. But the wisdom of the late Convention has avoided this difficulty. The army must expire of itself in two years after it shall be raised, unless renewed by representatives, who, at that time, will have just come fresh from the body of the people. It will share the same fate as that of a temporary law, which dies at the time mentioned in the act itself, unless revived by some future legislature.

## Capt. DENCH

Said, it had been observed, and he was not convinced that the observation was wrong, that the grant of the powers in this section would produce a consolidation of the states, and the moment it begins, a dissolution of the state governments commences. If mistaken, he wished to be set right.

*Afternoon*. —

### Exclusive

## Dr. TAYLOR

Asked why there was not to be a *federal town*, over which Congress is to exercise exclusive legislation.

## Hon. Mr. STRONG

Said, every gentleman must think that the erection of a federal town was necessary, wherein Congress might remain protected from insult. A few years ago, said the honorable gentleman, Congress had to remove, because they were not protected by the authority of the state in which they were then sitting. He asked whether this Convention, though convened for but a short period, did not think it was necessary that they should have power to protect themselves from insult; much more so must they think it necessary to provide for Congress, considering they are to be a permanent body.

## Hon. Mr. DAVIS (of Boston)

Said it was necessary that Congress should have a permanent residence; and that it was the intention of Congress, under the Confederation, to erect a federal town. He asked, Would Massachusetts, or any other state, wish to give to New York, or the state in which Congress shall sit, the power to influence the proceedings of that body, which was to act for the benefit of the whole, by leaving them liable to the outrage of the citizens of such states?

## Dr. TAYLOR

Asked, why it need be *ten miles square*, and whether one mile square would not be sufficient.

## Hon. Mr. STRONG

Said, Congress was not to exercise jurisdiction over a district of ten miles, but one not *exceeding* ten miles square.

## Rev. Mr. STILLMAN

Said, that, whatever were the limits of the district, it would depend on the cession of the legislature of one of the states.

## Mr. DENCH

Said, that he wished further light on the subject; but that from the words, "We, the people," in the first clause, ordaining this Constitution, he thought it was an actual consolidation of the states, and that, if he was not mistaken, the moment it took place, a dissolution of the state governments will also take place.

## Gen. BROOKS (of Lincoln)

Rose, he said, to consider the idea suggested by the gentleman last speaking, that this Constitution would produce a dissolution of the state governments, or a consolidation of the whole; which, in his opinion, he said, was ill founded — or rather a loose idea. In the first place, says he, the Congress, under this Constitution, cannot be organized without repeated acts of the legislatures of the several states; and, therefore, if the creating power is dissolved, the body to be created cannot exist. In the second place, says the general, it is impossible the general government can exist, unless the governments of the several states are forever existing; as the qualifications of the electors of the federal representatives are to be the same as those of the electors of the most numerous branch of the state legislatures. It was, therefore, he said, impossible that the state governments should be annihilated by the general government, and it was, he said, strongly implied, from that part of the section under debate which gave Congress power to exercise exclusive jurisdiction over the federal town, that they shall have it over no other place. When we attend to the Constitution, we shall see, says the genera], that the powers to be given to Congress amount only to a consolidation of the strength of the Union, and that private rights are not consolidated. The general mentioned the rights which Congress could not infringe upon, and said that their power to define what was treason was much less than is vested in the legislature of this state by our own constitution; as it was confined, in the third section of article third, to levying war, or adhering to and comforting enemies, only. He mentioned the restraint upon Congress in the punishment of treason, and compared it with the extended powers lodged in the Parliament of Great Britain on like crimes; and concluded by observing, that, as the United States guaranty to *each state* a republican form of government, the state governments were as effectually secured as though this Constitution should never be in force.

## Hon. Mr. KING

Said, in reply to the inquiry respecting a federal town, that there was now no place for Congress to reside in, and that it was necessary that they should have a permanent residence, where to establish proper archives, in which they may deposit treaties, state papers, deeds of cession, &c.

## Hon. Mr. SINGLETARY

Said, that all gentlemen had said about a bill of rights to the Constitution, was, that what is written is written; but he thought we were giving up all power, and that the states will be like towns in this state. Towns, said he, have a right to lay taxes, to raise money, and the states possibly may have the same. We have now, said he, a good republican Constitution, and we do not want it guarantied to us. He did not understand what gentlemen meant by Congress guarantying a republican form of government; he wished they would not play round the subject with their fine stories, like a fox round a trap, but come to it. Why don't they say that Congress will guaranty our state constitution?

## Gen. THOMPSON

Said, Congress only meant to guaranty a *form* of government.

## Hon. Mr. KING

Asked whether, if the present constitution of this state had been guarantied by the United States, the honorable gentleman from Sutton would not have considered it as a great defect in the proposed Constitution, as it must have precluded the state from making any alteration in it, should they see fit so to do at the time mentioned in the Constitution.

[Several other gentlemen spoke, in a desultory conversation, on various parts of the Constitution; in which several articles from the constitution of this state, and the Confederation, were read; many questions asked the honorable gentlemen who framed the Constitution, to which answers apparently satisfactory were given.]

# FRIDAY, *January* 25. —

The 8th section still under debate; but the conversation continued desultory; and much attention was paid to the inquiries of gentlemen on different parts of the Constitution, by those who were in favor of it.

## Mr. AMES,

In a short discourse, called on those who stood forth in 1775 to stand forth now; to throw aside all interested and party views; to have one purse and one heart for the whole; and to consider that, as it was necessary then, so was it necessary now, to unite, — or die we must.

## Hon. Mr. SINGLETARY.

Mr. President, I should not have troubled the Convention again, if some gentlemen had not called on them that were on the stage in the beginning of our troubles, in the year 1775. I was one of them. I have had the honor to be a member of the court all the time, Mr. President, and I say that, if any body had proposed such a constitution as this in that day, it would have been thrown away at once. It would not have been looked at. We contended with Great Britain, some said for a threepenny duty on tea; but it was not that; it was because they claimed a right to tax us and bind us in all cases whatever. And does not this Constitution do the same? Does it not take away all we have — all our property? Does it not lay *all* taxes, duties, imposts, and excises? And what more have we to give? They tell us Congress won't lay dry taxes upon us, but collect all the money they want by impost. I say, there has always been a difficulty about impost. Whenever the General Court was going to lay an impost, they would tell us it was more than trade could bear, that it hurt the fair trader, and encouraged smuggling; and there will always be the same objection: they won't be able to raise money enough by impost, and then they will lay it on the land, and take all we have got. These lawyers, and men of learning, and moneyed men, that talk so finely, and gloss over matters so smoothly, to make us poor illiterate people swallow down the pill, expect to get into Congress themselves; they expect to be the managers of this Constitution, and get all the power and all the money into their own hands, and then they will swallow up all us little folks, like the great *Leviathan*, Mr. President; yes, just as the whale swallowe'd up *Jonah*. This is what I am afraid of; but I won't say any more at present, but reserve the rest to another opportunity.

## 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.

We are, by this Constitution, allowed to send ten members to Congress. Have we not more than that number fit to go? I dare say, if we pick out ten, we shall have another ten left, and I hope ten times ten; and will not these be a check upon those that go? Will they go to Congress, and abuse their power, and do mischief, when they know they must return and look the other ten in the face, and be called to account for their conduct? Some gentlemen think that our liberty and property are not safe in the hands of moneyed men, and men of learning? I am not of that mind.

Brother farmers, let us suppose a case, now: Suppose you had a farm of 50 acres, and your title was disputed, and there was a farm of 5000 acres joined to you, that belonged to a man of learning, and his title was involved in the same difficulty; would you not be glad to have him for your friend, rather than to stand alone in the dispute? Well, the case is the same. These lawyers, these moneyed men, these men of learning, are all embarked in the same cause with us, and we must all swim or sink together; and shall we throw the Constitution overboard because it does not please us alike? Suppose two or three of you had been at the pains to break up a piece of rough land, and sow it with wheat; would you let it lie waste because you could not agree what sort of a fence to make? Would it not be better to put up a fence that did not please every one's fancy, rather than not fence it at all, or keep disputing about it until the wild beasts came in and devoured it? Some gentlemen say, Don't be in a hurry; take time to consider, and don't take a leap in the dark. I say, Take things in time; gather fruit when it is ripe. There is a time to sow and a time to reap; we sowed our seed when we sent men to the federal Convention; now is the harvest, now is the time to reap the fruit of our labor; and if we won't do it now, I am afraid we never shall have another opportunity.

## Mr. PARSONS

considered the several charges of ambiguity which gentlemen had laid to the Constitution, and, with a great deal of accuracy, stated the obvious meaning of the clauses thus supposed to be ambiguous. He concluded his explanation by saying, that no compositions, which men can pen, could be formed, but what would be liable to the same charge.

*Afternoon*. —

## Hon. Mr. DALTON.

Mr. President, it has been demanded by some gentlemen in opposition to this Constitution, why those who were opposed to the augmentation of the powers of Congress a few years since, should now be the warmest advocates for the powers to be granted by the section under debate. Sir, I was opposed to the five per cent. impost being granted to Congress; and I conceived that such a grant, under the Confederation, would produce great difficulties and embarrassments. But, sir, as Congress is, by the proposed Constitution, to be differently constructed, as a proportionate voice of the states in that body is to be substituted for the present equal (or rather unequal) one, my objections will be removed. In my opinion, the delegating of power to a government in which the people have so many checks, will be perfectly safe, and consistent with the preservation of their liberties.

## Mr. AMES

Said, that, in the course of the debates, gentlemen had justified the Confederation; but he wished to ask whether there was any danger in this Constitution which is not in the Confederation. If gentlemen are willing to confederate, why, he asked, ought not Congress to have the powers granted by this section? In the Confederation, said Mr. A., the checks are wanting which are to be found in this Constitution. And the fears of gentlemen that this Constitution will provide for a permanent aristocracy are therefore ill-founded; for the rulers will always be dependent on the people, like the insects of a sunshiny day, and may, by the breath of their displeasure, be annihilated.

## Mr. WIDGERY.

Mr. President, enough has, I think, been said on the 8th section. It has been repeated, over and over again, that the adoption of the Constitution will please all ranks; that the present inefficiency of the Confederation is obvious; and that blessed things will surely be the result of this Constitution. Many say, Ask the mechanics, ask the yeomanry. But they do not tell us what the answer of these will be. All we hear is, that the merchant and farmer will nourish, and that the mechanics and tradesmen are to make their fortunes directly, if the Constitution goes down. Is it, sir, because the seat of government is to be carried to Philadelphia? Who, sir, is to pay the debts of the yeomanry and others? Sir, when oil will quench fire, I will believe all this, and not till then. On the contrary, I think the adopting this Constitution makes against them, though it may be something in favor of the merchants Have not Congress power to tax polls, — for there is no other way of levying a dry tax, — and by this means the poor will pay as much as the rich. Gentlemen say we are undone, and that there is no resource, unless this Constitution is adopted. I cannot see why we need, for the sake of a little meat, swallow a great bone, which, if it should happen to stick in our throats, can never be got out. Some gentlemen have given out, that we are surrounded by enemies, that we owe debts, and that the nations will make war against us, and take our shipping, &c. Sir, I ask, Is this a fact? Or whether gentlemen think as they say? I believe they do not; for I believe they are convinced that the nations we owe do not wish us at present to pay more than the interest.

Mr. W., after considering some other observations which had dropped from gentlemen in the course of the debates on the 8th section, concluded by saying, that he could not see the great danger that would arise from rejecting the Constitution.

## The Hon. Mr. GORHAM

Adverted to the suggestion of some gentlemen, that, by granting the impost to Congress, this state would pay more than its proportion, and said that it could be made an objection as much against one government as another. But he believed gentlemen would accede that the impost was a very proper tax. As to the tax on polls, which the gentleman from New Gloucester had said would take place, he saw, he said, no article in the Constitution which warranted the assertion; it was, he said, a distressful tax, and would never be adopted. By impost and excise, the man of luxury will pay; and the middling and the poor parts of the community, who live by their industry, will go clear; and as this would be the easiest mode of raising a revenue, it was the most natural to suppose it would be resorted to. Twenty per cent., he said, may as well be paid for some luxuries as five; nay, one hundred per cent. impost on some articles might be laid on, as is done in England and France. How often, observed the honorable gentleman, has Mr. Adams tried to accomplish a commercial treaty with England, with but feeble power! They prohibit our oil, fish, lumber, pot and pearl ashes, from being imported into their territories, in order to favor Nova Scotia, for they know we cannot make general retaliating laws. They have a design in Nova Scotia to rival us in the fishery, and our situation at present favors their design. From the abundance of our markets, we could supply them with beef, butter, pork, &c., but they lay what restrictions on them they please , which they durst not do, were there an adequate power lodged in the general government to regulate commerce.

Mr. JONES, Col. PORTER, and Col. VARNUM, said a few words in favor of the article, when 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.

# SATURDAY, *January* 26. —

[The debate on the 9th section still continued desultory, and consisted of similar objections, and answers thereto, as had before been used. Both sides deprecated the slave trade in the most pointed terms; on one side, it was most pathetically lamented by Mr. Nason, Major Lusk, Mr. Neal, and others, that this Constitution provided for the continuation of the slave trade for twenty years; and on the other, the Hon. Judge Dana, Mr. Adams, and others, rejoiced that a door was now to be opened for the annihilation of this odious, abhorrent practice, in a certain time.]

The paragraph which provides that "the privilege of the writ of *habeas corpus* shall not be suspended, unless in cases of rebellion or invasion," was read, when

## Gen. THOMPSON

Asked the president to please to proceed. We have, said he, read the book often enough; it is a consistent piece of inconsistency.

## Hon. Mr. ADAMS,

In answer to an inquiry of the Hon. Mr. Taylor, said, that this power given to the general government to suspend this privilege in cases of rebellion and invasion, did not take away the power of the several states to suspend it, if they shall see fit.

## Dr. TAYLOR

Asked, why this darling privilege was not expressed in the same manner it was in the Constitution of Massachusetts. [Here the honorable gentleman read the paragraph respecting it, in the constitution of that state, and then the one in the proposed Constitution.] He remarked on the difference of expression, and asked why the time was not limited.

## Judge DANA

Said, the answer, in part, to the honorable gentleman, must be, that the same men did not make both Constitutions; that he did not see the necessity or great benefit of limiting the *time*. Supposing it had been, as in our constitution, "not exceeding twelve months," yet, as our legislature can, so might the Congress, continue the suspension of the writ from time to time, or from year to year. The safest and best restriction, therefore, arises from the nature of the cases in which Congress are authorized to exercise that power at all, namely, in those of rebellion or invasion. These are clear and certain terms, facts of public notoriety, and whenever these shall cease to exist, the suspension of the writ must necessarily cease also. He thought, the citizen had a better security for his privilege of the writ of *habeas corpus* under the federal than under the state constitution; for our legislature may suspend the writ as often as they judge "*the most urgent and pressing occasions*" call for it. He hoped these short observations would satisfy the honorable gentleman's inquiries; otherwise, he should be happy in endeavoring to do it by going more at large into the subject.

## Judge SUMNER

Said, that this was a restriction on Congress, that the writ of *habeas corpus* should not be suspended, except in cases of rebellion or invasion. The learned judge then explained the nature of this writ. When a person, said he, is imprisoned, he applies to a judge of the Supreme Court; the judge issues his writ to the jailer, calling upon him to have the body of the person imprisoned before him, with the crime on which he was committed. If it then appears that the person was legally committed, and that he was not bailable, he is remanded to prison; if illegally confined, he is enlarged. This privilege, he said, is essential to freedom, and therefore the power to suspend it is restricted. On the other hand, the state, he said, might be involved in danger; the worst enemy may lay plans to destroy us, and so artfully as to prevent any evidence against him, and might ruin the country, without the power to suspend the writ was thus given. Congress have only power to suspend the privilege to persons committed by their authority. A person committed under the authority of the states will still have a right to this writ.

# MONDAY, *January* 28. —

This and the two following days were taken up in considering the several sections of the second and third articles, every one of which was objected to by those who were opposed to the Constitution; and the objections were obviated by gentlemen in favor of it. We do not think it essential to go into a minute detail of the conversation; as, in the speeches on the grand question, the field is again gone over. We can only say that, with the utmost attention, every objection, however trifling, was answered, and that the unremitted endeavors of gentlemen who advocated the Constitution, to convince those who were in error, were not without effect. The main objections to the judiciary power are contained in the following speech delivered on

# WEDNESDAY, *January* 30. —

## Mr. HOLMES.

Mr. President, I rise to make some remarks on the paragraph under. consideration, which treats of the judiciary power.

It is a maxim universally admitted, that the safety of the subject consists in having a right to a trial as free and impartial as the lot of humanity will admit of. Does the Constitution make provision for such a trial? I think not; for in a criminal process, a person shall not have a right to insist on a trial in the vicinity where the fact was committed, where a jury of the peers would, from their local situation, have an opportunity to form a judgment of the *character* of the person charged with the crime, and also to judge of the *credibility* of the witnesses. There a person must be tried by a jury of strangers; a jury who *may be* interested in his conviction; and where he *may*, by reason of the distance of his residence from the place of trial, be incapable of making such a defence as he is, in justice, entitled to, and which he could avail himself of, if his trial was in the same county where the crime is said to have been committed.

These circumstances, as horrid as they are, are rendered still more dark and gloomy, as there is no provision made in the Constitution to prevent the attorney-general from filing information against any person, whether he is indicted by the grand jury or not; in consequence of which the most innocent person in the commonwealth may be taken by virtue of a warrant issued in consequence of such information, and dragged from his home, his friends, his acquaintance, and confined in prison, until the next session of the court, which has jurisdiction of the crime with which he is charged, (and how frequent those sessions are to be we are not yet informed of,) and after long, tedious, and painful imprisonment, though acquitted on trial, may have no possibility to obtain any kind of satisfaction for the loss of his liberty, the loss of his time, great expenses, and perhaps cruel sufferings.

But what makes the matter still more alarming is, that the mode of criminal process is to be pointed out by Congress, and they have no constitutional check on them, except that the trial is to be by a *jury*: but who this jury is to be, how qualified, where to live, how appointed, or by what rules to regulate their procedure, we are ignorant of as yet: whether they are to live in the county where the trial is; whether they are to be chosen by certain districts, or whether they are to be appointed by the sheriff *ex officio*; whether they are to be for one session of the court only, or for a certain term of time, or for good behavior, or during pleasure, are matters which we are entirely ignorant of as yet.

The mode of trial is altogether indetermined; whether the criminal is to be allowed the benefit of counsel; whether he is to be allowed to meet his accuser face to face; whether he is to be allowed to confront the witnesses, and have the advantage of cross-examination, we are not yet told.

