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

# IN CONVENTION, POUGHKEEPSIE, *June* 17, 1788.

ON the 1st of February, 1788, the legislature of the state of New York passed a resolution in the words following, to wit: —

"*Whereas* the United States, in Congress assembled, did, on the 28th day of September last unanimously resolve, that the report of the Convention of the states lately assembled in Philadelphia, with the resolutions and letter accompanying the same, be transmitted to the several legislatures, in order to be submitted to a Convention of delegates, chosen in each state by the people thereof, in conformity to the resolves of the Convention, made and provided in that case, — Therefore,

"*Resolved*, as the sense of the legislature, that the said report, with the said resolutions and letter accompanying the same, be submitted to a Convention of delegates to be chosen by the people of this state; that it be recommended to the people of this state to choose, by ballot, delegates to meet in Convention for the purpose aforesaid; that the number of delegates to be elected be the same as the number of members of Assembly from the respective cities and counties; that all free male citizens of the age of twenty-one years and upwards be admitted to vote, and that any person of that description be eligible; that the election be held on the last Tuesday in April next, at the same respective places where the elections for members of Assembly shall be held, and be continued by adjournment from day to day, until the same shall be completed, not exceeding five days; that the inspectors, who shall inspect the election for members of Assembly, be also inspectors of the election of delegates; that the inspectors do also appoint two clerks, each of whom shall keep a poll list of the electors for delegates; that the inspectors do provide a box to receive the ballots for delegates; that the poll books or lists shall, after due examination and correction, be signed by the inspectors attending at the closing of the poll, and the clerks who shall have kept the same poll books, respectively; and then the box containing the ballots for delegates shall be opened, and the ballots therein contained taken out, and, without being inspected, shall, together with the poll books or lists for delegates, be immediately put up under cover and enclosed, and the enclosure bound with tape, and sealed in such manner as to prevent its being opened without discovery; and the inspectors present at the closing of the poll shall then put their seals, and write their names, upon the same enclosure, and one of the inspectors then present, to be appointed by a majority of them, shall deliver the same enclosure, so sealed up as aforesaid, to the clerk of the county, without delay, who shall carefully preserve and keep the same, unbroken and unopened, until the meeting of the persons who are to canvass and estimate the ballots therein contained, when he shall deliver the same enclosure, unbroken and unopened, to them; that the person authorized by law to canvass and estimate the votes for members of Assembly, do, also, immediately after they shall have canvassed and estimated the votes to be taken at the election to be held on the last Tuesday in April next, for members of Assembly, proceed to open the said enclosures containing the ballots for the delegates, and canvass and estimate the votes taken for delegates; and when, as soon as they shall be able to determine, upon such canvass or estimate, who, by the greatest number of votes, shall have been chosen for delegates for the city and county, they shall determine the same, and thereupon, without delay, make, and subscribe with their own proper names and hand-writing, the requisite number of certificates of such determination, and cause one to be delivered to each of the persons so elected a delegate; and that the said election and canvass shall, in every other respect not herein provided for, be conducted in like manner as is provided for by law for holding elections for members of Assembly; that the delegates, so to be chosen, do meet in convention at the court-house in Poughkeepsie, in the county of Duchess, on the third Tuesday of June next; that the clerks of the Senate and Assembly do forthwith, after the Convention shall have assembled, deliver to them copies of the said report, and of the letter and resolutions which accompanied the same to Congress, and of the said resolution of Congress; that the delegates be allowed the same wages as the members of Assembly, and that it will be proper for the legislature, at their next meeting, to provide for the payment thereof."

In pursuance of the above resolution, an election was held in the several counties, and the following gentlemen were returned: —

*From the City and County of New York*. — John Jay, Richard Morris, John Sloss Hobart, Alexander Hamilton, Robert R. Livingston, Isaac Roosevelt, James Duane, Richard Harrison, Nicholas Low.

*From the City and County of Albany*. — Robert Yates, John Lansing, Jun., Henry Outhoudt, Peter Vroman, Israel Thompson, Anthony Ten Eyck, Dirck Swart.