These are matters of by no means small consequence; yet we have not the smallest constitutional security that we shall be allowed the exercise of these privileges, neither is it made certain, in the Constitution, that a person charged with the crime shall have the privilege of appearing before the court or jury which is to try him.

On the whole, when we fully consider this matter, and fully investigate the powers granted, explicitly given, and specially delegated, we shall find Congress possessed of powers enabling them to institute judicatories little less inauspicious than a certain tribunal in Spain, which has long been the disgrace of Christendom: I mean that diabolical institution, the *Inquisition*:

What gives an additional glare of horror to these gloomy circumstances is the consideration, that Congress have to ascertain, point out, and determine, what kind of punishments shall be inflicted on persons convicted of crimes. They are nowhere restrained from inventing the most cruel and unheard-of punishments, and annexing them to crimes; and there is no constitutional check on them, but that *racks* and *gibbets* may be amongst the most mild instruments of their discipline.

There is nothing to prevent Congress from passing laws which shall compel a man, who is accused or suspected of a crime, to furnish evidence against himself, and even from establishing laws which shall order the court to take the charge exhibited against a man for truth, unless he can furnish evidence of his innocence.

I do not pretend to say Congress *will* do this; but, sir, I undertake to say that Congress (according to the powers proposed to be given them by the Constitution) *may* do it; and if they do not, it will be owing *entirely* — I repeat it, it will be owing *entirely* — to the goodness of the men, and not in the *least degree* owing to the goodness of the Constitution.

The framers of our state constitution took particular care to prevent the General Court from authorizing the judicial authority to issue a warrant against a man for a crime, unless his being guilty of the crime was supported by oath or affirmation, prior to the warrant being granted; why it should be esteemed so much more safe to intrust Congress with the power of enacting laws, which it was deemed so unsafe to intrust our state legislature with, I am unable to conceive.

## Mr. GORE

Observed, in reply to Mr. Holmes, that it had been the uniform conduct of those in opposition to the proposed form of government, to determine, in every case where it was possible that the administrators thereof could do wrong, that they would do so, although it were demonstrable that such wrong would be against their own honor and interest, and productive of no advantage to themselves. On this principle alone have they determined that the trial by jury would be taken away in civil cases; when it had been clearly shown, that no words could be adopted, apt to the situation and customs of each state in this particular. Jurors are differently chosen in different states, and in point of qualification the laws of the several states are very diverse; not less so in the causes and disputes which are entitled to trial by jury. What is the result of this? That the laws of Congress may and will be conformable to the local laws in this particular, although the Constitution could not make a universal rule equally applying to the customs and statutes of the different states. Very few governments (certainly not this) can be interested in depriving the people of trial by jury, in questions of *meum et tuum*. In criminal cases alone are they interested to have the trial under their own control; and, in such cases, the Constitution expressly stipulates for trial by jury; but then, says the gentleman from Rochester, (Mr. Holmes,) to the safety of life it is indispensably necessary the trial of crimes should be in the vicinity; and the vicinity is construed to mean county; this is very incorrect, and gentlemen will see the impropriety, by referring themselves to the different local divisions and districts of the several states. But further, said the gentleman, the idea that the jury coming from the neighborhood, and knowing the character and circumstances of the party in trial, is promotive of justice, on reflection will appear not founded in truth. If the jury judge from any other circumstances but what are part of the cause in question, they are not impartial. The great object is to determine on the real merits of the cause, uninfluenced by any personal considerations; if, therefore, the jury could be perfectly ignorant of the person in trial, a just decision would be more probable From such motives did the wise Athenians so constitute the famed Areopagus, that, when in judgment, this court should sit at midnight, and in total darkness, that the decision might be on the thing, and not on the person. Further, said the gentleman, it has been said, because the Constitution does not expressly provide for an indictment by grand jury in criminal cases, therefore some officer under this government will be authorized to file informations, and bring any man to jeopardy of his life, and indictment by grand jury will be disused. If gentlemen who pretend such fears will look into the constitution of Massachusetts, they will see that no provision is therein made for an indictment by grand jury, or to oppose the danger of an attorney-general filing informations; yet no difficulty or danger has arisen to the people of this commonwealth from this defect, if gentlemen please to call it so. If gentlemen would be candid, and not consider that, wherever Congress may possibly abuse power, they certainly will, there would be no difficulty in the minds of any in adopting the proposed Constitution.

## Mr. DAWES

### Common law

Said, he did not see that the right of trial by jury was taken away by the article. The word *court* does not, either by a popular or technical construction, exclude the use of a jury to try facts. When people, in common language, talk of a trial at the *Court* of Common Pleas, or the Supreme Judicial *Court*, do they not include all the branches and members of such court — the *jurors* as well as the judges? They certainly do, whether they mention the jurors expressly or not. Our state legislators have construed the word *court* in the same way; for they have given appeals from a justice of peace to the Court of Common Pleas, and from thence to the Supreme Court, without saying any thing of the jury; but in cases which, almost time out of mind, have been tried without jury, there the jurisdiction is given expressly to the justices of a particular court, as may be instanced by suits upon the absconding act, so called.

Why Common Law was not centered by the federal government

Gentlemen have compared the article under consideration to that power which the British claimed, and we resisted, at the revolution; namely, the power of trying the Americans without a jury. But surely there was no parallel in the cases; it was criminal cases in which they attempted to make this abuse of power. Mr. D. mentioned one example of this, which, though young, he well remembered; and that was the case of Nickerson, the pirate, who was tried without a jury, and whose judges were the governors of Massachusetts and of some neighboring provinces, together with Admiral Montague, and some gentlemen of distinction. Although this trial was without a jury, yet, as it was a trial upon the civil law, there was not so much clamor about it as otherwise there might have been; but still it was disagreeable to the people, and was one of the then complaints But the trial by jury was not attempted to be taken from civil causes. It was no object of power, whether one subject's property was lessened, while another's was increased; nor can it be now an object with the federal legislature. What interest can they have in constituting a judiciary, to proceed in civil causes without a trial by jury? In criminal causes, by the proposed government, there must be a jury. It is asked, Why is not the Constitution as explicit in securing the right of jury in civil as in criminal cases? The answer is, Because it was out of the power of the Convention. The several states differ so widely in their modes of trial, some states using a jury in causes wherein other states employ only their judges, that the Convention have very wisely left it to the federal legislature to make such regulations as shall, as far as possible, accommodate the whole. Thus our own state constitution authorizes the General Court to erect judicatories, but leaves the nature, number, and extent of them, wholly to the discretion of the legislature. The bill of rights, indeed, secures the trial by jury, in civil causes, except in cases where a contrary practice has obtained. Such a clause as this some gentlemen wish were inserted in the proposed Constitution, but such a clause would be abused in that Constitution, as has been clearly stated by the honorable gentleman from Charlestown, (Mr. Gorham,) because the "exception of all cases where a jury have not heretofore been used," would include almost all cases that could be mentioned, when applied to all the states, for they have severally differed in the kinds of causes where they have tried without a jury.

## Gen. HEATH.

### New States & Slavery

Mr. President, by my indisposition and absence, I have lost several important opportunities. I have lost the opportunity of expressing my sentiments with a candid freedom, on some of the paragraphs of the system, which have lain heavy on my mind. I have lost the opportunity of expressing my warm approbation on some of the paragraphs. I have lost the opportunity of asking some questions for my own information, touching some of the paragraphs, and which naturally occurred, as the system unfolded. I have lost the opportunity of hearing those judicious, enlightening, and convincing arguments, which have been advanced during the investigation of the system. This is my misfortune, and I must bear it. The paragraph respecting the migration or importation of such persons as any of the states now existing shall think proper to admit, &c., is one of those considered during my absence, and I have heard nothing on the subject, save what has been mentioned this morning; but I think the gentlemen who have spoken have carried the matter rather too far on both sides. I apprehend that it is not in our power to do any thing for or against those who are in slavery in the Southern States. No gentleman, within these walls, detests every idea of slavery more than I do: it is generally detested by the people of this commonwealth; and I ardently hope that the time will soon come when our brethren in the Southern States will view it as we do, and put a stop to it; but to this we have no right to compel them. Two questions naturally arise: If we ratify the Constitution, shall we do any thing by our act to hold the blacks in slavery? or shall we become the partakers of other men's sins? I think, neither of them. Each state is sovereign and independent to a certain degree, and the states have a right, and they will regulate their own internal affairs as to themselves appears proper; and shall we refuse to eat, or to drink, or to be united, with those who do not think, or act, just as we do? Surely not. We are not, in this case, partakers of other men's sins; for in nothing do we voluntarily encourage the slavery of our fellow-men. A restriction is laid on the federal government, which could not be avoided, and a union take place. The federal Convention went as far as they could. The migration or importation, &c., is confined to the states now *existing only*; new states cannot claim it. Congress, by their ordinance for erecting new states, some time since, declared that the new states shall he republican, and that there shall he no slavery in them. But whether those in slavery in the Southern States will be emancipated after the year 1808, I do not pretend to determine. I rather doubt it.

After the 5th article was read at the table, —

## The Hon. Mr. KING

Observed, that he believed gentlemen had not, in their objections to the Constitution, recollected that this article was a part of it; for many of the arguments of gentlemen were founded on the idea of future amendments being impracticable. The honorable gentleman observed on the superior excellence of the proposed Constitution in this particular, and called upon gentlemen to produce an instance, in any other national constitution, where the people had so fair an opportunity to correct any abuse which might take place in the future administration of the government under it.

## Dr. JARVIS.

Mr. President, I cannot suffer the present article to be passed, without rising to express my entire and perfect approbation of it. Whatever may have been my private opinion of any other part, or whatever faults or imperfections I have remarked, or fancied I have seen, in any other instance, here, sir, I have found complete satisfaction: this has been a resting place, on which I have reposed myself in the fullest security, whenever a doubt has occurred, in considering any other passage in the proposed Constitution. The honorable gentleman last speaking has called upon those persons who are opposed to our receiving the present system, to show another government, in which such a wise precaution has been taken to secure to the people the right of making such alterations and amendments, in a peaceable way, as experience shall have proved to be necessary. Allow me to say, sir, as far as the narrow limits of my own information extend, I know of no such example. In other countries, sir, — unhappily for mankind, — the history of their respective revolutions has been written in blood; and it is in this only that any great or important change in our political situation has been effected, without public commotions. When we shall have adopted the Constitution before us, we shall have in this article an adequate provision for all the purposes of political reformation. If, in the course of its operation, this government shall appear to be too severe, here are the means by which this severity may be assuaged and corrected. If, on the other hand, it shall become too languid in its movements, here, again, we have a method designated, by which a new portion of health and spirit may be infused into the Constitution.

### Amendments

There is, sir, another view, which I have long since taken of this subject, which has produced the fullest conviction, in my own mind, in favor of our receiving the government which we have now in contemplation. Should it be rejected, I beg gentlemen would observe, that a concurrence of all the states must be had before a new convention can be called to form another Constitution; but the present article provides, upon nine states' concurring in any alteration or amendment to be proposed either by Congress or any future convention, that this alteration shall be a part of the Constitution, equally powerful and obligatory with any other part. If it be alleged that this union is not likely to happen, will it be more likely that a union of a greater number of concurring sentiments may be had, as must be, in case we reject the Constitution in hopes of a better? But that this is practicable, we may safely appeal to the history of this country as a proof, in the last twenty years. We have united against the British; we have united in calling the late federal Convention; and we may certainly unite again in such alterations as in reason shall appear to be important for the peace and happiness of America.

In the constitution of this state, the article providing for alterations is limited in its operation to a given time; but in the present Constitution, the article is perfectly at large, unconfined to any period, and may admit of measures being taken in any moment after it is adopted. In this point it has undoubtedly the advantage. I shall not sit down, sir, without repeating, that, as it is clearly more difficult for twelve states to agree to another convention, than for nine to unite in favor of amendments, so it is certainly better to receive the present Constitution, in the hope of its being amended, than it would be to reject it altogether, with, perhaps, the vain expectation of obtaining another more agreeable than the present. I see no fallacy in the argument, Mr. President; but, if there is, permit me to call upon any gentleman to point it out, in order that it may be corrected; for, at present, it seems to me of such force as to give me entire satisfaction.

### Religion

In the conversation on Thursday, on the sixth article which provides that "no religious test shall ever be required as a qualification to any office," &c., several gentlemen urged that it was a departure from the principles of our forefathers, who came here for the preservation of their religion; and that it would admit deists, atheists, &c., into the general government; and, people being apt to imitate the examples of the court, these principles would be disseminated, and, of course, a corruption of morals ensue. Gentlemen on the other side applauded the liberality of the clause, and represented, in striking colors, the impropriety, and almost impiety, of the requisition of a test, as practised in Great Britain and elsewhere. In this conversation, the following is the substance of the observations of the

## Rev. Mr. SHUTE.

Mr. President, to object to the latter part of the paragraph under consideration, which excludes a religious test, is, I am sensible, very popular; for the most of men, somehow, are rigidly tenacious of their own sentiments in religion, and disposed to impose them upon others as the *standard* of truth. If, in my sentiments upon the point in view, I should differ from some in this honorable body, I only wish from them the exercise of that candor, with which true religion is adapted to inspire the honest and well-disposed mind.

To establish a religious test as a qualification for offices in the proposed federal Constitution, it appears to me, sir, would be attended with injurious consequences to some individuals, and with no advantage to the *whole*.

By the injurious consequences to individuals, I mean, that some, who, in every other respect, are qualified to fill some important post in government, will be excluded by their not being able to stand the religious test; which I take to be a privation of part of their civil rights.

Nor is there to me any conceivable advantage, sir, that would result to the whole from such a test. Unprincipled and dishonest men will not hesitate to subscribe to *any thing* that may open the way for their advancement, and put them into a situation the better to execute their base and iniquitous designs. Honest men alone, therefore, however well qualified to serve the public, would be excluded by it, and their country be deprived of the benefit of their abilities.

In this great and extensive empire, there is, and will be, a great variety of sentiments in religion among its inhabitants. Upon the plan of a religious test, the question, I think, must be, Who shall be excluded from national trusts? Whatever answer bigotry may suggest, the dictates of candor and equity, I conceive, will be, *None*.

Far from limiting my charity and confidence to men of my own denomination in religion, I suppose, and I believe, sir, that there are worthy characters among men of every denomination — among the Quakers, the Baptists, the Church of England, the Papists; and even among those who have no other guide, in the way to virtue and heaven, than the dictates of natural religion.

I must therefore think, sir, that the proposed plan of government, in this particular, is wisely constructed; that, as all have an equal claim to the blessings of the government under which they live, and which they support, so none should be excluded from them for being of any particular denomination in religion.

The presumption is, that the eyes of the people will be upon the faithful in the land; and, from a regard to their own safety, they will choose for their rulers men of known abilities, of known probity, of good moral characters. The apostle Peter tells us that God is no respecter of persons, but, in every nation, he that feareth him, and worketh righteousness, is *acceptable* to him. And I know of no reason why men of such a character, in a community of whatever denomination in religion, *caeteris paribus*, with other suitable qualifications, should not be *acceptable* to the people, and why they may not be employed by them with safety and advantage in the important offices of government. The exclusion of a religious test in the proposed Constitution, therefore, clearly appears to me, sir, to be in favor of its adoption.

## Col. JONES (of Bristol)

Thought, that the rulers ought to believe in God or Christ, and that, however a test may be prostituted in England, yet he thought, if our public men were to be of those who had a good standing in the church, it would be happy for the United States, and that a person could not be a good man without being a good Christian.

The conversation on the Constitution, by paragraphs, being ended,

## Mr. PARSONS

Moved, *that this Convention do assent to, and ratify, this Constitution*.

## Mr. NEAL

Rose, and said, that, as the Constitution at large was now under consideration, he would just remark, that the article which respected the Africans was the one which lay on his mind; and, unless his objections to that were removed, it must, how much soever he liked the other parts of the Constitution, be a sufficient reason for him to give his negative to it.

## Col. JONES

Said, that one of his principal objections was, the omission of a religious test.

## Rev. Mr. PAYSON.

Mr. President, after what has been observed, relating to a religious test, by gentlemen of acknowledged abilities, I did not expect that it would again be mentioned, as an objection to the proposed Constitution, that such a test was not required as a qualification for office. Such were the abilities and integrity of the gentlemen who constructed the Constitution, as not to admit of the presumption, that they would have betrayed so much vanity as to attempt to erect bulwarks and barriers to the throne of God. Relying on the candor of this Convention, I shall take the liberty to express my sentiments on the nature of a religious test, and shall endeavor to do it in such propositions as will meet the approbation of every mind.

### Religion

The great object of religion being God supreme, and the seat of religion in man being the heart or conscience, *i. e*., the reason God has given us, employed on our moral actions, in their most important consequences, as related to the tribunal of God, hence I infer that God alone is the God of the conscience, and, consequently, attempts to erect human tribunals for the consciences of men are impious encroachments upon the prerogatives of God. Upon these principles, had there been a religious test as a qualification for office, it would, in my opinion, have been a great blemish upon the instrument.

## Gen. HEATH.

### NOTE

Mr. President, after a long and painful investigation of the federal Constitution, by paragraphs, this honorable Convention are drawing nigh to the ultimate question — a question as momentous as ever invited the attention of man. We are soon to decide on a system of government, digested, not for the people of the commonwealth of Massachusetts only — not for the present people of the United States only — but, in addition to these, for all those states which may hereafter rise into existence within the jurisdiction of the United States, and for millions of people yet unborn; a system of government, not for a nation of slaves, but for a people as free and virtuous as any on earth; not for a conquered nation, subdued to our will, but for a people who have fought, who have bled, and who have conquered; who, under the smiles of Heaven, have established their independence and sovereignty, and have taken equal rank among the nations of the earth. In short, sir, it is a system of government for ourselves and for our children, for all that is near and dear to us in life; and on the decision of the question is suspended our political prosperity or infelicity, perhaps our existence as a nation. What can be more solemn? What can be more interesting? Every thing depends on our union. I know that some have supposed, that, although the union should be broken, particular states may retain their importance; but this cannot be. The strongest-nerved state, even the right arm, if separated from the body, must wither. If the great union be broken, our country, as a nation, perishes; and if our country so perishes, it will be as impossible to save a particular state as to preserve one of the fingers of a mortified hand.

By one of the paragraphs of the system, it is declared that the ratifications of the conventions of nine slates shall be sufficient for the establishment of the Constitution between the states so ratifying the. same. But, sir, how happy will it be, if not only nine, but even all the states, should ratify it! It will be a happy circumstance if only a small majority of this Convention should ratify the federal system; but how much more happy if we could be unanimous! It will be a happy circumstance if a majority of the people of this commonwealth should be in favor of the federal system; but how much more so, if they should be unanimous! and, if there are any means whereby they may be united, every exertion should be made to effect it. I presume, sir, that there is not a single gentleman within these walls who does not wish for a federal government — for an efficient federal government; and that this government should be possessed of every power necessary to enable it to shed on the people the benign influence of a good government. But I have observed, from the first, that many gentlemen appear opposed to the system; and this, I apprehend, arises from their objections to some particular parts of it. Is there not a way in which their minds may be relieved from embarrassment? I think there is; and if there is, no exertions should be spared in endeavoring to do it.

If we should ratify the Constitution, and instruct our first members to Congress to exert their endeavors to have such checks and guards provided as appear to be necessary in some of the paragraphs of the Constitution, communicate what we may judge proper to our sister states, and request their concurrence, — is there not the highest probability that every thing which we wish may be effectually secured? I think there is; and I cannot but natter myself that in this way the gentlemen of the Convention will have the difficulties under which they now labor removed from their minds. We shall be united: the people of this commonwealth and our sister states may be united. Permit me, therefore, most earnestly to recommend it to the serious consideration of every gentleman in this honorable Convention.

After Gen. Heath sat down, his excellency,

## The PRESIDENT, John Hancock

## Recommending Amendments

### Recommending Amendments

Rose, and observed, that he was conscious of the impropriety, situated as he was, of his entering into the deliberations of the Convention; that, unfortunately, through painful indisposition of body, he had been prevented from giving his attendance in his place, but, from the information he had received, and from the papers, there appeared to him to be a great dissimilarity of sentiments in the Convention. To remove the objections of some gentlemen, he felt himself induced, he said, to hazard a proposition for their consideration; which, with the permission of the Convention, he would offer in the afternoon.

*Afternoon*. —

(When the Convention met in the afternoon, his excellency, the PRESIDENT, observed, that) A motion had been made and seconded, that this Convention do assent to and ratify the Constitution which had been under consideration; and that he had, in the former part of the day, intimated his intention of submitting a proposition to the Convention. My motive, says he, arises from my earnest desire to this Convention, my fellow-citizens, and the public at large, that this Convention may adopt such a form of government as may extend its good influence to every part of the United States, and advance the prosperity of the whole world. His situation, his excellency said, had not permitted him to enter into the debates of this Convention: it, however, appeared to him necessary, from what had been advanced in them, to adopt the form of government proposed; but, observing a diversity of sentiment in the gentlemen of the Convention, he had frequently had conversation with them on the subject, and from this conversation he was induced to propose to them, whether the introduction of some general amendments would not be attended with the happiest consequences. For that purpose, he should, with the leave of the honorable Convention, submit to their consideration a proposition, in order to remove the doubts and quiet the apprehensions of gentlemen; and if, in any degree, the object should be acquired, he should feel himself perfectly satisfied. He should therefore submit them; for he was, he said, unable to go more largely into the subject, if his abilities would permit him; relying on the candor of the Convention to bear him witness that his wishes for a good constitution were sincere. [*His excellency then read his proposition*.] — This, gentlemen, concluded his excellency, is the proposition which I had to make; and I submit it to your consideration, with the sincere wish that it may have a tendency to promote a spirit of union.

[The proposition submitted by his excellency having been committed to a large committee, who reported some amendments, we think it expedient to refer the reader to the form of ratification for it.]

## Hon. Mr. ADAMS.

Mr. President, I feel myself happy in contemplating the idea that many benefits will result from your excellency's conciliatory proposition to this commonwealth and to the United States; and I think it ought to precede the motion made by the gentleman from Newburyport, and to be at this time considered by the Convention. I have said that I have had my doubts of this Constitution. I could not digest every part of it as readily as some gentlemen; but this, sir, is my misfortune, not my fault. Other gentlemen have had their doubts; but, in my opinion, the proposition submitted will have a tendency to remove such doubts, and to conciliate the minds of the Convention, and the people without doors This subject, sir, is of the greatest magnitude, and has employed the attention of every rational man in the United States; but the minds of the people are not so well agreed on it as all of us could wish. A proposal of this sort, coming from Massachusetts, from her importance, will have its weight. Four or five states have considered and ratified the Constitution as it stands; but we know there is a diversity of opinion even in these states, and one of them is greatly agitated. If this Convention should particularize the amendments necessary to be proposed, it appears to me it must have weight in other states, where Conventions have not yet met. I have observed the sentiments of gentlemen on the subject as far as Virginia, and I have found that the objections were similar, in the newspapers, and in some of the Conventions. Considering these circumstances, it appears to me that such a measure will have the most salutary effect throughout the Union. It is of the greatest importance that *America* should still be united in sentiment. I think I have not, heretofore, been unmindful of the advantage of such a union. It is essential that the people should be united in the federal government, to withstand the common enemy, and to preserve their valuable rights and liberties. We find, in the great state of Pennsylvania, one third of the Convention are opposed to it: should, then, there be large minorities in the several states, I should fear the consequences of such disunion.

Sir, there are many parts of it I esteem as highly valuable, particularly the article which empowers Congress to regulate commerce, to form treaties, &c. For want of this power in our national head, our friends are grieved, and our enemies insult us. Our ambassador at the court of London is considered as a mere cipher, instead of the representative of the United States. Therefore it appears to me, that a power to remedy this evil should be given to Congress, and the remedy applied as soon as possible.

The only difficulty on gentlemen's minds is, whether it is best to accept this Constitution on conditional amendments, or to rely on amendments in future, as the Constitution provides. When I look over the article which provides for a revision, I have my doubts. Suppose, sir, nine states accept the Constitution without any conditions at all, and the four states should wish to have amendments, — where will you find nine states to propose, and the legislatures of nine states to agree to, the introduction of amendments? Therefore it seems to me that the expectation of amendments taking place at some future time, will be frustrated. This method, if we take it, will be the most likely to bring about the amendments, as the Conventions of New Hampshire, Rhode Island, New York, Maryland, Virginia, and South Carolina, have not yet met. I apprehend, sir, that these states will be influenced by the proposition which your excellency has submitted, as the resolutions of Massachusetts have ever had their influence. If this should be the case, the necessary amendments would be introduced more early and more safely. From these considerations, as your excellency did not think it proper to make a motion, with submission, I move that the paper read by your excellency be now taken under consideration by the Convention.

The motion being seconded, the proposition was read by the secretary at the table.

## Dr. TAYLOR

Liked the idea of amendments; but, he said, he did not see any constitutional door open for the introduction of them by the Convention. He read the several authorities which provided for the meeting of Conventions, but did not see in any of them any power given to propose amendments. We are, he said, therefore, treading on unsafe ground to propose them; we must take the whole, or reject the whole. The honorable gentleman was in favor of the adjournment, and, in a speech of some length, deprecated the consequences, which, he said, must arise, if the Constitution was adopted or rejected by a small majority; and that the expenses which would accrue from the adjournment would not exceed fourpence per poll throughout the commonwealth.

## Hon. Mr. CABOT

Rose, and observed, on what fell from the honorable gentleman last speaking, that the reason why no provision for the introduction of amendments was made in the authorities quoted by the honorable gentleman, was, that they were provided for in the 5th article of the Constitution.

# FRIDAY, *February* 1, 1788. —

## Mr. BOWDOIN (of Dorchester)

Observed, that he could not but express his hearty approbation of the propositions made by his excellency, as they would have a tendency to relieve the fears, and quiet the apprehensions, of some very respectable and worthy gentlemen, who had expressed their doubts whether some explanation of certain clauses in the Constitution, and some additional reflections on Congress, similar to those proposed by his excellency, were not necessary. But, he said, as the propositions were incorporated with the great and important question, whether this Convention will adopt and ratify the Constitution, he conceived himself in order, and would, with the permission of the Convention, make a few general observations upon the subject, which were as follows: —

It was an answer of *Solon's*, when he was asked what kind of a constitution he had constructed for the Athenians, that he had prepared as good a constitution of government as the people would bear; clearly intimating that a constitution of government should be relative to the habits, manners, and genius of the people intended to be governed by it. As the particular state governments are relative to the manners and genius of the inhabitants of each state, so ought the general government to be an assemblage of the principles of all the governments; for, without this assemblage of the principles, the general government will not sufficiently apply to the genius of the people confederated; and, therefore, by its meeting, in its operation, with a continual opposition, through this circumstance it must necessarily fail in its execution; because, agreeably to the idea of *Solon*, the people would not bear it. It may not, therefore, be improper to examine whether the federal Constitution proposed has a likeness to the different state constitutions, and such alone as to give the spirit and features of the particular governments; for Baron Montesquieu observes, that all governments ought to be relative to their particular principles, and that "a confederative government ought to be composed of states of the same nature, especially of the republican kind; " and instances that, as "the spirit of monarchy is war and enlargement of dominion, peace and moderation are the spirit of a republic." These two kinds of government cannot naturally subsist in a confederate republic.

From hence it follows that all the governments of the states in the Union ought to be of the same nature — of the republican kind; and that the general government ought to be an assemblage of the spirit and principles of them all. A short comparison, pointing out the likeness of the general to the particular constitutions, may sufficiently elucidate the subject.

All the constitutions of the states consist of three branches, except as to the legislative powers, which are chiefly vested in two. The powers of government are separated in all, and mutually check each other. These are laid down, as fundamental principles, in the federal Constitution. All power is derived, mediately or immediately, from the people, in all the constitutions. This is the case with the federal Constitution. The electors of representatives to the state governments are electors of representatives to the federal government. The representatives are chosen for two years; so are the representatives to the assemblies of some of the states. The equality of representation is determined in nearly all the states by numbers; so it is in the federal Constitution.

The second branch of the legislature, in some of the states, is similar to the federal Senate, having not only legislative, but executive powers; being a legislating, and, at the same time, an advising body to the executive. Such are the assistants of Rhode Island and Connecticut, and the councils of New Jersey and Georgia. The senators of Virginia and New York are chosen for four years, and so elected that a continual rotation is established, by which one quarter of their respective senates is annually elected, and by which (as one of the constitutions observes) there are more men trained to public business; and there will always be found a number of persons acquainted with the proceedings of the foregoing years, and thereby the public business be more consistently conducted. The federal senators are to be chosen for six years, and there is a rotation so established, for the reasons above mentioned, that one third of the Senate is to be chosen every two years.

The President and Vice-President answer to offices of the same name in some of the states, and to the office of governor and lieutenant-governor in most of the states. As this office is of the utmost importance, the manner of choosing, for the better security of the interests of the Union, is to be by delegates, to be expressly chosen for the purpose, in such manner as the different legislatures may direct. This method of choosing was probably taken from the manner of choosing senators under the constitution of Maryland.

The legislative powers of the President are precisely those of the governors of this state and those of New York — rather negative than positive powers, given with a view to secure the independence of the executive, and to preserve a uniformity in the laws which are committed to them to execute.

The executive powers of the President are very similar to those of the several states, except in those points which relate more particularly to the Union, and respect ambassadors, public ministers, and consuls.

Of the genius of the people of the states, as expressed by their different constitutions of government, if the similarity of each, and the general spirit of governments, concur to point out the policy of a confederate government, by comparing the federal Constitution with those of the several states, can we expect one more applicable to the people, to the different states, and to the purposes of the Union, than the one proposed, unless it should be contended that a union was unnecessary?

"If a republic is small," says Baron Montesquieu, "it is destroyed by a foreign force; if it is large, it is ruined by an internal imperfection " — "*Fato potentiae sua vi nixae*." And if mankind had not contrived a confederate republic, says the same author, "a constitution that has all the internal advantages of a republican, and the external force of a monarchical government," they would probably have always lived under the tyranny of a single person. Admitting this principle of Baron Montesquieu's, the several states are either too small to be defended against a foreign enemy, or too large for republican constitutions of government. If we apply the first position to the different states, which reason and the experience of the late war point out to be true, a confederate government is necessary. But if we admit the latter position, then the several governments, being in their own nature imperfect, will be necessarily destroyed, from their being too extensive for republican governments.

From whence it follows, if the foregoing principles are true, that we ought to adopt a confederation, presuming the different states well calculated for republican governmental; for, if they are not, their corruption will work their destruction separately; and if they are destined for destruction, from their natural imperfection, it will certainly be more advantageous to have them destroyed collectively than separately, as, in that case, we should fall under one great national government.

But, if the advantages of a confederacy, admitting the principles of it to be good, are duly considered, — that is, will give security and permanency to the several states, not only against internal disputes, but wars with one another; if the wars in Europe, arising from jarring and opposing interests, are a public calamity; if it is for the benefit of ourselves, and future generations, to prevent their horrid devastations on this continent, — to secure the states against such calamities, it will be necessary to establish a general government, to adjust the disputes and to settle the differences between state and state; for, without a confederacy, the several states, being distinct sovereignties, would be in a state of nature, with respect to each other; and the law of nature, which is the right of the strongest, would determine the disputes that might arise. To prevent the operation of so unjust a title; to afford protection to the weakest state against the strongest; to secure the rights of all against the encroachments of any of the states; to balance the powers of all the states, by each giving up a portion of its sovereignty, and thereby better to secure the remainder of it, are amongst the main objects of a confederacy.

But the advantages of a union of the states are not confined to mere safety from within or without. They extend not only to the welfare of each state, but even to the interest of each individual of the states.

The manner in which the states have suffered, for the want of a general regulation of trade, is so notorious, that little need be said upon the subject, to prove that the continent has been exhausted of its wealth, for the want of it, and, if the evil, from the not regulating it, is not speedily remedied, by placing the necessary powers in the hands of Congress, the liberties of the people, or the independence of the states, will be irretrievably lost. The people feeling the inconvenience of systems of government that, instead of relieving, increase their perplexities; instead of regulating trade upon principle; instead of improving the natural advantages of our country, and opening new sources of wealth, our lands have sunk in their value, our trade has languished, our credit has been daily reducing, and our resources are almost annihilated, — can we expect, in such a state, that the people will long continue their allegiance to systems of government, whether arising from the weakness of their administration, or the insufficiency of their principles, which entail on them so many calamities? I presume not. The well-being of trade depends on a proper regulation of it; on the success of trade depends wealth; on wealth, the value of lands; the strength, the welfare, and happiness of a country, upon the numbers, the ease, and independence of its yeomanry. For the want of this have our taxes most oppressively fallen upon the most useful of all our citizens — our husbandmen; while trade, for the want of its being confined to proper objects, has served rather to ruin than to enrich those that have carried it on.

Shall we, then, let causeless jealousies arise, and distract our councils? shall we let partial views and local prejudices influence our decisions? or shall we, with a becoming wisdom, determine to adopt the federal Constitution proposed, and thereby confirm the liberty, the safety, and the welfare of our country?

I might go on, sir, and point out the fatal consequences of rejecting the Constitution; but, as I have already intruded too much upon the time and patience of the Convention, I shall, for the present, forbear any further observations, requesting the candor of the Convention for those I have already made.

## Hon. Mr. ADAMS.

### NOTE

As your excellency was pleased yesterday to offer, for the consideration of this Convention, certain propositions intended to accompany the ratification of the Constitution before us, I did myself the honor to bring them forward by a regular motion, not only from the respect due to your excellency, but from a clear conviction, in my own mind, that they would tend to effect the salutary and important purposes which you had in view — "the removing the fears and quieting the apprehensions of many of the good people of this commonwealth, and the more effectually guarding against an undue administration of the federal government."

I beg leave, sir, more particularly to consider those propositions, and, in a very few words, to express my own opinion, that they must have a strong tendency to ease the minds of gentlemen, who wish for the immediate operation of some essential parts of the proposed Constitution, as well as the most speedy and effectual means of obtaining alterations in some other parts of it, which they are solicitous should he made. I will not repeat the reasons I offered when the motion was made, which convinced me that the measure now under consideration will have a more speedy as well as a more certain influence, in effecting the purpose last mentioned, than the measure proposed in the Constitution before us.

Your excellency's first proposition is, "that it be explicitly declared, that all powers not expressly delegated to Congress are reserved to the several states, to be by them exercised." This appears, to my mind, to be a summary of a bill of rights, which gentlemen are anxious to obtain. It removes a doubt which many have entertained respecting the matter, and gives assurance that, if any law made by the federal government shall be extended beyond the power granted by the proposed Constitution, and inconsistent with the constitution of this state, it will be an error, and adjudged by the courts of law to be void. It is consonant with the second article in the present Confederation, that each state retains its sovereignty, freedom, and independence, and every power, jurisdiction, and right, which is not, by this Confederation, expressly delegated to the United States in Congress assembled. I have long considered the watchfulness of the people over the conduct of their rulers the strongest guard against the encroachments of power; and I hope the people of this country will always be thus watchful.

Another of your excellency's propositions is calculated to quiet the apprehensions of gentlemen lest Congress should exercise an unreasonable control over the state legislatures, with regard to the time, place, and manner of holding elections, which, by the 4th section of the 1st article, are to be prescribed in each state by the legislature thereof, subject to the control of Congress. I have had my fears lest this control should infringe the freedom of elections, which ought ever to be held sacred. Gentlemen who have objected to this controlling power in Congress have expressed their wishes that it had been restricted to such states as may neglect or refuse that power vested in them, and to be exercised by them if they please. Your excellency proposes, in substance, the same restriction, which, I should think, cannot but meet with their full approbation.

The power to be given to Congress to lay and collect taxes, duties, imposts, and excises, has alarmed the minds of some gentlemen. They tell you, sir, that the exercise of the power of laying and collecting direct taxes might greatly distress the several states, and render them incapable of raising moneys for the payment of their respective state debts, or for any purpose. They say the impost and excise may be made adequate to the public emergencies in the time of peace, and ask why the laying direct taxes may not be confined to a time of war. You are pleased to propose to us that it be a recommendation, that "Congress do not lay direct taxes, but when the moneys arising from the impost and excise shall be insufficient for the public exigencies." The prospect of approaching war might necessarily create an expense beyond the productions of impost and excise. How, then, would the government have the necessary means of providing for the public defence? Must they not have recourse to other resources besides impost and excise? The people, while they watch for their own safety, must and will have a just confidence in a legislature of their own election. The approach of war is seldom, if ever, without observation: it is generally observed by the people at large; and I believe no legislature of a free country would venture a measure which should directly touch the purses of the people, under a mere pretence, or unless they could show, to the people's satisfaction, that there had been, in fact, a real public exigency to justify it.