*From the County of Suffolk*. — Henry Scudder, Jonathan N. Havens, John Smith, Thomas Tredwell, David Hedges.

*From the County of Ulster*. — Governor Clinton, John Cantine, Cor. C. Schoonmaker, Ebenezer Clark, James Clinton, Dirck Wynkoop.

*From the County of Queens*. — Samuel Jones, John Schenck, Nathaniel Lawrence, Stephen Carman.

*From the County of Kings*. — Peter Lefferts, Peter Vandervoort.

*From the County of Richmond*. — Abraham Bancker, Gozen Ryerss.

*From the County of Westchester*. — Lewis Morris, Philip Livingston, Richard Hatfield, Philip Van Courtland, Thaddeus Crane, Lott W. Sarls.

*From the County of Orange*. — John Haring, Jesse Wood-hull, Henry Wisner, John Wood.

*From the County of Duchess*. — Zephaniah Platt, Melancton Smith, Jacobus Swartwout, Jonathan Akins, Ezra Thompson, Gilbert Livingston, John De Witt.

*From the County of Montgomery*. — William Harper, Christopher P. Yates, John Frey, John Winn, Volkert Veeder, Henry Staring.

*From the County of Columbia*. — Peter Van Ness, John Bay, Matthew Adgate.

*From the Counties of Washington and Clinton*. — Ichabod Parker, John Williams, Albert Baker, David Hopkins.

The Convention, having accordingly assembled on the 17th of June, unanimously elected his excellency, GEORGE CLINTON, president. After appointing the proper subordinate officers, and having ordered that the doors should be kept open, and the business of the Convention opened every morning with prayer, Mr. Duane, Mr. Jones, Mr. R. Morris, Mr. Lansing, and Mr. Harris, were chosen a committee to report rules for conducting the business.

Next day, the *committee of regulations* brought in their report, on which the following resolves were passed, viz.: —

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

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

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

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

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

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

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

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

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

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

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

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

The Constitution reported by the general Convention was then read, together with the resolutions and letter accompanying the same to Congress, and the resolve of Congress thereon; after which the Convention, on motion of Mr. Lansing, agreed to resolve itself, the succeeding day, into a committee of the whole.

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

## The Constitution being again read, the Hon. ROBERT R. LIVINGSTON rose, and addressed the chair as follows: —

## Hon. ROBERT R. LIVINGSTON

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

Ever since a pure and perfect religion has lent her mild lights to philosophy, and extended her influence over the sentiments of men, ft has been a received opinion that the happiness of nations, as well as of individuals, depends on peace, and that intimate connection which mutual wants occasion. To establish this on the basis of a general union of nations, has, at various times, employed the thoughts and attention of wise and virtuous men. It is said to have been the last great plan of the illustrious Henry IV. of France, who was justly esteemed one of the wisest and best of princes. But, alas! sir, in the old world, every attempt of this nature will prove abortive. There, governments are the children of force or fraud, and carry with them strong features of their parent's character. Disputes will not be referred to a common umpire, unless that umpire has power to enforce his decrees; and how can it be expected that princes, jealous of power, will consent to sacrifice any portion of it to the happiness of their people, who are of little account in their estimation? Differences among them, therefore, will continue to be decided by the sword, and the blood of thousands will be shed before the most trifling controversy can be determined. Even Peace can hardly be said to bestow her usual blessings on them; their mutual jealousies convert peace into an armed truce. The husbandman feels the oppression of standing armies, by whom the fruits of his labor are devoured; and the flower of youth is sacrificed to the rigors of military discipline. It has pleased Heaven to afford the United States means for the attainment of this great object, which it has withheld from other nations. They speak the same language; they profess the same religion; and, what is of infinitely more importance, they acknowledge the same great principle of government — a principle, if not unknown, at least little understood in the old world — *that all power is derived from the people*. They consider the state and the general governments as different deposits of that power. In this view, it is of little moment to them whether that portion of it which they must, for their own happiness, lodge in their rulers, be invested in the state governments only, or shared between them and the councils of the Union. The rights they reserve are not diminished, and probably their liberty acquires an additional security from the division.