Your excellency's next proposition is, to introduce the indictment of a grand jury, before any person shall be tried for any crime, by which he may incur infamous punishment, or loss of life; and it is followed by another, which recommends a trial by Jury in civil actions between citizens of different states, if either of the parties shall request it. These, and several others which I have mentioned, are so evidently beneficial as to need no comment of mine. And they are all, in every particular, of so general a nature, and so equally interesting to every state, that I cannot hut persuade myself to think they would all readily join with us in the measure proposed by your excellency, if we should now adopt it. Gentlemen may make additional propositions if they think fit. It is presumed that we shall exercise candor towards each other; and that whilst, on the one hand, gentlemen will cheerfully agree to any proposition intended to promote a general union, which may not be inconsistent with their own mature judgment, others will avoid the making such as may be needless, or tend to embarrass the minds of the people of this commonwealth and our sister states, and thereby not only frustrate your excellency's wise intention, but endanger the loss of that degree of reputation, which, I flatter myself, this commonwealth has justly sustained.

## Mr. NASON.

Mr. President, I feel myself happy that your excellency has been placed, by the free suffrage of your fellow-citizens, at the head of this government. I also feel myself happy that your excellency has been placed in the chair of this honorable Convention; and I feel a confidence that the proposition submitted to our consideration yesterday, by your excellency, has for its object the good of your country. But, sir, as I have not had an opportunity leisurely to consider it, I shall pass it over, and take a short view of the Constitution at large, which is under consideration; though my abilities, sir, will not permit me to do justice to my feelings or to my constituents. Great Britain, sir, first attempted to enslave us, by declaring her laws supreme, and that she had a right to bind us in all cases whatever. What, sir, roused the Americans to shake off the yoke preparing for them? It was this measure, the power to do which we are now about giving to Congress. And here, sir, I beg the indulgence of this honorable body to permit me to make a short apostrophe to Liberty. O Liberty! thou greatest good! thou fairest property! with thee I wish to live — with thee I wish to die! Pardon me if I drop a tear on the peril to which she is exposed; I cannot, sir, see this brightest of jewels tarnished — a jewel worth ten thousand worlds; and shall we part with it so soon? O no. Gentlemen ask, "Can it be supposed that a Constitution so pregnant with danger could come from the hands of those who framed it?" Indeed, sir, I am suspicious of my own judgment, when I contemplate this idea — when I see the list of illustrious names annexed to it; but, sir, my duty to my constituents obliges me to oppose the measure they recommended, as obnoxious to their liberty and safety.

### Oath Anti-Federalist

When, sir, we dissolved the political bands which connected us with Great Britain, we were in a state of nature. We then formed and adopted the Confederation, which must be considered as a sacred instrument. This confederates us under one head, as sovereign and independent states. Now, sir, if we give Congress power to dissolve that Confederation, to what can we trust? If a nation consent thus to treat their most solemn compacts, who will ever trust them? Let us, sir, begin with this Constitution, and see what it is. And first, "We, the people of the United States, do," &c. If this, sir, does not go to an annihilation of the state governments, and to a perfect consolidation of the whole Union, I do not know what does. What! shall we consent to this? Can ten, twenty, or a hundred persons in this state, who have taken the oath of allegiance to it, dispense with this oath? Gentlemen may talk as they please of dispensing, in certain cases, with oaths; but, sir, with me they are sacred things. We are under oath: we have sworn that Massachusetts is a sovereign and independent state. How, then, can we vote for this Constitution, that destroys that sovereignty?

## Col. VARNUM

Begged leave to set the worthy gentleman right. The very oath, he said, which the gentleman had mentioned, provides an exception for the power to be granted to Congress.

## Mr. NASON

Well, continued Mr. NASON, to go on. Mr. President, let us consider the Constitution without a bill of rights. When I give up any of my natural rights, it is for the security of the rest; but here is not one right secured, although many are neglected.

With respect to biennial elections, the paragraph is rather loosely expressed. I am a little in favor of our ancient custom. Gentlemen say they are convinced that the alteration is necessary: it may be so; when I see better, I will join with them.

To go on. Representation and taxation to be apportioned according to numbers. This, sir, I am opposed to: it is unequal. I will show an instance in point. We know for certainty that, in the town of Brookline, persons are better able to pay their taxes than in the parts I represent. Suppose the tax is laid on polls: why, the people of the former place will pay their tax ten times as easy as the latter — thus helping that part of the community which stands in the least need. of help. On this footing, the poor pay as much as the rich; and in this a way is laid, that five slaves shall be rated no more than three children. Let gentlemen consider this: a farmer takes three small orphans, on charity, to bring up; they are bound to him: when they arrive at twenty-one years of age, he gives each of them a couple of suits of clothes, a cow, and two or three young cattle: we are rated as much for these as a farmer in Virginia is for five slaves, whom he holds for life — they and their posterity — the males and the she ones too. The Senate, Mr. President, are to be chosen two from each state. This, sir, puts the smaller states on a footing with the larger, when the states have to pay according to their numbers. New Hampshire does not pay a fourth part as much as Massachusetts. We must, therefore, to support the dignity of the Union, pay four times as much as New Hampshire, and almost fourteen times as much as Georgia, who, we see, are equally represented with us.

The term, sir, for which the Senate is chosen, is a grievance. It is too long to trust any body of men with power. It is impossible but lhat such men will be tenacious of their places; they are to be raised to a lofty eminence, and they will be loath to come down; and, in the course of six years, may, by management, have it in their power to create officers, and obtain influence enough to get in again, and so for life. When we felt the hand of British oppression upon us, we were so Jealous of rulers, as to declare them eligible but for three years in six. In this constitution we forget this principle. I, sir, think that rulers ought, at short periods, to return to private life, that they may know how to feel for and regard their fellow-creatures. In six years, sir, and at a great distance, they will quite forget them; —

"For time and absence cure the purest love."

We are apt to forget our friends, except when we are conversing with them.

We now come, sir, to the 4th section. Let us see: the time, place, and manner of holding elections, shall be prescribed in each state by the legislature thereof. No objections to this: but, sir, after *the flash of lightning comes the peal of thunder*. "But Congress may at any time alter them," &c. Here it is, Mr. President: this is the article which is to make Congress omnipotent Gentlemen say, this is the greatest beauty of the Constitution; this is the greatest security for the people; this is the all in all. Such language have I heard in this house; but, sir, I say, by this power Congress may, if they please, order the election of federal representatives for Massachusetts to be at Great Barrington or Machias; and at such a time, too, as shall put it in the power of a few artful and designing men to get themselves elected at their pleasure.

### Anti-Federalist Comment

The 8th section, Mr. President, provides that Congress shall have power to lay and collect taxes, duties, imposts, excises, &c. We may, sir, be poor; we may not be able to pay these taxes, &c.; we must have a little meal, and a little meat, whereon to live, and save a little for a rainy day. But what follows? Let us see. To raise and support armies. Here, sir, comes the key to unlock this cabinet; here is the mean by which you will be made to pay taxes! But will ye, my countrymen, submit to this? Suffer me, sir, to say a few words on the fatal effects of standing armies, that bane of republican governments. A standing army! Was it not with this that Caesar passed the *Rubicon*, and laid prostrate the liberties of his country? By this have seven eighths of the once free nations of the globe been brought into bondage! Time would fail me, were I to attempt to recapitulate the havoc made in the world by standing armies. Britain attempted to enforce her arbitrary measures by a standing army. But, sir, we had patriots then who alarmed us of our danger; who showed us the serpent, and bade us beware of it. Shall I name them? I fear I shall offend your excellency, but I cannot avoid it. I must. We had a Hancock, an Adams, and a Warren. Our sister states, too, produced a Randolph, a Washington, a Greene, and a Montgomery, who led us in our way. Some of these have given up their lives in defence of the liberties of their country; and my prayer to God is, that, when this race of illustrious patriots shall have bid adieu to the world, from their dust, as from the sacred ashes of the phoenix, another race may arise, who shall take our posterity by the hand, and lead them on to trample on the necks of those who shall dare to infringe on their liberties. Sir, had I a voice like Jove, I would proclaim it throughout the world; and had I an arm like Jove, I would hurl from the globe those villains that would dare attempt to establish in our country a standing army. I wish, sir, that the gentlemen of Boston would bring to their minds the fatal evening of the 5th of March, 1770, when by standing troops they lost five of their fellow-townsmen. I will ask them, What price can atone for their lives? What money can make satisfaction for the loss? The same causes produce the same effects. An army may be raised on pretence of helping a friend; or many pretences might be used. That night, sir, ought to be a sufficient warning against standing armies, except in cases of great emergency. They are too frequently used for no other purpose than dragooning the people into slavery. But I beseech you, my countrymen, for the sake of your posterity, to act like those worthy men who have stood forth in defence of the rights of mankind, and show to the world that you will not submit to tyranny. What occasion have we for standing armies? We fear no foe. If one should come upon us, we have a **militia**, which is our bulwark. Let Lexington witness that we have the means of defence among ourselves. If, during the last winter, there was not much alacrity shown by the **militia** in turning out, we must consider that they were going to fight their countrymen. Do you, sir, suppose that, had a British army invaded us at that time, such supineness would have been discovered? No, sir; to our enemies' dismay and discomfort, they would have felt the contrary; but against deluded, infatuated men they did not wish to exert their valor or their strength. Therefore, sir, I am utterly opposed to a standing army in time of peace.

The paragraph that gives Congress power to suspend the writ of *habeas corpus* claims a little attention. This is a great bulwark — a great privilege indeed. We ought not, therefore, to give it up on any slight pretence. Let us see: how long is it to be suspended? As long as rebellion or invasion shall continue. This is exceeding loose. Why is not the time limited, as is our Constitution? But, sir, its design would then be defeated. It was the intent, and by it we shall give up one of our greatest privileges. Mr. N. concluded by saying, he had much more to say, but, as the house were impatient, he should sit down for the present, to give other gentlemen an opportunity to speak.

## Judge SUMNER

Adverting to the pathetic apostrophe of the gentleman last speaking, said, he could with as much sincerity apostrophize — O Government! thou greatest good! thou best of blessings! with thee I wish to live — with thee I wish to die! Thou art as necessary to the support of the political body as meat and bread are to the natural body. The learned judge then turned his attention to the proposition submitted by the president, and said, he sincerely hoped that it would meet the approbation of the Convention, as it appeared to him a remedy for all the difficulties which gentlemen, in the course of the debates, had mentioned. He particularized the objections which had been started, and showed that their removal was provided for in the proposition; and concluded by observing, that the probability was very great, that, if the amendments proposed were recommended by this Convention, they would, on the meeting of the first Congress, be adopted by the general government,

## Mr. WIDGERY

Said, he did not see the probability that these amendments would be made, if we had authority to propose them. He considered, he said, that the Convention did not meet for the purpose of recommending amendments, but to adopt or reject the Constitution. He concluded by asking, whether it was probable that those states who had already adopted the Constitution would be likely to submit to amendments.

*Afternoon*. [When the Convention met, a short conversation ensued on the time when the grand question should be taken. It was agreed that it should not be until Tuesday. After this conversation subsided, another took place on the division of the motion, in order that the question of ratifying might be considered separately from the amendments; but nothing final was determined upon.]

## Judge DANA

Advocated the proposition submitted by his excellency, the president. It contained, he said, the amendments generally wished for, as they were not of a local nature, but extended to every part of the Union. If they were recommended to be adopted by this Convention, it was very probable that two thirds of the Congress would concur in promising them; or that two thirds of the legislatures of the Several states would apply for the call of a convention to consider them, agreeably to the mode pointed out in the Constitution; and said he did not think that gentlemen would wish to reject the whole of the system, because some part of it did nut please them. He then went into consideration of the advantages which would ensue, from its adoption, to the United States, to the individual states, and to the several classes of citizens, and concluded by representing, in a lively manner, the evils to the whole continent, and to the Northern States in particular, which must be the unavoidable attendants on the present system of general government.

## Mr. RUSSELL

Rose, he said, with diffidence, to offer his sentiments on the subject in debate; but he could not, he said, forbear to give his sentiments on the advantage which he apprehended must result from the adoption of the pro posed Constitution to this state, and to the United States, in the advancement of their commerce. Mr. R. said, he believed it had always been the policy of trading nations to secure to themselves the advantages of their carrying trade. He observed how tenacious France, Holland, and England, were in this particular, and how beneficial it had proved to them. He then went into an accurate and interesting statement of the quantities of produce which were exported from the several states, and showed the ability of the states to furnish, from among themselves, shipping fully sufficient for the transportation of this produce; which, he observed, if confined, by the general government, to American vessels, — while the restriction would not increase the rates of freightage to the Southern States, as the Northern and Middle States could produce a surplusage of shipping, and a spirit of competition would call forth their resources, — would greatly increase our navigation; furnish us with a great nursery of seamen; give employment not only to the mechanics, in constructing the vessels, and the trades dependent thereon, but to the husbandmen, in the cutting down of trees for timber, and transporting them to the places of building; increase the demand for the products of the land, and for our beef, our pork, our butter, &c.; and give such life and spirit to our commerce as would extend it to all the nations of the world. These, he said, were some of the blessings he anticipated from the adoption of the federal Constitution; and so convinced was he of its utility and necessity, that, while he wished that, on the grand question being put, there might not he one dissenting voice, if he was allowed, he would hold up both hands in favor of it; and he concluded, if his left hand was unwilling to be extended with his right, in this all-important decision, he would cut it off, as unworthy of him, and lest it should infect his whole body.

## Mr. PIERCE.

Mr. President, the amendments proposed by your excellency are very agreeable to my opinion, and I should wish to add several more, but will mention but one; and that is, that the Senate should not continue in office more than two years. But, sir, I think that, if the want of these amendments were sufficient for me to vote against the Constitution, the addition, in the manner proposed by your excellency, will not be sufficient for me to vote for it, as it appears to me to be very uncertain whether they ever are a part of the Constitution.

Several gentlemen said a few words each, on the proposition of amendments, which it was acceded to, by gentlemen opposed to the Constitution, was good, but that it was not probable it would be interwoven in the Constitution. Gentlemen on the other side said there was a great probability that it would, from its nature, be also recommended by the several conventions which have not yet convened.

# SATURDAY, *February* 2. —

## The Hon. Mr. STRONG

Went into a particular discussion of the several amendments recommended in the proposition submitted by his excellency, each of which he considered with much attention. He anticipated the good effect it must have in conciliating the various sentiments of gentlemen on the subject, and expressed his firm belief that, if it was recommended by the Convention, it would be inserted in the Constitution.

## Gen. THOMPSON

Said, we have no right to make amendments. It was not, he said, the business we were sent for. He was glad, he said, that gentlemen were now convinced it was not a perfect system, and that it wanted amendments. This, he said, was different from the language they had formerly held. However, as to the amendments, he could not say amen to them, but they might be voted for by some men — he did not say Judases.

Mr. PARSONS, Col. ORNE, Mr. PHILLIPS, the Rev. Mr. NILES, and several other gentlemen, spoke in favor of the proposition, as a conciliatory measure, and the probability of the amendments being adopted. Mr. NASSON, Dr. TAYLOR, Mr. THOMAS, (of Middleboro',) and others, though in sentiment with gentlemen on the propriety of their being admitted into the Constitution, did no think it was probable they would be inserted.

Before the Convention adjourned, Gen. Whitney moved that a committee, consisting of two from each county, should be raised, to consider the amendments, or any other that might be proposed, and report thereon. Hon. Mr. Sedgwick seconded the motion.

## Hon. Mr. DALTON.

Mr. President, I am not opposed to the motion; but, sir, that gentlemen may not again say, as has been the case this day, that the gentlemen who advocate the measure of the proposition were now convinced that amendments to the Constitution are indispensable, I, sir, in my place, say, that I am willing to accept the Constitution as it is; and I am in favor of the motion of proposing amendments, only as it is of a conciliating nature, and not as a concession that amendments are necessary.

The motion was put, and carried unanimously. The following gentlemen were then appointed on the said committee, viz.: —

Hon. Mr. Bowdoin, Mr. Southworth, Mr. Parsons, Hon Mr. Hutchinson — Hon. Mr. Dana, Mr. Winn — Hon. Mr. Strong, Mr. Bodman — Hon. Mr. Turner, Mr. Thomas, of Plymouth — Dr. Smith, Mr. Bourn — Hon. Mr. Spooner, Mr. Bishop — Rev. Dr. Hemmenway, Mr. Barrell — Mr. May-hew, Hon. Mr. Taylor, Hon. Mr. Sprague — Mr. Fox, Mr. Longfellow — Mr. Sewall, Mr. Sylvester — Mr. Lusk, Hon. Mr. Sedgwick.

# MONDAY, *February* 4, P. M. —

## Rev. Mr. THACHER.

Mr. President, while the different paragraphs of the proposed Constitution have been debated, I have not troubled this honorable Convention with any observations of my own upon the subject. Conscious that there were men of deeper political knowledge, and of better abilities, than myself, I conceived it my duty to attend to their instruction, that, having heard with attention, I might decide with integrity. I view the object before us as of greater moment than ever was known within the memory of man, or that hath been recorded by the historic page. Were we, Mr. President, this day to decide on the lives and fortunes of a hundred of the best citizens of this commonwealth, solemn would that province he; but much more interesting is the present question; for, in this case, not a single city, not a single state, but a continent, wide and extended, may be happy or wretched, according to our judgment; and posterity will either bless us for laying the foundation of a wise and equal government, or curse us for neglecting their important interests, and for forging chains for them, when we disdained to wear them ourselves. Having, therefore, as I trust, a full view of the magnitude of the object, I hope I shall be pardoned if I offer my sentiments with freedom. I am sensible of the prejudices that subsist against the profession to which I belong; but yet, intrusted by my constituents with a solemn charge, I think they have a right to expect from me the reasons why I shall finally consent to ratify the proposed form of government.

There are three circumstances which deserve notice in considering the subject. These are, the necessity that all the states have of some general bond of union; the checks upon the government in the form offered for our adoption; and, lastly, the particular disadvantages to which we shall be exposed if we reject it.

### NOTE

With respect to the first of these considerations, I trust there is no man in his senses, but what will own, that the whole country hath largely felt the want of energy in the general government. While we were at war with Britain, common danger produced a common union; but, the cause being removed, the effect ceased also. Nay, I do not know but we may safely add, that that union, produced by uniform danger, was still inadequate to general and national purposes. This commonwealth, with a generous, disinterested regard to the good of the whole, appeared foremost in the day of danger. At the conclusion of the late war, two thirds of the Continental army were from Massachusetts; their provision and their clothing proceeded, also, in a great measure, from our extraordinary exertions. The people did this in the fullest confidence, that, when peace and tranquillity were restored, from the honor and justice of our sister states our supernumerary expenses would be abundantly repaid. But, alas! how much hath our expectation been blasted! The Congress, though willing, yet had no power to do us justice. The small district of Rhode Island put a negative upon the collected wisdom of the continent. This was done, not by those who are the patrons of their present infamous system of paper currency, but by that part of them who now call themselves honest men. We have made exertions to stop the importation of foreign luxuries. Our brethren in the neighboring states, from the view of local advantages, have taken occasion to distress us upon the same account. They have encouraged where we have prohibited; and by those iniquitous measures have made our virtue and public spirit an additional cause of our calamity. Nor have our calamities been local; they have reached to all parts of the United States, and have produced dissipation and indigence at home, and contempt in foreign countries. On the one hand, the haughty Spaniard has deprived us of the navigation of the River Mississippi; on the other, the British nation are, by extravagant duties, ruining our fishery. Our sailors are enslaved by the pirates of Algiers. Our credit is reduced to so low an ebb, that American faith is a proverbial expression for perfidy, as Punic faith was among the Romans. Thus have we suffered every species of infamy abroad, and poverty at home. Such, in fact, have been our calamities, as are enough to convince the most skeptical among us of the want of a general government, in which energy and vigor should be established, and at the same time, the rights and liberties of the people preserved.