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

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

As, on the one hand, sir, our situation admits of a union, so, on the other, our distresses point out its necessity. I will not, at this time, touch on the declining state of our commerce; nor will I remind you of our national bankruptcy, of the effect it has upon our public measures, and the private misery that it causes; nor will I wound your feelings by a recapitulation of the insults we daily receive from nations whose injuries we are compelled to repay by the advantages of our commerce. These topics have been frequently touched; they are in every man's mind; they lie heavy at every patriot's heart. They have induced states, the most independent in their situation, to unite in their endeavors to remove them; they operate with peculiar force on us. Permit me, however, to make some observations, drawn from our particular situation, and which will show, in the clearest light, that our existence, as a state, depends on a strong and efficient federal government.

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

He observed, that wealth excited envy, stimulated avarice, and invited invasions; that, if the Union was dissolved, we could only be protected by our domestic force. He then urged the incapacity of the state to defend itself, from the detached situation of its ports, remarking particularly upon that of Staten Island and Long Island; their vicinity to states, which, in case of a disunion, must be considered as independent, and perhaps unfriendly powers. He turned the attention of the committee to the north-east, where he showed Vermont ready to avail itself of our weakness, speaking of the people of that state, as a brave and hardy body of men, that we had neither the spirit to subdue, nor, what be more strongly recommended, the magnanimity to yield to. On the north-west, he pointed to the British posts, and hostile tribes of savages. He showed that, in case of domestic war, Hudson River, that great source of our wealth, would also be that of our weakness, by the intersection of the state, and the difficulty we should find in bringing one part to support the other.

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

### New States

He asked whether, with these powers, it had been able to effect the purposes designed by the Union; whether it had repelled invaders, maintained domestic peace, supported our credit, or extended our commerce. He proved that not one of these objects had been effected by it. He pointed to the British possessions in the limits of this state, held in defiance of the most solemn treaties, and contempt of our government, as proof of its incompetency to defend our rights against foreign powers. How has it happened, said he, that Vermont is, at this moment, an independent state? How has it happened that **new states** have been rent from those on the west, that were entitled to protection? He asked if any gentlemen would assert that our national credit was fixed upon a proper basis; that our commerce enjoyed the advantages we had a right to expect. If, then, said he, experience has shown that the existing Confederation (if I may use the term) has not answered the great ends of the Union, it must either have arisen from an insufficiency in its powers, or from some defect in the execution of them: if insufficient, more should be added; if not executed, the cause should be inquired into. He showed that, with the addition of a few powers, those it possessed were competent to the purposes of the Union; but that the defect of the system rested in the impossibility of carrying into effect the rights invested in them by the states. He then ran through every power intended to be vested in Congress, and showed that the exercise of them, by the intervention of the state governments, and subject to their pleasure or their different views of the matters recommended to them, would be attended with insuperable difficulties, inconveniences, and delays, even if they were disposed to carry them into effect; but that, if (which, experience had shown, would often be the case) they should either neglect or refuse to comply with the requisition, no means were pointed out by the Confederation to coerce them, but that it was left, as all leagues among nations, to military force. He showed, in a strong point of view, the danger of applying this; and deduced from all those observations, that the old Confederation was defective in its principle, and impeachable in its execution, as it operated upon states in their political capacity, and not upon individuals; and that it carried with it the seeds of domestic violence, and tended ultimately to its dissolution. He then appealed to our experience in the late war, to show the operation of this system, and demonstrated that it must, from its own construction, leave every state to struggle with its own difficulties, and that none would be roused to action but those that were near the seat of war. He alleged that this idea of a federal republic, on the ground of a league among independent states, had, in every instance, disappointed the expectations of its advocates. He mentioned its effects in the ancient republics, and took a view of the union of the Netherlands, and showed that, even when they were struggling for every thing that was dear to them, in the contest with Spain, they permitted the burden of the war to be borne, in a great measure, by the province of Holland; which was, at one lime, compelled to attempt to force a neighboring province, by arms, to a compliance with their federal engagements. He cited the Germanic league, as a proof that no government, formed on the basis of the total independency of its pans, could produce the effects of union. He showed that, notwithstanding the power of their federal head, from his hereditary dominions, the decrees of their general diet were little regarded, and different members of the confederacy were perpetually rushing upon each other's swords.

He then observed upon the necessity of adding to the powers of Congress, that of regulating the militia, referring to the article in the proposed plan, which he said he would not anticipate. He urged the common consent of America as a proof of the necessity of adding the power of regulating commerce to those Congress already possessed, which, he said, not only included those of forming laws, but of deciding upon those laws, and carrying them into effect; that this power could never be trusted to the individual states, whose interests might, in many instances, clash with that of the Union. From hence he inferred the necessity of a federal judiciary, to which he would have referred not only the laws for regulating commerce, but the construction of treaties and other great national objects, — showing that, without this, it would be in the power of any state to commit the honor of the Union, defeat their most beneficial treaties, and involve them in a war. He next adverted to the form of the federal government. He said that, though justified when considered as a mere diplomatic body, making engagements for its respective states, which they were to carry into effect, yet, if it was to enjoy legislative, judicial, and executive powers, an attention as well to the facility of doing business as to the principles of freedom, called for a division of those powers. After commenting on each of them, and showing the mischief that would flow from their union in one House of Representatives, and those, too, chosen only by the legislatures, and neither representing the people nor the government, (which he said consisted of legislative, executive, and judicial,) he proposed the Constitution of this state as the model for the state governments.

From these observations he deduced, first, that the powers which were, by common consent, intended to be vested in the federal head, had either been found deficient, or rendered useless by the impossibility of carrying them into execution, on the principle of a league of states totally separate and independent; — secondly, that, if the principle was changed, a change would also become necessary in the form of the government; but if we could no longer retain the old principle of the confederacy, and were compelled to change its form, we were driven to the necessity of creating a new constitution, and could find no place to rest upon in the old Confederation; that he had urged these considerations to fix gentlemen's attention to the only true ground of inquiry; to keep them from reverting to plans which had no single feature that could now be serviceable, and to lead the way to a minute discussion of every article with candor and deliberation; and, in order that this might be the better effected, and no gentleman pledged before he had fully considered the subject, he intended, before he sat down, to move the resolution he had in his hand. He considered the question as one that not only affected the happiness, and perhaps the existence, of this state, but as one that involved the great interests of humanity. Many of us, sir, said he, are officers of government; many of us have seats in the Senate and Assembly: let us, on this solemn occasion, forget the pride of office; let us consider ourselves as simple citizens, assembled to consult on measures that are to promote the happiness of our fellow-citizens. As magistrates, we may be unwilling to sacrifice any portion of the power of the state; as citizens, we have no interest in advancing the powers of the state at the expense of the Union. We are only bound to see that so much power as we find it necessary to intrust to our rulers, be so placed as to insure our liberties, and the blessings of a well-ordered government.

He then offered a resolution, the purport of which was, "That no question, general or particular, should be put in the committee upon the proposed Constitution of government for the United States, or upon any clause or article thereof, nor upon any amendment which should be proposed thereto, until after the said Constitution and amendments should have been considered clause by clause."

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

The committee then rose, and the Convention adjourned till next day, 10 o'clock, A. M.

FRIDAY, *June* 20, 1788. — Convention met pursuant to adjournment. Went into committee of the whole, Mr. Outhoudt in the chair.

## The Hon. Mr. LANSING then rose, and addressed the chair as follows: —

Mr. Chairman, I am equally disposed with the honorable gentleman from New York, who favored the committee with his sentiments yesterday, to a candid and dispassionate investigation of the important business now under consideration, and to receive every possible information on the occasion.

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

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

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

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

I would ask, What are the objections which have been so ably urged against it? They are comprised under two heads. First, it affords no defence against foreign assault; second, no security to domestic tranquillity. Both these objects might be compassed if Congress could be vested with a power to raise men and money.

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

The languishing situation of our commerce has also been attributed to the impotence of Congress; but I think their journals will justify me in the assertion that all the states, excepting two, had passed laws to enable Congress to regulate commerce, and that those two were not indisposed to vest that power.