A Constitution hath been presented to us, which was composed and planned by men, who, in the council and field, have, in the most conspicuous offices, served their country in the late war. It comes authenticated by a man who, without any pecuniary reward, commanded our army, and who retired to a private station with more pleasure than he left it. I do not say, Mr. President, that this proves the form of government to be perfect, or that it is an unanswerable argument that we should adopt it; but it is a reason why we should examine it with care and caution, and that we ought not rashly and precipitately to reject it.

It will be objected, "There are more powers granted than are necessary, and that it tends to destroy the local governments of the particular states, and that it will eventually end either in aristocracy or despotism." To answer the objection, two considerations should be taken into view — the situation of the continent when a Constitution was formed, and the impossibility of preserving a perfect sovereignty in the states, after necessary powers were ceded to a supreme council of the whole. As to the first, let us candidly examine the state of these republics from New Hampshire to Georgia, and see how far vigor and energy were required. During the session of the late Convention, Massachusetts was on the point of civil war. In Vermont and New Hampshire, a great disaffection to their several governments prevailed among the people. New York absolutely refused complying with the requisitions of Congress. In Virginia, armed men endeavored to stop the courts of justice. In South Carolina, creditors, by law, were obliged to receive barren and useless land for contracts made in silver and gold. I pass over the instance of Rhode Island: their conduct was notorious. In some states, laws were made directly against the treaty of peace; in others, statutes were enacted which clashed directly against any federal union — new lands sufficient to discharge a great part of the Continental debt intruded upon by needy adventurers — our frontier settlements exposed to the ravages of the Indians — while the several states were unable or unwilling to relieve their distress. Lay all those circumstances together, and you will find some apology for those gentlemen who framed this Constitution. I trust you may charitably assign other motives for their conduct, than a design to enslave their country, and to parcel out for themselves its honors and emoluments.

The second consideration deserves its weight. Can these local governments be sufficient to protect us from foreign enemies, or from disaffection at home? Thirteen states are formed already. The same number are probably to be formed from the lands not yet cultivated.

Of the former, yet smaller divisions may be made. The province of Maine hath desired a separation; in time, a separation may take place. Who knows but what the same may happen with respect to the old colony of Plymouth. Now, conceive the number of states increased, their boundaries lessened, their interests clashing; how easy a prey to a foreign power! how liable to war among themselves!

Let these arguments be weighed, and I dare say, sir, there is no man but what would conceive that a coercive power over the whole, searching through all parts of the system, is necessary to the preservation and happiness of the whole people.

### Britain coercion

But I readily grant all these reasons are not sufficient to surrender up the essential liberties of the people. But do we surrender them? This Constitution hath been compared, both by its defenders and opponents, to the British government. In my view of it, there is a great difference. ln Britain, the government is said to consist of three forms — monarchy, aristocracy, and democracy; but, in fact, is but a few removes from absolute despotism. In the crown is vested the power of adding at pleasure to the second branch; of nominating to all the places of honor and emolument; of purchasing, by its immense revenues, the suffrages of the House of Commons. The voice of the people is but the echo of the king; and their boasted privileges lie entirely at his mercy. In this proposed form, each branch of power is derived, either mediately or directly, from the people. The lower house are elected directly by those persons who are qualified to vote for the representatives of the state; and, at the expiration of two years, become private men, unless their past conduct entitles them to a future election. The Senate are elected by the legislatures of the different states, and represent their sovereignty.

These powers are a check on each other, and can never be made either dependent on one another, or independent of the people. The President is chosen by the electors, who are appointed by the people. The high courts of justice arise from the President and Senate; but yet the ministers of them can be removed only upon bad behavior. The independence of judges is one of the most favorable circumstances to public liberty; for when they become the slaves of a venal, corrupt court, and the hirelings of tyranny, all property is precarious, and personal security at an end; a man may be stripped of all his possessions, and murdered, without the forms of law. Thus it appears that all parts of this system arise ultimately from the people, and are still independent of each other. There are other restraints, which, though not directly named in this Constitution, yet are evidently discerned by every man of common observation. These are, the government of the several states, and the spirit of liberty in the people. Are we wronged or injured, our immediate representatives are those to whom we ought to apply. Their power and influence will still be great. But should any servants of the people, however eminent their stations, attempt to enslave them, from this spirit of liberty such opposition would arise as would bring them to the scaffold. But, admitting that there are dangers in accepting this general government; yet are there not greater hazards in rejecting it? Such is, Mr. President, the state of our affairs, that it is not in our power to carve for ourselves. To avoid the greatest and choose the least of these two evils, is all that we can do. What, then, will be the probable effects if this Constitution be rejected? Have we not reason to fear new commotions in this commonwealth? If they arise, can we be always certain that we shall be furnished with a citizen, who, though possessed of extensive influence and the greatest abilities, will make no other use of them than to quiet the tumult of the people, to prevent civil war, and to restore the usual course of law and justice? Are we not in danger from other states, when their interests or prejudices are opposite to ours? And in such scenes of hostile contention, will not some Sylla drench the land in blood, or some Cromwell or Caesar lay our liberties prostrate at his feet? Will not foreign nations attack us in our weak, divided condition, and once more render us provinces to some potentate of Europe? Or will those powers to whom we are indebted lie quiet? They certainly will not. They are now waiting for our decision; but when they once see that our union is broken, and that we are determined to neglect them, they will issue out letters of marque and reprisal, and entirely destroy our commerce.

If this system is broken up, will thirteen, or even nine states, ever agree to another? And will Providence smile on a people who despise the privileges put into their hands, and who neglect the plainest principles of justice and honesty? After all, I by no means pretend that there is complete perfection in this proposed Constitution. Like all other human productions, it hath its faults. Provision is made for an amendment, whenever, from practice, it is found oppressive. I would add, the proposals which his excellency hath condescended to lay before this honorable Convention, respecting future alterations, are real improvements for the better; and we have no reason to doubt but they will be equally attended to by other states, as they lead to common security and preservation.

Some of the gentlemen in the opposition have quoted ancient history, and applied it to the question now under debate. They have shown us the danger which arises from vesting magistrates with too much power. I wish they had gone on to tell the whole truth. They might have shown how nearly licentiousness and tyranny are allied; that they who will not be governed by reason must submit to force: that demagogues, in all free governments, have at first held out an idea of extreme liberty, and have seized on the rights of the people under the mask of patriotism. They might have shown us a republic in which wisdom, virtue, and order, were qualities for which a man was liable to banishment; and, on the other hand, boasting, sedition, and falsehood, the sure road to honor and promotion.

I am sorry that it hath been hinted by some gentlemen in this house, as if there were a combination of the rich, the learned, and those of liberal professions, to establish and support an arbitrary form of government. Far be it from me to retort so uncharitable and unchristian a suggestion. I doubt not but the gentlemen who are of different sentiments from myself, are actuated by the purest motives. Some of them I have the pleasure to be particularly acquainted with, and can safely pronounce them to be men of virtue and honor. They have, no doubt, a laudable concern for the liberties of their country; but I would beg them to remember that extreme jealousy and suspicion may be as fatal to freedom as security and negligence.

With respect to myself, I am conscious of no motive which guides me in this great and solemn question, but what I could justify to my own heart, both on the bed of death, and before the tribunal of omnipotence. I am a poor man; I have the feelings of a poor man. If there are honors and emoluments in this proposed Constitution, I shall, by my profession and circumstances in life, be forever excluded from them. It is my wish and prayer, that, in the solemn verdict we are very soon to pronounce, we may be directed to that measure which will be for the glory, freedom, and felicity of my country.

I shall trouble this house no further than by joining sincerely in the wish of the honorable gentleman from Tops-ham, that the people, in their day, may know the things which belong to their peace.

[The committee appointed, on Saturday, to consider his excellency's propositions, by their chairman, honorable Mr. Bowdoin, reported a few alterations to the amendments submitted to them; and that, at the decision, the committee consisted of twenty-four, fifteen of whom agreed in the report, seven were against it, one was absent, and one declined giving his opinion. For the report, see the form of ratification, at the end of the debates.]

## Major LUSK

Concurred in the idea already thrown out in the debate, that, although the insertion of the amendments in the Constitution was devoutly wished, yet he did not see any reason to suppose they ever would be adopted. Turning from the subject of amendments, the major entered largely into the consideration of the 9th section, and, in the most pathetic and feeling manner, described the miseries of the poor natives of Africa, who are kidnapped and sold for slaves. With the brightest colors he painted their happiness and ease on their native shores, and contrasted them with their wretched, miserable, and unhappy condition, in a state of slavery. From this subject he passed to the article dispensing with the qualification of a religious test, and concluded by saying, that he shuddered at the idea that Roman Catholics, Papists, and Pagans might be introduced into office, and that Popery and the Inquisition may be established in America.

## Rev. Mr. BACKUS.

### Religious Tests

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.

## Dr. JARVIS.

Mr. President, the objections which gentlemen have made to the form of ratification which has been submitted by your excellency, have arisen either from a doubt of our having a right to propose alterations, or from the supposed improbability that any amendments recommended by this assembly will ever become a part of the federal system If we have no right, sir, to propose alterations, there remains nothing farther to be attempted, but to take the final question, independent of the propositions for amendment. But I hope the mere assertion of any one is not to operate as an argument in this assembly; and we are not yet waiting for evidence to prove this very singular position, which has been so often repeated. If we have a right, sir, to receive or reject the Constitution, surely we have an equal authority to determine in what way this right shall be exercised. It is a maxim, I believe, universally admitted, that, in every instance, the manner in which every power is to be exerted, must be in its nature discretionary with that body to which this power is delegated. If this principle be just, sir, the ground which has been taken to oppose your excellency's proposals, by disputing the right of recommending alterations, must be necessarily relinquished. But gentlemen say, that they find nothing about amendments in the commission under which they are acting, and they conceive it neither agreeable to the resolution of the legislature, nor to the sense of their constituents, that such a scheme should be adopted. Let us inquire, then, sir, under what authority we are acting, and to what tribunal we are amenable. Is it, then, sir, from the late federal Convention that we derive that authority? Is it from Congress, or is it even from the legislature itself? It is from neither, sir. We are convened in right of the people, as their immediate representatives, to execute the most important trust which it is possible to receive; we are accountable, in its execution, to God only, and our own consciences. When gentlemen assert, then, that we have no right to recommend alterations, they must have ideas strangely derogatory to the influence and authority of our constituents, whom we have the honor of representing. But should it be thought there was even a part of the people who conceived we were thus restricted as to the forms of our proceedings, we are still to recollect that their aggregate sense, on this point, can only be determined by the voices of the majority in this Convention. The arguments of those gentlemen who oppose any propositions of amendments, amount simply to this, sir, — that the whole people of Massachusetts, assembled by their delegates, on the most solemn and interesting occasion, are not at liberty to resolve in what form this trust shall be executed. When we reflect seriously and coolly on this point, I think, sir, we shall doubt no longer.

But, with respect to the prospect of these amendments, which are the subject of discussion, being adopted by the first Congress which shall be appointed under the new Constitution, I really think, sir, that it is not only far from being improbable, but is in the highest degree likely. I have thought long and often on the subject of amendments, and I know no way in which they would be more likely to succeed If they were made conditional to our receiving the proposed Constitution, it has appeared to me that a conditional amendment must operate as a total rejection. As so many other states have received the Constitution as it is, how can it be made to appear that they will not adhere to their own resolutions? and should they remain as warmly and pertinaciously attached to their opinion as we might be decidedly in favor of our own sentiments, a long and painful interval might elapse before we should have the benefit of a federal Constitution. I have never yet heard an argument to remove this difficulty. Permit me to inquire of gentlemen what reason we have to suppose that the states which have already adopted the Constitution will suddenly consent to call a new convention at the request of this state. Are we going to expose the commonwealth to the disagreeable alternative of being forced into a compliance, or of remaining in opposition, provided nine others should agree to receive it? As highly as some persons talk of the force of this state, I believe we should be but a feeble power, unassisted by others, and detached from the general benefit of a national government. We are told that, under the blessing of Providence, we may do much. It is very true, sir, but it must be proved that we shall be most likely to secure the approbation of Heaven by refusing the proposed system.

It has been insinuated, sir, that these amendments have been artfully introduced to lead to a decision which would not otherwise be had. Without stopping to remark on the total want of candor in which such an idea has arisen, let us inquire whether there is even the appearance of reason to support this insinuation. The propositions are annexed, it is true, to the ratification; but the assent is complete and absolute without them. It is not possible it can be otherwise understood by a single member in this honorable body. Gentlemen, therefore, when they make such an unjust observation, do no honor to the sagacity of others. Supposing it possible that any single member can be deceived by such a shallow artifice, permit me to do justice to the purity of intention in which they have arisen, by observing, that I am satisfied nothing can be farther from your excellency's intentions. The propositions are general, and not local; they are not calculated for the peculiar interest of this state, but, with indiscriminate justice, comprehend the circumstances of the individual on the banks of the Savannah, as well as the hardy and industrious husbandman on the margin of the Kennebeck. Why, then, they should not be adopted, I confess I cannot conceive. There is one of them, in a particular manner, which is very agreeable to me. When we talk of our wanting a bill of rights to the new Constitution, the first article proposed must remove every doubt on this head; as, by positively securing what is not expressly delegated, it leaves nothing to the uncertainty of conjecture, or to the refinements of implication, but is an explicit reservation of every right and privilege which is nearest and most agreeable to the people. There has been scarcely an instance where the influence of Massachusetts has not been felt and acknowledged in the Union. In such a case, her voice will be heard, sir, and I am fully in sentiment, if these amendments are not ingrafted on the Constitution, it will be our own fault. The remaining seven states will have our example before them; and there is a high probability that they, or at least some of them, will take our conduct as a precedent, and will perhaps assume the same mode of procedure. Should this be the fact, their influence will be united to ours. But your delegates will, besides, be subjected to a perpetual instruction, until its object is completed; and it will be always in the power of the people and legislature to renew those instructions. But, if they should fall, we must then acquiesce in the decision of the majority; and this is the known condition on which all free governments depend.

Would gentlemen who are opposed to the Constitution wish to have no amendments? This does not agree with their reiterated objections to the proposed system. Or are they afraid, sir, that these propositions will secure a larger majority? On such an occasion we cannot be too generally united. The Constitution is a great political experiment. The amendments have a tendency to remove many objections which have been made to it; and I hope, sir, when it is adopted, they will be annexed to the ratification, in the manner which your excellency has proposed.

# TUESDAY, *February* 5. —

## Mr. AMES

Observed that, at length, it is admitted that the Constitution, connected with the amendments, is good. Almost every one, who has appeared against the Constitution, has declared that he approves it, with the *amendments*. One gentleman, who has been distinguished by his zealous opposition, has declared that he would hold up both hands for it, if they could be adopted. I admire this candid manner of discussing the subject, and will endeavor to treat it myself with equal care and fairness. The only question which seems to labor is this: the amendments are not a part of the Constitution, and there is nothing better than a probability to trust to, that they will ever be adopted. The nature of the debate is totally shifted, and the inquiry is now, not what the Constitution is, but what degree of probability there is that the amendments will hereafter be incorporated into it.

Before he proceeded to discuss this question, he wished to notice two objections, which had been urged against his excellency's proposition — that this Convention, being confined in their powers to reject or ratify the Constitution as it is, have no right to propose amendments; and that the very propositions imply the Constitution is not perfect, and amount to a confession that it ought to be rejected. It is well that these objections were not made by a lawyer: they would have been called quibbles, and he would have been accused of having learned them at the bar. Have we no right to propose amendments? This is the fullest representation of the people ever known, and if we may not declare their opinion, and upon a point for which we have been elected, how shall it ever be known? A majority may not fully approve the Constitution, and yet they may think it unsafe to reject it; and they may fully approve his excellency's propositions. What shall they say? That they accept, or reject, and no more? — that they be embarrassed, perhaps, to do either. But let them say the truth, that they accept it, in the hope that amendments will obtain. We are chosen to consider the Constitution, and it is clearly incident to our appointment to declare the result of our deliberations. This very mode of obtaining amendments is pointed out in the Constitution itself. How can it be said that we have no right to propose them? If, however, there was any irregularity in this proceeding, the General Court would not delay to conform it.

If it is insisted that the Constitution is admitted to be imperfect, let those objectors consider the nature of their own argument. Do they expect a perfect constitution? Do they expect to find that perfection in government which they well know is not to be found in nature? There is not a man who is not more or less discontented with his condition in life, and who does not experience a mixture of good and evil; and will he expect that a whole society of men can exclude that imperfection which is the lot of every individual in it? The truth is, we call that condition good and happy, which is so upon the whole. But this Constitution may be good without any amendments, and yet the amendments may be good; for they are not repugnant to the Constitution. It is a gratification to observe how little we disagree in our sentiments; but it is not my purpose to compare the amendments with the Constitution. Whatever opinion may be formed of it by others, Mr. Ames professed to think it comparatively perfect. There was not any government which he knew to subsist, or which he had ever heard of, that would bear a comparison with the new Constitution. Considered merely as a literary performance, it was an honor to our country: legislators have at length condescended to speak the language of philosophy; and if we adopt it, we shall demonstrate to the sneering world, who deride liberty because they have lost it, that the principles of our government are as free as the spirit of our people.

I repeat it, our debates have been profitable, because, upon every leading point, we are at last agreed. Very few among us now deny that a federal government is necessary to save us from ruin; that the Confederation is not that government; and that the proposed Constitution, connected with the amendments, is worthy of being adopted. The question recurs, Will the amendments prevail, and become part of the system? In order to obtain such a system as the Constitution and the amendments, there are but three ways of proceeding — to reject the whole, and begin anew; to adopt this plan upon condition that the amendments be inserted into it; or to adopt his excellency's proposition.