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

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

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

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

The Germanic confederacy consists of a heterogeneous mass of powerful princes, petty despots, and republics, differently organized, divided by religious jealousies, and existing only in its forms by the pressure of the great controlling powers of the emperor. I know not that history furnishes an example of a confederated republic coercing the states composing it by the mild influence of laws operating on the individuals of those states. This, therefore, I suppose to be a new experiment in politics; and, as we cannot always accurately ascertain the results of political measures, and as reasoning on them has been frequently found fallacious, we should not too confidently predict those to be produced by the new system.

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

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

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

But, sir, I trust we shall divest ourselves, on this occasion, of every consideration of a private nature, and determine on the Constitution with caution and moderation.

## Mr. R. R. LIVINGSTON rose to reply.

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

But let us view, said he, the operation of a system founded on such a principle. In the first place, the necessary revenue officers must be appointed. Congress will then send out the requisitions, and, on refusal or neglect, will resort to individual coercion. If the states punctually comply with the requisitions, an expensive establishment must be supported, without object or employment. If, on the contrary, they are delinquent, what an alarming image of disorder is presented to our view! A body of federal officers, in the heart of a state, acting in direct opposition to the declared sense of the legislature! Would not this be a source of eternal disorder? Would not a government, thus calculated to promote a spirit of civil dissension, be forever impracticable? Such a government must be attended with every delay, with every expense — must defeat itself, and be its own destruction.

## The Hon. Mr. SMITH said,

he conceived that the Constitution ought to be considered by paragraphs. An honorable gentleman yesterday had opened the debate with some general observations; another honorable gentleman had just answered him by general observations. He wished the Constitution to be examined by paragraphs. In going through it, he should offer his objections to such parts of it as he thought defective.

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

The second section being read,

## Mr. SMITH again rose.

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

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

It was not, he said, his intention to follow that gentleman through all his remarks. He should only observe that what had been advanced did not appear to apply to the subject under consideration.

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

Why, said he, are we told of our weakness? of the defenceless condition of the southern parts of our state? of the exposed situation of our capital? of Long Island, surrounded by water, and exposed to the incursions of our neighbors in Connecticut? of Vermont having separated from us, and assumed the powers of a distinct government? and of the north-west parts of our state being in the hands of a foreign enemy? Why are we to be alarmed with apprehensions that the Eastern States are inimical, and disinclined to form alliances with us? He was sorry to find that such suspicions were entertained. He believed that no such disposition existed in the Eastern States. Surely it could not be supposed that those states would make war upon us for exercising the rights of freemen, deliberating and judging for ourselves, on a subject the most interesting that ever came before any assembly. If a war with our neighbors was to be the result of not acceding, there was no use in debating here; we had better receive their dictates, if we were unable to resist them. The defects of the old Confederation needed as little proof as the necessity of a union. But there was no proof in all this that the proposed Constitution was a good one. Defective as the old Confederation is, he said, no one could deny but it was possible we might have a worse government. But the question was not whether the present Confederation be a bad one, but whether the proposed Constitution be a good one.

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

He was pleased that, thus early in debate, the honorable gentleman had himself shown that the intent of the Constitution was not a confederacy, but a reduction of all the states into a consolidated government. He hoped the gentleman would be complaisant enough to exchange names with those who disliked the Constitution, as it appeared from his own concessions, that they were federalists, and those who advocated it were anti-federalists. He begged leave, however, to remind the gentleman, that Montesquieu, with all the examples of modern and ancient republics in view, gives it as his opinion, that a confederated republic has all the internal advantages of a republic, with the external force of a monarchical government. He was happy to find an officer of such high rank recommending to the other officers of government, and to those who are members of the legislature, to be unbiased by any motives of interest or state importance. Fortunately for himself, he was out of the verge of temptation of this kind, not having the honor to hold any office under the state. But, then, he was exposed, in common with other gentlemen of the Convention, to another temptation, against which he thought it necessary that we should be equally guarded. If, said he, this Constitution is adopted, there will be a number of honorable and lucrative offices to be filled; and we ought to be cautious lest an expectancy of some of them should influence us to adopt without due consideration.