Those who propose to reject the whole, are bound to show that we shall possess some advantage in forming a system which we do not enjoy at present, or that some obstacles will be removed which impede us now. But will that be the case? Shall we adopt another constitution with more unanimity than we expect to find in this Convention? Do gentlemen so soon forget their own arguments? We have been told that the new Constitution will be rebellion against the Confederation; that the interests of the states are too dissimilar for a union; and that Massachusetts can do without the union, and is a match for all the world. We have been warned of the tendency of all power towards tyranny, and of the danger of trusting Congress with the power of the purse and of the sword; that the system is not perfect; there is no religious test, and slavery is not abolished. Now, sir, if we reject the Constitution, and, after two or three years' exertion, another constitution should be submitted to another convention of Massachusetts, shall we escape the opposition which is made in this assembly? Will not the same objections then apply with equal force to another system? Or do gentlemen expect that a constitution may be formed which will not be liable to those objections? Do they expect one which will not annul the Confederation, or that the persons and properties of the people shall not be included in the compact, and that we shall hear no more about armies and taxes? But suppose that it was so framed, who is there, even amongst the objectors, who would give his vote for so paltry a system? If we reject, we are exposed to the risk of having no constitution, of being torn with factions, and at last divided into distinct confederacies.

If we accept *upon condition*, shall we have a right to send members to the new Congress? We shall not; and, of course, this state would lose its voice and influence in obtaining the adoption of the amendments. This is too absurd to need any further discussion.

But, in objection to your excellency's propositions, it is said that it is no more than probable that they will be agreed to by the other states. I ask, What is any future thing that we devise more than probable? What more is another constitution? All agree that we must have one; and it is easy to perceive that such a one as the majority of the people approve *must* be submitted to by this state; for what right have an eighth or tenth part of the people to dictate a government for the whole? It comes to this point, therefore: Is any method more likely to induce the people of the United States to concur with Massachusetts, than that proposed by your excellency? If it is answered that there is none, as I think it must be, then the objection, that the chance of obtaining the amendments is no more than probable, will come to the ground, and it will appear that, of all chances, we depend upon that which is the safest. For when will the voice of Massachusetts have so powerful an influence as at present? There is not any government now to counteract or awe the people. The attention of the people is excited from one end of the states to the other, and they will watch and control the conduct of their members in Congress. Such amendments as afford better security to liberty will be supported by the people. There will be a Congress in existence to collect their sentiments, and to pursue the objects of their wishes. Nine states may insert amendments into the Constitution; but if we reject it, the vote must be unanimous. Our state, in that case, would lose the advantage of having representatives according to numbers, which is allowed by the Constitution. Upon a few points, and those not of a local nature, unanimity may be expected; but, in discussing a whole Constitution, in which the very amendments, that, it is said, will not be agreed to by the states, are to be inserted, unanimity will be almost a miracle. Either the amendments will be agreed to by the Union, or they will not. If it is admitted that they will be agreed to, there is an end of the objection to your excellency's propositions, and we ought to be unanimous for the Constitution. If it is said that they will not be agreed to, then it must be because they are not approved by the United States, or at least nine of them. Why shall we reject the Constitution, then, for the sole purpose of obtaining that unanimous vote of thirteen states, which, it is confidently said, it is impossible we ever shall obtain from nine only? An object which is impossible is out of the question. The argument that the amendments will not prevail, is not only without force, but directly against those who use it, unless they admit that we have no need of a government, or assert that, by ripping up the foundations of the compact, upon which we now stand, and setting the whole Constitution afloat, and introducing an infinity of new subjects of controversy, we pursue the best method to secure the entire unanimity of thirteen states.

But shall we put every thing that we hold precious to the hazard by rejecting this Constitution? We have great advantages by it in respect of navigation; and it is the general interest of the states that we should have them. But if we reject it, what security have we that we shall obtain them a second time, against the local interests and prejudices of the other states? Who is there, that really loves liberty, that will not tremble for its safety, if the federal government should be dissolved. Can liberty be safe without government?

The period of our political dissolution is approaching. Anarchy and uncertainty attend our future state. But this we know — that Liberty, which is the soul of our existence, once fled, can return no more.

The Union is essential to our being as a nation. The pillars that prop it are crumbling to powder. The Union is the vital sap that nourishes the tree. If we reject the Constitution, — to use the language of the country, — we girdle the tree, its leaves will wither, its branches drop off, and the mouldering trunk will be torn down by the tempest. What security has this single state against foreign enemies? Could we defend the mast country, which the Britons so much desire? Can we protect our fisheries, or secure by treaties a sale for the produce of our lands in foreign markets? Is there no loss, no danger, by delay? In spite of our negligence and perverseness, are we to enjoy, at all times, the privilege of forming a constitution, which no other nation has ever enjoyed at all We approve our own form of state government, and seem to think ourselves in safety under its protection. We talk as if there was no danger in deciding wrong. But when the inundation comes, shall we stand on dry land? The state government is a beautiful structure. It is situated, however, upon the naked beach. The Union is the dike to fence out the flood. That dike is broken and decayed; and, if we do not repair it, when the next spring tide comes, we shall be buried in one common destruction.

## Mr. BARRELL, (of York.)

Awed in the presence of this august assembly; conscious of my inability to express my mind fully on this important occasion; and sensible how little I must appear in the eyes of those giants in rhetoric, who have exhibited such a pompous display of declamation; without any of those talents calculated to draw attention; without the pleasing eloquence of Cicero, or the blaze of Demosthenian oratory, — I rise, sir, to discharge my duty to my constituents, who, I know, expect something more from me than merely a silent vote. With no pretensions to talents above the simple language adapted to the line of my calling, — the plain husbandman, — I hope the gentlemen who compose this honorable body will fully understand me when I attempt to speak my mind of the federal Constitution as it now stands. I wish, sir, to give my voice for its amendment before it can be salutary for our acceptance; because, sir, notwithstanding the Wilsonian oratory, and all the learned arguments I have seen written, notwithstanding the many labored speeches I have heard in its defence, and after the best investigation I am able to give this subject, — I fear it is pregnant with baneful effects, although I may not live to feel them.

Because, sir, as it now stands, Congress will be vested with more extensive powers than ever Great Britain exercised over us; too great, in my opinion, to intrust with any class of men, let their talents or virtues he ever so conspicuous, even though composed of such exalted, amiable characters as the great Washington; for, while we consider them as men of like passions, the same spontaneous, inherent thirst for power with ourselves, great and good as they may be, when they enter upon this all-important charge, what security can we have that they will continue so? And, were we sure they would continue the faithful guardians of our liberties, and prevent any infringement on the privileges of the people, what assurance can we have that such men will always hold the reins of government — that their successors will be such? History tells us Rome was happy under Augustus, though wretched under Nero, who could have no greater power than Augustus; and yet this same Nero, when young in government, could shed tears on signing a death-warrant, though afterwards he became so callous to the tender feelings of humanity as to behold, with pleasure, Rome in flames.

Because, sir, I think that six years is too long a term for any set of men to be at the helm of government; for in that time they may get so firmly rooted, and their influence be so great, as to continue themselves for life.

Because, sir, I am not certain we are able to support the additional expense of such a government.

Because, sir, I think a Continental collector will not be so likely to do us justice in collecting the taxes, as collectors of our own.

Because, sir, I think a frame of government on which all laws are founded, should be so simple and explicit, that the most illiterate may understand it; whereas this appears to me so obscure and ambiguous, that the most capacious mind cannot fully comprehend it.

Because, sir, the duties of excise and impost, and to be taxed besides, appear too great a sacrifice; and when we have given them up, what shall we have to pay our debts, but a dry tax?

Because, sir, I do not think this will produce the efficient government we are in pursuit of.

Because, sir, they fix their own salaries, without allowing any control.

And because, sir, I think such a government may be disagreeable to men with the high notions of liberty we Americans have.

And, sir, I could wish this Constitution had not been, in some parts of the continent, hurried on, like the driving of Jehu, very furiously; for such important transactions should be without force, and with cool deliberation. These, sir, were my objections, and those of my constituents, as they occur to my memory; some of which have been removed, in the course of the debates, by the ingenious reasonings of the speakers. I wish I could say the whole were. But, after all, there are some yet remaining on my mind, enough to convince me, excellent as this system is, in some respects it needs alterations; therefore I think it becomes us, as wise men, as the faithful guardians of the people's rights, and as we wish well to posterity, to propose such amendments as will secure to us and ours that liberty without which life is a burden.

Thus, sir, have I ventured to deliver my sentiments, in which are involved those of my constituents, on this important subject; cautiously avoiding every thing like metaphysical reasoning, lest I should invade the prerogative of those respectable gentlemen of the law, who have so copiously displayed their talents on the occasion. But, sir, although you may perceive, by what I have said, that this is not, in my view, the most perfect system I could wish, yet, as I am possessed with an assurance that the proposed amendments will take place; as I dread the fatal effects of anarchy; as I am convinced the Confederation is essentially deficient, and that it will be more difficult to amend that than to reform this; and as I think *this Constitution*, with all its imperfections, is *excellent*, compared with that, and that it is the best constitution we can now obtain; — as the greatest good I can do my country at present, I could wish for an adjournment, that I might have an opportunity to lay it before my constituents, with the arguments which have been used in the debates, which have eased my mind, and I trust would have the effect on theirs so as heartily to join me in ratifying the same. But, sir, if I cannot be indulged on this desirable object, I am almost tempted to risk their displeasure, and adopt it without their consent.

## Dr. TAYLOR

Examined the observations of several gentlemen, who had said, that, had the Constitution been so predicated as to require a bill of rights to be annexed to it, it would have been the work of a year, and could not be contained but in volumes. This, if true, he said, was an argument in favor of one being annexed; but so far from its being the case, he believed any gentleman in that Convention could form one in a few hours, as he might take the bill of rights of Massachusetts for a guide. He concluded by objecting to the amendments, because no assurance was given that they ever would become a part of the system.

## Mr. PARSONS

Demonstrated the impracticability of forming a bill, in a national constitution, for securing individual rights, and showed the inutility of the measure, from the ideas, that no power was given to Congress to infringe on any one of the natural rights of the people by this Constitution; and, should they attempt it without constitutional authority, the act would be a nullity, and could not be enforced.

Several other gentlemen spoke in a desultory conversation on the amendments. It was urged again and again, on one side, that it was uncertain whether they ever would be interwoven in the Constitution, and that, therefore, they could not vote for it, on that precarious condition. On the other side, the importance of the opinion of Massachusetts, in other states, in determining on great political questions, the general nature of the amendments proposed, &c., were repeatedly urged in favor of their being a part of the ratification.

[A motion was made by Mr. DENCH, and seconded, "That, for the purpose of informing the good people of this commonwealth of the principles of the proposed federal Constitution. and the amendments offered by his excellency, the president, and reported by the committee, and of uniting their opinions respecting the same, this Convention do adjourn to a future day." After debate, (which continued the best part of the day,) the question was put, and was determined in the negative, 329 members being present, and 115 only voting in the affirmative.]

# WEDNESDAY, *February* 6.

The Hon. Mr. ADAMS

[introduced some amendments, to be added to those reported by the committee; but, they not meeting the approbation of those gentlemen whose minds they were intended to ease, after they were debated a considerable time, the honorable gentleman withdrew them.]

## Rev. Mr. STILLMAN.

Mr. President, I rise, with deference to gentlemen of superior abilities, to give my opinion on the present all-important national question, and the reasons on which it is founded — an opinion, the result of the most serious deliberation.

Upon entering the Convention, it was my full determination to keep my mind cool and open to conviction, that so I might profit by the discussion of this interesting subject; and now, sir, return my sincere thanks to the gentlemen who have taken opposite sides in the course of the debates. From both I have received advantage — from one class in bringing forward a great variety of objections; from the other class in answering them. Whatever my previous opinion was, I now stand on firmer ground than ever respecting the pro posed Constitution.

But my present situation, sir, is to me extremely affecting. To be called by the voice of my fellow-citizens to give my vote for or against a constitution of government that will involve the happiness or misery of millions of my countrymen, is of so solemn a nature as to have occasioned the most painful anxiety.

I have no interest to influence me to accept this Constitution of government, distinct from the interest of my countrymen at large. We are all embarked in one bottom, and must sink or swim together.

Besides, sir, Heaven has fixed me in a line of duty that precludes every prospect of the honors and the emoluments of office. Let who will govern, I must obey. Nor would I exchange the pulpit for the highest honors my country can confer. I, too, have personal liberties to secure, as dear to me as to any gentlemen in the Convention, and as numerous a family, probably, to engage my attention; besides which, I stand here, with my very honorable colleagues, as a representative of the citizens of this great metropolis, who have been pleased to honor me with their confidence — an honor, in my view, unspeakably greater than a peerage or a pension.

The absolute deficiency of the Articles of Confederation is allowed by all. Nor have I seen any publication that places this subject in so convincing a point of view as a letter written by his excellency, Governor Randolph,\* which has appeared in several of our newspapers; whom I the rather introduce, on this occasion, because he was a delegate in the late federal Convention, refused to sign the Constitution before us, and has been twice mentioned by gentlemen in the opposition. His candor, apparent in the letter referred to, does him honor, and merits the esteem of every candid mind. I declare, sir, I revere his character, while I differ from him in opinion.

'' Before my departure for the (federal) Convention," says he, "I believed that the Confederation was not so eminently defective as it had been supposed. But after I had entered into a free conversation with those who were best informed of the condition and interest of each state, — after I had compared the intelligence derived from them with the properties that ought to characterize the government of our Union, — I became persuaded that the Confederation was destitute of *every energy* which a constitution of the United States ought to possess." And after he had, in the most masterly manner, proved its insufficiency, he adds, "But now, sir, permit me to declare that, in my humble judgment, the powers by which alone the blessings of a general government can be accomplished, cannot be interwoven in the Confederation, *without a change of its very essence*; or, in other words, that the Confederation *must be thrown aside*." Having stated his objections to it, he proceeds thus: "My inference from these facts and principles is, that the new powers must be deposited in a new body, growing out of the consolidation of the Union, as far as the circumstances of the states would allow." Thus fully and candidly does this gentleman insist on the absolute necessity of a new constitution of general government, at the very time that he objected to the present form; and concludes his letter with these memorable words, which I most heartily wish may make a deep impression on the mind of every gentleman in the opposition: "I hesitate not to say, that the most fervent prayer of my soul is, the establishment of a firm, energetic government; that the most inveterate curse that can befall us is a dissolution of the Union; and that the *present moment*, if suffered to pass unemployed, can NEVER be recalled. I shall therefore cling to the Union as the rock of our salvation, and urge Virginia to finish the salutary work which she hath begun. And if, after our best efforts for amendments, they cannot be obtained, I scruple not to declare (notwithstanding the advantage the declaration may give to the enemies of my proposal) that I will, as an individual citizen, accept the Constitution."

I pause, sir, that every gentleman present may have time to indulge those feelings which these excellent expressions must occasion. May that God who has the hearts of all men under his control, inspire every member of this Convention with a similar disposition! Then shall we lay aside every opposite interest, and unite, as a band of brothers, in the ratification of this Constitution of national government.

Then, sir, will your terms of conciliation be attended to with gratitude and candor. Your excellency, depressed with bodily infirmity, and exercised with severe pain, has stepped forth at the critical moment, and, from the benevolence of your heart, presented us with a number of proposed amendments, in order, if possible, to quiet the minds of the gentlemen in the opposition, and bring us together in amity and peace — amendments which you, sir, declare you do not think necessary, except for the sole purpose of uniting us in a common and most important cause.

But what has been the consequence of your excellency's conciliatory propositions? Jealousy — jealousy, sir, that there was a snake in the grass, a secret intention to deceive. I shuddered at the ungenerous suggestion, nor will I dwell a moment longer on the distressing idea. Be banished forever the groundless suspicion of him whose name stands foremost in the list of American patriots! Let love and harmony prevail!

The important hour is just arrived when the die will be cast, that will in a great measure determine the fate of this commonwealth, and have a mighty influence on the general interests of the Union; for, from the best information I have been able to collect from gentlemen of observation and of undoubted veracity, there is the greatest reason to fear that the rejection of this Constitution will be followed with anarchy and confusion.

The Convention, I doubt not, will bear with me while I take a general view of the Constitution before us.

From all that has been said on the subject of biennial elections, it is my decided opinion that two years in the general government will not be in proportion to one year in the local governments; because, in the former, the objects of government will be great, numerous, and extensive; in the latter, comparatively small and limited. The general government involves all the states now in the Union — all such as shall in future accede to it — all foreign nations with whom we are now, or hereafter shall be, in alliance — an extensive and growing commerce — war and peace, &c.

It has been said that this is a stride towards septennial elections, or perpetuity in office. I answer, the Constitution itself is to be the rule: that declares that "representatives shall be chosen every second year by the people of the several states." Elections, then, of representatives must be every second year; nor can they be otherwise, without a direct violation of the Constitution. The men who shall be wicked enough to do this, would not be restrained, had the elections been annual; it being equally easy to violate the Constitution in one case as in the other. Elections, indeed, ought to be so frequent as to make the representatives feel they are dependent on and amenable to the people. The difference, then, between annual and biennial elections is small, and, in either case, will answer the end just mentioned.

### Delegated Powers & Abuses

The powers that are granted to Congress by this instrument are great and extensive; **but, sir, they are defined and limited**, and, in my judgment, sufficiently checked; which I shall prove before I sit down. These powers have been the subject of long and ingenious debate. But the arguments that have been made use of against delegating these powers to the general government prove too much, being applicable to all delegated power; I mean the possible abuse of it. The very term *government* implies a supreme controlling power somewhere; a power to coerce, whenever coercion shall be necessary; of which necessity government must be the judge. This is admitted; if so, the power may be abused. **Every gentleman must confess that we cannot give a power to do good, but it may be abused to do evil.** If a merchant commits the care of a ship and cargo to the master, he may dispose of both, and appropriate the money to his own use. If we raise a body of men, and put arms into their hands for our defence, they may turn them against us and destroy us. All these things prove, however, that, in order to guard as much as possible against the abuse of those powers we delegate to government, there ought to be sufficient checks on them; every precaution should be used to secure the liberties of the people on the one hand, and not render government inefficient on the other. I believe, sir, such security is provided in this Constitution: if not, no consideration shall induce me to give my voice in its favor. But the people are secured by the following circumstances: —

# Electoral College

1st. All the offices in Congress are elective, not hereditary. The President and senators are to be chosen by the **interposition** of the legislatures of the several states, who are the representatives and guardians of the people, whose honor and interest will lead them, in all human probability, to have good men placed in the general government.

2d. The representatives in Congress are to be chosen, every second year, by the people of the several states. Consequently, it lies with the people themselves to say who shall represent them. It will, then, be their own fault if they do not choose the best men in the commonwealth.

Who are Congress, then? They are ourselves; the men of our own choice, in whom we can confide; whose interest is inseparably connected with our own. Why is it, then, that gentlemen speak of Congress as some foreign body, as a set of men who will seek every opportunity to enslave us? Such insinuations are repugnant to the spirit of the Constitution.

But a worthy gentleman from Middleborough has told us, that, though they may be good men when chosen, they may become corrupt. They may so; nor is it in the power of angels or men to prevent it; but should this be the case, the Constitution has made provisions for such an event. When it happens, we shall know what method to adopt, in order to bring them to punishment. In all governments where offices are elective, there ever has been, and there ever will be, a competition of interests. They who are in office wish to keep in, and they who are out, to get in; the probable consequences of which will be, that they who are already in place will be attentive to the rights of the people, because they know that they are dependent on them for a future election, which can be secured by good behavior only. Besides, they who are out of office will watch them who are in, with a most critical eye, in order to discover and expose their malconduct, if guilty of any, that so they may step into their places.

# Petition Militia Campaign

Every gentleman knows the influence that a desire to obtain a place, or the fear of losing it, hath on mankind. Mr. Borgh tells us, that, towards the close of the seven years for which the representatives are chosen in the British Parliament, they become exceedingly polite to the people. Why? Because they know there is an approaching election depending. This competition of interest, therefore, between those persons who are in and those who are out of office, will ever form one important check to the abuse of power in our representatives.

3d. Every two years there will be a revolution in the general government in favor of the people. At the expiration of the first two years, there will be a new choice of representatives; at the expiration of the second two years, there will be a new choice of President and representatives; and at the expiration of the third term, making six years from the commencement of the Congress, there will be a new choice of senators and representatives. We all know, sir, that power thus frequently reverting to the people will prove a security to their liberties, and a most important check to the power of the general government.

4th. Congress can make no laws that will oppress the people, which will not equally involve themselves in the oppression.

What possible motive, then, can Congress have to abuse their power? Can any man suppose that they will be so lost to their own interest as to abuse their power, knowing, at the same time, that they equally involve themselves in the difficulty? It is a most improbable supposition. This would be like a man's cutting off his nose to spite his face. I place this, sir, among the securities of the liberties of my fellow-citizens, and rejoice in it.

5th. Congress guaranty to every state in the Union a republican form of government, and engage to protect them against all foreign and domestic enemies; that is, as it hath been justly observed by the honorable gentleman [Mr. Adams] near me, of known and tried abilities as a politician, each state shall choose such republican form of government as they please, and Congress solemnly engage themselves to protect it from every kind of violence, whether of faction at home or enemies abroad. This is an admirable security of the people at large, as well as of the several governments of the states; consequently the general government cannot swallow up the local governments, as some gentlemen have suggested. Their existence is dependent on each other, and must stand or fall together. Should Congress ever attempt the destruction of the particular legislatures, they would be in the same predicament with Samson, who overthrew the house in which the Philistines were making sport at his expense; them he killed, indeed, but he buried himself in the ruins.

6th. Another check in favor of the people is this — that the Constitution provides for the **impeachment**, trial, and punishment of every officer in Congress, who shall be guilty of malconduct. With such a prospect, who will dare to abuse the powers vested in him by the people?

7th. Having thus considered several of the checks to the powers of Congress, which are interwoven with the Constitution, we will now suppose the worst that can take place in consequence of its adoption: I mean, that it shall be found in some of its parts oppressive to the people; still we have this *dernier ressort* — it may be amended. It is not, like the laws of the Medes and Persians, immutable. The fifth article provides for amendments.

It has been said, it will be difficult, after its ratification, to procure any alterations. By no means, sir, for this weighty reason — it is a general government, and, as such, will have a general influence; all states in the Union will feel the difficulty, and, feeling it, will readily concur in adopting the method provided by the Constitution. And having once made the trial, experience will teach us what amendments are necessary.

Viewing the Constitution in this light, I stand ready to give my vote for it, without any amendments at all. Yet, if the amendments proposed by your excellency will tend to conciliation, I readily admit them, not as a condition of acceptance, but as a matter of recommendation only; knowing that blessed are the peace-makers. I am ready, sir, to submit my life, my liberty, my family, my property, and, as far as my vote will go, the interest of my constituents, to this general government.

After all, if this Constitution was as perfect as the sacred volume is, it would not secure the liberties of the people, unless they watch their own liberties. Nothing written on paper will do this. It is therefore necessary that the people should keep a watchful, not an over-jealous, eye on their rulers; and that they should give all due encouragement to our colleges, schools of learning, &c., so that knowledge may be diffused through every part of our country. Ignorance and slavery, knowledge and freedom, are inseparably connected. While Americans remain in their present enlightened condition, and warmly attached to the cause of liberty, they cannot be enslaved. Should the general government become so lost to all sense of honor and the freedom of the people, as to attempt to enslave them, they who are the descendants of a race of men who have dethroned kings, would make an American Congress tremble, strip them of their public honors, and reduce them to the lowest state of degradation.

*Afternoon*. —

## Hon. Mr. TURNER.

Mr. President, being advanced in life, and having endeavored, I hope, with a faithful attention, according to my ability, to assist my country in their trying difficulties and dangers for more than twenty years; and as, for three weeks past, my state of health has been such as to render me unable to speak in this assembly, — I trust I shall be heard with some indulgence, while I express a few sentiments at this solemn crisis. I have been averse to the reception of this Constitution, while it was considered merely in its original form; but since the honorable Convention have pleased to agree to the recommendation of certain amendments, I acknowledge my mind is reconciled. But even thus amended, I still see, or think I see, several imperfections in it, and some which give me pain. Indeed, I never expect to see a constitution free from imperfections; and, considering the great diversity of local interests, views, and habits, — considering the unparalleled variety of sentiments among the citizens of the United States, — I despair of obtaining a more perfect constitution than this, at present. And a constitution preferable to the Confederation must be obtained, and obtained soon, or we shall be an undone people. In my judgment, there is a rational probability, amoral certainty, that the proposed amendments will meet the approbation of the several states in the Union. If there is any respect due to the hoary head of Massachusetts, it will undoubtedly have its proper influence in this case. The minds of gentlemen, throughout the nation, must be impressed with such a sense of the necessity of all-important union, especially in our present circumstances, as must strongly operate in favor of a concurrence. The proposed amendments are of such a liberal, such a generous, and such a catholic nature and complexion, — they are so congenial to the soul of every man who is possessed of patriotic regard to the preservation of the just rights and immunities of his country, as well as to the institution of a good and necessary government, — that I think they must, they will, be universally accepted. When, in connection with this confidence, I consider the deplorable state of our navigation and commerce, and various branches of business thereon dependent; the inglorious and provoking figure we make in the eyes of our European creditors; the degree in which the landed interest is burdened and depreciated; the tendency of depreciating paper, and tender acts, to destroy mutual confidence, faith, and credit, to prevent the circulation of specie, and to overspread the land with an inundation, a chaos of multiform injustice, oppression, and knavery; when I consider what want of efficiency there is in our government, as to obliging people seasonably to pay their dues to the public, instead of spending their money in support of luxury and extravagance, of consequence the inability of government to satisfy the just demands of its creditors, and to do it in season, so as to prevent their suffering amazingly by depreciation; in connection with my anxious desire that my ears may be no longer perstringed, nor my heart pained, with the cries of the injured widow and orphans; when I also consider that state of our finances which daily exposes us to become a prey to the despotic humor even of an impotent invader, — I find my self constrained to say, before this assembly, and before God, that I think it my duty to give my vole in favor of this Constitution, with the proposed amendments; and, unless some further light shall be thrown in my way to influence my opinion, I shall conduct accordingly. I know not whether this Convention will vote a ratification of this Constitution, or not. If they should do it, and have the concurrence of the other states, may that God, who has always, in a remarkable manner, watched over us and our fathers for good, in all difficulties, dangers, and distresses, be pleased to command his almighty blessing upon it, and make it instrumental of restoring justice, honor, safety, support, and salvation, to a sinking land! But I hope it will be considered, by persons of all orders, ranks, and ages, that, without the prevalence of Christian piety and morals, the best republican constitution can never save us from slavery and ruin. If vice is predominant, it is to be feared we shall have rulers whose grand object will be (slyly evading the spirit of the Constitution) to enrich and aggrandize themselves and their connections, to the injury and oppression of the laborious part of the community; while it follows, from the moral constitution of the Deity, that prevalent iniquity must be the ruin of any people. The world of mankind have always, in general, been enslaved and miserable, and always will be, until there is a greater prevalence of Christian moral principles; nor have I any expectation of this, in any great degree, unless some superior mode of education shall be adopted. It is education which almost entirely forms the character, the freedom or slavery, the happiness or misery, of the world. And if this Constitution shall be adopted, I hope the Continental legislature will have the singular honor, the indelible glory, of making it one of their first acts, in their first session, most earnestly to recommend to the several states in the Union the institution of such means of education as shall be adequate to the divine, patriotic purpose of training up the children and youth at large in that solid learning, and in those pious and moral principles, which are the support, the life and soul, of republican government and liberty, of which a free constitution is the body; for, as the body, without the spirit, is dead, so a free form of government, without the animating principles of piety and virtue, is dead also, being alone. May religion, with sanctity of morals, prevail and increase, that the patriotic civilian and ruler may have the sublime, parental satisfaction of eagerly embracing every opportunity of mitigating the rigors of government, in proportion to that increase of morality which may render the people more capable of being a law to themselves! How much more blessed this than to be employed in fabricating constitutions of a higher tone, in obedience to necessity, arising from an increase of turbulent vice and injustice in society! I believe your excellency's patience will not be further exercised by hearing the sound of my voice on the occasion, when I have said, May the United States of America live before God! May they be enlightened, pious, virtuous, free, and happy, to all generations!

## Capt. SOUTHWORTH

Spoke a short time against the adoption of the Constitution; but the worthy gentleman, from the indisposition of body, not being able to complete his speech, we cannot give it to the public.

## Mr. SYMMES.

Mr. President: I hope, sir, the Convention will indulge me with a few words, and I promise I will not detain them long. It may be known to your excellency, that I have heretofore had the honor to address the Convention in opposition to a certain paragraph in the Constitution. That fact is the sole occasion of my craving a turn to be heard again.

Sir, it never was my opinion that we ought, entirely, to abandon this Constitution. I thought it had great defects: and I still think it by no means free from blemishes; but I ever expected the worst consequences to follow a total rejection of it. I always intended to urge amendments, and was in hopes that the wisdom of this assembly would devise a method to secure their adoption. Therefore, when your excellency came forward, as well became your high office, in the character of a mediator, a ray of hope shone in upon the gloom that overspread my heart — of hope that we should still be united in the grand decision.

Sir, a mortal hatred, a deadly opposition, can be deserved by no government but the tyranny of hell, and perhaps a few similar forms on earth. A government of that complexion, in the present enlightened age, could never enter the heart of man; and if it could, and impudence enough were found to propose it, — nay, if it should be accepted, — I affirm, sir, that in America it would never operate a moment. I should glory in debating on my grounds for this assertion; but who will dare to question the truth of it?

Mr. President, so ample have been the arguments drawn from our national distress, the weakness of the present Confederation, the danger of instant disunion, and perhaps some other topics not included in these, that a man must be obstinate indeed, to say, at this period, that a new government is needless. One is proposed. Shall we reject it totally, or shall we amend it? Let any man recollect or peruse the debates in this assembly, and I venture to say, he shall not be a moment, if he loves his country, in making his election. He would contemplate the idea of rejection with horror and detestation. But, sir, it has been alleged that the necessary amendments cannot be obtained in the way your excellency has proposed. This matter has been largely debated. I beg a moment to consider it. Our committee, sir, were pretty well agreed to the amendments necessary to be made, and, in their report, it appears that these amendments are equally beneficial to all the citizens of America There is nothing local in them. Shall we, then, totally reject the Constitution, because we are only morally certain that they will be adopted? Shall we choose certain misery in one way, when we have the best human prospect of enjoying our most sanguine wishes in another? God forbid!

But, sir, a great deal has been said about the amendments. Here again I refer to the debates. Such has been said to have been the past prevalence of the Northern States in Congress, the sameness of interest in a majority of the states, and their necessary adhesion to each other, that I think there can be no reasonable doubt of the success of any amendments proposed by Massachusetts. Sir, we have, we do, and we *shall*, in a great measure, give birth to all events, and hold the balance among the United States.

The honorable gentleman, my respected friend from Scituate, has so fully entered into the expediency of ratifying the Constitution upon the basis of the report, and so ably stated the unanswerable reasons he finds for giving his sanction to it, notwithstanding his former different opinion, that I may decently waive a task I could not half so well perform.

Upon the whole, Mr. President, approving the amendments, and firmly believing that they will be adopted, I recall my former opposition, such as it was, to this Constitution, and shall — especially as the amendments are a standing instruction to our delegates until they are obtained — give it my unreserved assent.

In so doing, I stand acquitted to my own conscience; I hope and trust I shall to my constituents, and [*laying his hand on his breast*] I know I shall before God.

The time agreed upon for taking the question being arrived, and the same being called for from every quarter, —

## 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: —

### More Recommended Amendments

*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 question was determined by yeas and nays, as follows: —

COUNTY OF SUFFOLK.

Boston -- His Ex. John Hancock, Yea.

Hon. James Bowdoin, Yea.

Hon. Samuel Adams, Yea.

Hon. William Phillips, Yea.

Hon. Caleb Davis, Yea.

Charles Jarvis, Esq., Yea.

John Coffin Jones, Esq., Yea.

John Winthrop, Esq., Yea.

Thomas Dawes, Jun., Yea.

Rev. Samuel Stillman, Yea.

Thomas Russell, Esq., Yea.

Christopher Gore, Esq., Yea.

Roxbury -- Hon. William Heath, Yea.

Hon. Increase Sumner, Yea.

Dorchester -- James Bowdoin, Jun., Yea.

Ebenezer Wales, Esq., Yea.

Milton -- Rev. Nathaniel Robbins, Yea.

Weymouth -- Hon. Cotton Tufts, Yea.

Hingham -- Hon. Benj. Lincoln, Yea.

Rev. Daniel Shute, Yea.

Braintree -- Hon. Richard Cranch, Yea.

Rev. Anthony Wibird, Yea.

Brookline -- Rev. Joseph Jackson, Yea.

Dedham -- Rev. Thomas Thacher, Yea.

Fisher Ames, Esq., Yea.

Needham -- Col. William M'lntosh, Yea.

Medfield -- John Baxter, Jun., Yea.

Stoughton -- Hon. Elijah Dunbar, Yea.

Capt. Jedediah Southworth, Nay.

Wrentham -- Mr. Thomas Man, Yea.

Mr. Nathan Comstock, Nay.

Walpole -- Mr. George Payson, Yea.

Sharon -- Mr. Benjamin Randall, Nay.

Franklin -- Hon. J. Fisher, Yea.

Medway -- M. Richardson, Jun., Nay.

Bellingham -- Rev. Noah Alden, Nay.

Chelsea -- Rev. Phillips Payson, Yea.

Foxboro' -- Mr. Ebenezer Warren, Yea.

Hull -- Mr. Thomas Jones, Yea.

Yeas, 34. Nays, 5.

COUNTY OF ESSEX.

Salem -- Richard Manning, Esq., Yea.

Edward Pulling, Esq., Yea.

Mr. William Gray, Jun., Yea.

Mr. Francis Cabot, Yea.

Danvers -- Hon. Is. Hutchinson, Nay.

Newbury -- Hon. Tristam Dalton, Yea.

Enos Sawyer, Esq., Yea.

E. March, Esq., Yea.

Newburyport -- Hon. Rufus King, Yea.

Hon. Benjamin Greenleaf, Yea.

Theophilus Parsons, Esq., Yea.

Hon. Jonathan Titcomb, Yea.

Beverly -- Hon. G. Cabot, Yea.

Mr. Joseph Wood, Yea.

Capt Israel Thorndike, Yea.

Ipswich -- Hon. Michael Farley, Yea.

J. Choate, Esq., Yea.

Daniel Noyes, Esq., Yea.

Col. Jonathan Cogswell, Yea.

Marblehead -- Isaac Mansfield, Yea.

J. Glover, Esq., Yea.

Hon. Azor Orne, Yea.

John Glover, Esq., Yea.

Gloucester -- Daniel Rodgers, Esq., Yea.

John Low, Esq, Yea.

Capt. W. Pearson, Yea.

Lynn and Lynnfield -- J. Carnes, Yea.

Capt John Burnham, Yea.

Andover -- Peter Osgood, Jun., Nay.

Dr. Thomas Kittridge, Nay.

William Symmes, Jun., Yea.

Rowley -- Capt Thomas Mighill, Nay.

Haverhill -- Bailey Bartlett, Esq., Yea.

Capt Nathaniel Marsh, Nay.

Topsfield -- Mr. Israel Clark, Yea.

Salisbury -- Dr. Samuel Nyre, Yea.

Mr. Enoch Jackman, Yea.

Amesbury -- Capt Benj. Lurvey, Yea.

Mr. Willis Patten, Yea.

Boxford -- Hon. Aaron Wood, Nay.

Bradford -- Daniel Thruston, Esq., Yea.

Methuen -- Capt. E. Carlton, Nay.

Wenham -- Mr. Jacob Herrick, Yea.

Manchester -- Mr. Simeon Miller, Yea.

Yeas, 38. Nays, 6.

COUNTY OF MIDDLESEX.

Cambridge -- Hon. Francis Dana, Yea.

Stephen Dana, Esq., Yea.

Charlestown -- Hon. N. Gorham, Yea.

Watertown -- Dr. Marshal Spring, Nay.

Woburn -- Capt. Timothy Winn, Nay.

Concord -- Hon. Joseph Hosmer, Yea.

Newtown -- Hon. A. Fuller, Yea.

Reading -- Mr. William Flint, Nay.

Mr. Peter Emerson, Nay.

Marlborough -- Mr. Jonas Morse, Nay.

Maj. Benjamin Sawin, Nay.

Billerica -- Wm. Thompson, Esq., Nay.

Framingham -- Capt. L. Buckminster, Yea.

Lexington -- Benj. Browne, Esq., Yea.

Chelmsford -- Maj. John Minot, Nay.

Sherbume -- Daniel Whitney, Esq., Yea.

Sudbury -- Capt. Asahel Wheeler, Yea.

Malden -- Capt. Benjamin Blaney, Yea.

Weston -- Capt. Abraham Bigelow, Yea.

Medford -- Maj. Gen. John Brooks, Yea.

Hopkinton -- Capt. Gilbert Dench, Yea.

Westford -- Mr. Jonathan Keep, Nay.

Stow -- Dr. Charles Whitman, Yea.

Groton -- Dr. Benjamin Morse, Nay.

Joseph Sheple, Esq., Nay.

Shirley -- Mr. Obadiah Sawtell, Nay.

Pepperell -- Mr. Daniel Fisk, Nay.

Waltham -- Leonard Williams, Esq., Yea.

Townsend -- Capt. Daniel Adams, Nay.

Dracut -- Hon. Joseph B. Varnum. Yea.

Bedford -- Capt. John Webber, Nay.

Holliston -- Capt. St. Chamberlain, Nay.

Acton and Carlisle -- Mr. A. Parlin, Nay.

Dunstable -- Hon. J. Pitts, Yea.

Lincoln -- Hon. E. Brooks, Yea.

Wilmington -- Capt. J. Harnden, Nay.

Tewksbury -- Mr. Newman Scarlet, Nay.

Littleton -- Mr. Samuel Reed, Nay.

Ashby -- Mr. Benjamin Adams, Nay.

Natick -- Maj. Hezekiah Broad, Nay.

Stoneham -- Capt. Jonathan Green, Nay.

East Sudbury -- Mr. Phi. Gleason, Nay.

Yeas, 17. Nays, 25.

COUNTY OF HAMPSHIRE.

Springfield -- Wm. Pynchon, Esq., Yea.

West Springfield -- Col. Benj. Ely, Nay.

Capt. John Williston, Nay.

Wilbraham -- Capt. Phin. Stebbins, Nay.

Northampton and Easthampton --

Hon. Caleb Strong, Yea.

Benjamin Sheldon, Yea.

Southampton -- Capt. L. Pomeroy, Yea.

Hadley -- Brig. Gen. Elisha Porter, Yea.

South Hadley -- Hon. N. Goodman, Yea.

Amherst -- Mr. Daniel Cooley, Nay.

Granby -- Mr. Benjamin Eastman, Nay.

Hatfield -- Hon. J. Hastings, Yea.

Whately -- Mr. Josiah Allis, Nay.

Williamsburg -- Mr. W. Bodman, Nay.

Westfield -- John Ingersoll, Esq., Yea.

Deerfield -- Mr. Samuel Field, Nay.

Greenfield -- Mr. Moses Bascum, Nay.

Shelburn -- Mr. Robert Wilson, Nay.

Conway -- Capt. Consider Arms, Nay.

Mr. Malachi Maynard, Nay.

Sunderland -- Capt. Z. Crocker, Nay.

Montague -- Mr. M. Severance, Nay.

Northfield -- Mr. Eben James, Yea.

Brimfield -- Abner Morgan, Esq., Yea.

South Brimfield -- Capt. A. Fisk, Nay.

Monson -- Mr. Phineas Merrick, Nay.

Pelham -- Mr. Adam Clark, Nay.

Greenwich -- Capt. N. Whitcomb, Nay.

Blandford -- Mr. Timothy Blair, Nay.

Palmer -- Mr. Aaron Merrick, Nay.

Granville -- Mr. John Hamilton, Nay.

Mr. Clark Cooley, Nay.

New Salem -- Mr. J. Chamberlin, Nay.

Belchertown -- Mr. Justus Dwight, Nay.

Coleraine -- Mr. Samuel Eddy, Nay.

Ware -- Mr. Isaac Pepper, Nay.

Warwick and Orange --

Capt. John Goldsborough, Nay.

Chester -- Capt. David Shepard, Yea.

Charlemont -- Mr. Jesse Reed, Yea.

Ashfield -- Mr. Ephraim Williams, Nay.

Worthington -- Nahum Eager, Esq., Yea.

Shutesbury -- Mr. Asa Powers, Nay.

Chesterfield -- Col. Benj. Bonney, Yea.

Southwick -- Capt. Silas Fowler, Nay.

Northwick -- Maj. T. J. Doglass, Yea.

Ludlow -- Mr. John Jennings, Nay.

Leverett -- Mr. Jonathan Hubbard, Nay.

West Hampton -- Mr. A. Fisher, Yea.

Cunningham and Plainfield --

Mr. Edmund Lazell, Yea.

Buckland -- Capt. T. Maxwell, Yea.

Long Meadows -- Mr. E. Colton, Yea.

Yeas, 33. Nays, 19.

COUNTY OF PLYMOUTH.

Plymouth -- Joshua Thomas, Esq., Yea.

Thomas Davis, Yea.

John Davis, Yea.

Scituate -- Hon. William Cushing, Yea.

Hon. Nathan Cushing, Yea.

Hon. Charles Turner, Esq., Yea.

Marshfield -- Rev. William Shaw, Yea.

Bridgewater -- D. Howard, Esq., Yea.

Mr. Hezekiah Hooper, Yea.

Capt. Elisha Mitchell, Yea.

Mr. Daniel Howard, Jun., Yea.

Middleboro' -- Rev. Isaac Backus, Yea.

Mr. Benjamin Thomas, Nay.

Isaac Thompson, Esq., Yea.

Mr. Isaac Soule, Nay.

Duxbury -- Hon. G. Partridge, Yea.

Rochester -- Mr. N. Hammond, Nay.

Mr. Abraham Holmes, Nay.

Plympton -- Capt. F. Shurtliff, Nay.

Mr. Elisha Bisbee, Jun., Nay.

Pembroke -- Capt. John Turner, Yea.

Mr. Josiah Smith, Yea.

Kingston -- W. Sever, Jun., Esq., Yea.

Hanover -- Hon. Joseph Cushing, Yea.

Abington -- Rev. Samuel Niles, Yea.

Halifax -- Mr. F. Waterman, Yea.

Wareham -- Col. Israel Fearing, Yea.

Yeas, 22. Nays, 6.

COUNTY OF BARNSTABLE.

Barnstable -- Shear. Browne, Esq., Yea.

Sandwich -- Dr. Thomas Smith, Nay.

Mr. Thomas Nye, Nay.

Yarmouth -- D. Thatcher, Esq., Yea.

Capt. Jonathan Howes, Yea.

Harwich -- Hon. Solomon Freeman, Yea.

Capt. Kimball Clark, Yea.

Wellfleet -- Rev. Levi Whitman, Yea.

Falmouth -- Capt. Joseph Palmer, Yea.

Yeas, 7. Nays, 2.

COUNTY OF BRISTOL.

Taunton -- James Williams, Esq., Yea.

Col. Nathaniel Leonard, Nay.

Mr. Aaron Pratt, Nay.

Rehoboth -- Capt. Phan. Bishop, Nay.

Maj. Frederick Brown, Nay.

William Windsor, Esq., Nay.

Swansey -- Mr. Christopher Mason, Nay.

Mr. David Brown, Nay.

Dartmouth -- Hon. Hol'r Slocum, Nay.

Mr. Melatiah Hathaway, Nay.

Norton -- Hon. Abraham White, Nay.

Attleboro' -- Hon. Elisha May, Yea.

Capt. Moses Wilmarth, Yea.

Dighton -- Col. Sylvester Richmond, Yea.

Hon. William Baylies, Yea.

Freetown -- Hon. Thomas Durfee, Yea.

Israel Washburn, Esq., Yea.

Easton -- Capt. Eben Tisdell, Nay.

Mansfield -- Capt. John Pratt, Nay.

New Bedford -- Hon. W. Spooner, Yea.

Rev. Samuel West, Yea.

Westport -- Mr. William Almy, Yea.

Yeas, 10. Nays, 12.

COUNTY OF YORK.

York -- Capt. Esaias Preble, Nay.

Nathaniel Barrell, Esq., Yea.

Kittery -- Mr. Mark Adams, Nay.

Mr. James Neal, Nay.

Wells -- Rev. Mr. Hemmenway, Yea.

Hon. Nathaniel Wells, Yea.

Berwick -- Dr. Nathaniel Low, Nay.

Mr. Richard F. Cutts, Nay.

Mr. Elijah Hays. Nay.

Pepperelboro' -- T. Cutts, Esq., Yea.

Lebanon -- Mr. T. M. Wentworth, Nay.

Sanford -- Maj. Samuel Nason, Nay.

Buxton -- Jacob Bradbury, Esq., Yea.

Fryeburg -- Mr. Moses Ames, Nay.

Coxhall -- Capt. John Low, Yea.

Shapleigh -- Mr. Jeremiah Emery, Nay.

Waterboro' -- Rev. Pel. Tingley, Nay.

Yeas, 6. Nays, 11.

COUNTY OF DUKES.

Edgartown -- Mr. Wm Mayhew, Yea.

Tisbury -- Mr. C. Dunham, Yea.

Yeas, 2.

COUNTY OF WORCESTER.

Worcester -- Mr. David Bigelow, Nay.

Lancaster -- Hon. John Sprague, Yea.

Mendon -- Ed. Thompson, Esq., Nay.

Brookfield -- Mr. Daniel Forbes, Nay.

Mr. N. Jenks, Nay.

Oxford -- Capt. Jeremiah Learned, Nay.

Charlton -- Mr. Caleb Curtiss, Nay.

Mr. Ezra M'Intier, Nay.

Sutton -- Mr. David Harwood, Nay.

Hon. Amos Singletary, Nay.

Leicester -- Col. Samuel Denny, Nay.

Spencer -- Mr. James Hathun, Nay.

Rutland -- Mr. Asaph Sherman, Nay.

Paxton -- Mr. Abraham Smith, Nay.

Oakham -- Capt. Jonathan Bullard, Nay.

Barre -- Capt. John Black, Nay.

Hubbardston -- Capt. J. Woods, Nay.

New Braintree -- Capt. B. Joslyn, Nay.

Southboro' -- Capt. Seth Newton, Yea.

Westboro' -- Capt. S. Maynard, Nay.

Northboro' -- Mr. Art. Brigham, Nay.

Shrewsbury -- Capt. I. Harrington, Nay.

Lunenburg -- Capt. John Fuller, Nay.

Fitchburg -- Mr. Daniel Putman, Nay.

Uxbridge -- Dr. Samuel Willard, Nay.

Harvard -- Joshua Whitney, Esq., Nay.

Dudley -- Mr. Jonathan Day, Nay.

Bolton -- Hon. Samuel Baker, Yea.

Upton -- Capt. T. M. Baker, Nay.

Sturbridge -- Capt. Timothy Parker, Nay.

Leominster -- Maj. D. Wilder, Yea.

Hardwick -- Maj. M. Kinsley, Nay.

Holden -- Rev. Joseph Davi, Nay.

Western -- Mr. Mat. Patrick, Yea.

Douglass -- Hon. John Taylor, Nay.

Grafton -- Dr. Joseph Wood, Nay.

Petersham -- Jonathan Grout, Esq., Nay.

Capt. Samuel Peckham, Nay.

Royalston -- John Frye, Esq., Nay.

Westminster -- Mr. Stephen Holden, Nay.

Templeton -- Capt. J. Fletcher, Nay.

Princeton -- Mr. Timothy Fuller, Nay.

Ashburnham -- Mr. Jacob Willard, Nay.

Winchendon -- Mr. Moses Hale, Nay.

Northbridge -- Capt. J. Wood, Nay.

Ward -- Mr. Joseph Stone, Nay.

Athol -- Mr. Josiah Goddard, Yea.

Milford -- Mr. David Steams, Nay.

Sterling -- Mr. Ephraim Wilder, Yea.

Boylston -- Mr. Jonas Temple, Nay.

Yeas, 8. Nays, 43.

COUNTY OF CUMBERLAND.

Falmouth -- Daniel Isley, Esq., Nay.

John K. Smith, Esq., Yea.

Portland -- Mr. John Fox, Yea.

Capt. Joseph M'Lellen, Yea.

North Yarmouth -- D. Mitchell, Yea.

Samuel Merrill, Esq., Yea.

Scarboro' -- W. Thompson, Esq., Yea.

Brunswick -- Capt. John Dunlap, Yea.

Harpswell -- Capt. Isaac Snow, Yea.

Cape Elizabeth -- Mr. Joshua Dyer, Yea.

Gorham -- Mr. S. Longfellow, Jun, Nay.

New Gloucester -- Mr. Widgery, Nay.

Gray -- Rev. Samuel Perley, Yea.

Yeas, 10. Nays, 3.

COUNTY OF LINCOLN.

Pownalboro' -- Thomas Rice, Esq., Yea.

Mr. David Sylvester, Yea.

Georgetown -- Mr. N. Wyman, Yea.

Newcastle -- Mr. David Murray, Nay.

Woolwich -- Mr. David Gilmore, Yea.

Topsham -- Hon. S. Thompson, Nay.

Winslow -- Mr. Jonah Crosby, Nay.

Bowdoinham -- Mr. Zach. Beal, Nay.

Boothbay -- William M'Cobb, Esq., Yea.

Bristol -- William Jones, Esq., Nay.

Vassalboro' -- Capt. Samuel Grant, Yea.

Edgecomb -- Moses Davis, Esq., Yea.

Hallowell -- Capt. James Carr, Nay.

Thomaston -- David Fayles, Esq., Yea.

Bath -- Dummer Sewall, Esq., Yea.

Winthrop -- Mr. Joshua Bean, Nay.

Yeas, 9. Nays, 7.

COUNTY OF BERKSHIRE.

Sheffield and Mount Washington --

John Ashley, Jun., Esq., Yea.

Great Barrington -- Hon. E. Dwight, Yea.

Stockbridge -- Hon. T. Sedgwick, Yea.

Pittsfield -- Mr. Val. Rathburn, Nay.

Richmond -- Mr. Comstock Betts, Nay.

Lenox -- Mr. Lemuel Collins, Nay.

Lanesboro' -- Hon. Jona. Smith, Nay.

Williamstown -- Hon. T. J. Skinner, Yea.

Adams -- Capt. J. Pleroe, Nay.

Egremont -- Ephraim Fitch, Esq., Nay.

Becket -- Mr. Elisha Carpenter, Yea.

West Stockbridge -- Maj. T. Lusk, Nay.

Alford -- Mr. John Hulbert, Nay.

New Marlborough -- D. Taylor, Yea.

Tyringham -- Capt. E. Herrick, Nay.

Loudon -- Mr. Joshua Lawton, Nay.

Windsor -- Mr. Timothy Mason, Nay.

Partridgefield -- E. Peirce, Esq., Nay.

Hancock -- Mr. David Vaughan, Nay.

Lee -- Capt. Jesse Bradley, Nay.

Washington -- Mr. Zenas Noble, Nay.

Sandisfield -- Mr. J. Picket, Jun., Nay.

Yeas, 6. Nays, 16.

TOTAL. -- Yeas, 187. Nays, 168. (355 total)

### Analysis of the Ratification by G.R. Mobley’s

Numbers below:

1. Yeas, 34. Nays, 5.
2. Yeas, 38. Nays, 6.
3. Yeas, 17. Nays, 25.
4. Yeas, 33. Nays, 19.
5. Yeas, 22. Nays, 6.
6. Yeas, 7. Nays, 2.
7. Yeas, 10. Nays, 12.
8. Yeas, 6. Nays, 11.
9. Yeas, 2.
10. Yeas, 8. Nays, 43.
11. Yeas, 10. Nays, 3.
12. Yeas, 9. Nays, 7.
13. Yeas, 6. Nays, 16.

Ratification via the Counties - 8 Counties to 5 62 %

Ratification by Popular vote 53 %

On the motion for ratifying being declared in the affirmative, by a majority of nineteen, the

## Hon. Mr. WHITE

Rose, and said that, notwithstanding he had opposed the adoption of the Constitution, upon the idea that it would endanger the liberties of his country, yet, as a majority had seen fit to adopt it, he should use his utmost exertions to induce his constituents to live in peace under and cheerfully submit to it.

He was followed by

## Mr. WIDGERY,

Who said, that he should return to his constituents, and inform them that he had opposed the adoption of this Constitution; but that he had been overruled, and that it had been carried by a majority of wise and understanding men; that he should endeavor to sow the seeds of union and peace among the people he represented; and that he hoped, and believed, that no person would wish for, or suggest, the measure of a PROTEST; for, said he, we must consider that this body is as full a representation of the people as can be convened. — After expressing his thanks for the civility which the inhabitants of this town have shown to the Convention, and declaring, as his opinion, that they had not in the least influenced the decision, he concluded by saying, that he should support, as much as in him lay, the Constitution, and that he believed, as this state had adopted it, that not only nine, but the whole thirteen, would come into the measure.

## Mr. WHITNEY

Said that, though he had been opposed to the Constitution, he should support it as much as if he had voted for it.

## Mr. COOLEY (Amherst)

Said, that he endeavored to govern himself by the principles of reason; that he was directed to vote against the adoption of the Constitution, and that, in so doing, he had not only complied with his directions, but had acted according to the dictates of his own conscience; and that, as it had been agreed to by a majority, he should endeavor to convince his constituents of the propriety of its adoption.

## Dr. TAYLOR

Also said, he had uniformly opposed the Constitution; that he found himself fairly beaten, and expressed his determination to go home and endeavor to infuse a spirit of harmony and love among the people.

Other gentlemen expressed their inclination to speak; but, it growing late, the Convention adjourned to the next morning.

# THURSDAY, *February* 7, 1788. —

The Convention met, when

## Major NASON,

In a short address, intimated his determination to support the Constitution, and to exert himself to influence his constituents to do the same.

## Mr. RANDAL

Said, he had been uniformly opposed to the Constitution. He had, he said, fought like a good soldier; but, as he was beaten, he should sit down contented, hoping the minority may be disappointed in their fears, and that the majority may reap the full fruition of the blessings they anticipate. In the hope that the amendments recommended by his excellency, the president, will take place, I shall, says he, go home and endeavor to satisfy those that have honored me by their choice, so that we may all live in peace.

## Major SWAIN

Declared, that the Constitution had had a fair trial, and that there had not, to his knowledge, been any undue influence exercised to obtain the vote in its favor; that many doubts which lay on his mind had been removed; and that, although he was in the minority, he should support the Constitution as cheerfully and as heartily as though he had voted on the other side of the question.

The Convention then passed the pay-roll, amounting to £4499 2 s.; and, after unanimously passing votes of thanks to his excellency, the president, the honorable the vice-president, and the reverend clergymen of the town of Boston, who officiated as chaplains, for their services, it was *voted*, That, when the business of the Convention shall be completed, the members will proceed to the state-house to proclaim the ratification, and to take an affectionate leave of each other. An invitation from a number of the inhabitants of Boston, requesting the members of the Convention to take refreshment at the senate-chamber, when the ratification of the Constitution should be declared, was read, and thereon *voted*, That the thanks of the Convention be given to the inhabitants of Boston for their polite invitation, and that the Convention will attend, as requested.

The business being finished, the Convention proceeded to the state-house, when the ratification was proclaimed by Joseph Henderson, Esq., high sheriff of the county of Suffolk; after which, the Convention was dissolved

\* See Vol. I. p. 482.