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

He would agree with the honorable gentlemen that perfection in any system of government was not to be looked for. If that was the object, the debates on the one before them might soon be closed. But he would observe, that this observation applied, with equal force, against changing any system, especially against material and radical changes. Fickleness and inconstancy, he said, were characteristic of a free people; and, in framing a constitution for them, it was, perhaps, the most difficult thing to correct this spirit, and guard against the evil effects of it. He was persuaded it could not be altogether prevented without destroying their freedom. It would be like, attempting to correct a small indisposition in the habit of the body, fixing the patient in a confirmed consumption. This fickle and inconstant spirit was the more dangerous in bringing about changes in the government. The instance that had been adduced by the gentleman from sacred history, was an example in point to prove this. The nation of Israel, having received a form of civil government from Heaven, enjoyed it for a considerable period; but, at length, laboring under pressures which were brought upon them by their own misconduct and imprudence, instead of imputing their misfortunes to their true causes, and making a proper improvement of their calamities, by a correction of their errors, they imputed them to a defect in their constitution; they rejected their divine Ruler, and asked Samuel to make them a king to judge them, like other nations. Samuel was grieved at their folly; but still, by the command of God, he hearkened to their voice, though not until he had solemnly declared unto them the manner in which the king should reign over them. "This (says Samuel) shall be the manner of the king that shall reign over you. He will take your sons, and appoint them for himself, for his chariots, and for his horsemen, and some shall run before his chariots; and he will appoint him captains over thousands, and captains over fifties, and will set them to ear his ground, and to reap his harvest, and to make his instruments of war, and instruments of his chariots. And he will take your daughters to be confectionaries, and to be cooks, and to be bakers. And he will take your fields, and your vineyards, and your olive-yards, even the best of them, and give them to his servants. And he will take the tenth of your seed, and of your vineyards, and give to his officers and to his servants, and he will take your men-servants, and your maid-servants, and your goodliest young men, and your asses, and put them to his work. He will take the tenth of your sheep; and ye shall be his servants. And ye shall cry out in that day, because of your king which ye have chosen you; and the Lord will not hear you in that day!" How far this was applicable to the subject, he would not now say. it could be better judged of when they had gone through it. On the whole, he wished to take up this matter with candor and deliberation.

He would now proceed to state his objections to the clause just read, (section 2, of article 1, clause 3.) His objections were comprised under three heads: 1st, the rule of apportionment is unjust; 2d, there is no precise number fixed on, below which the house shall not be reduced; 3d, it is inadequate. In the first place, the rule of apportionment of the representatives is to be according to the whole number of the white inhabitants, with three fifths of all others; that is, in plain English, each state is to send representatives in proportion to the number of freemen, and three fifths of the slaves it contains. He could not see any rule by which slaves were to he included in the ratio of representation. The principle of a representation being that every free agent should be concerned in governing himself, it was absurd in giving that power to a man who could not exercise it. Slaves have no will of their own. The very operation of it was to give certain privileges to those people who were so wicked as to keep slaves. He knew it would be admitted that this rule of apportionment was founded on unjust principles, but that it was the result of accommodation; which, he supposed, we should be under the necessity of admitting, if we meant to be in union with the Southern States, though utterly repugnant to his feelings. In the second place, the number was not fixed by the Constitution, but left at the discretion of the legislature; perhaps he was mistaken; it was his wish to be informed. He understood, from the Constitution, that sixty-five members were to compose the House of Representatives for three years; that, after that time, the census was to be taken, and the numbers to be ascertained by the legislature, on the following principles: 1st, they shall be apportioned to the respective states according to numbers; 2d, each state shall have one, at least; 3d, they shall never exceed one to every thirty thousand. If this was the case, the first Congress that met might reduce the number below what it now is — a power inconsistent with every principle of a free government, to leave it to the discretion of the rulers to determine the number of representatives of the people. There was no kind of security except in the integrity of the men who were intrusted; and if you have no other security, it is idle to contend about constitutions. In the third place, supposing Congress should declare that there should be one representative for every thirty thousand of the people, in his opinion, it would he incompetent to the great purposes of representation. It was, he said, the fundamental principle of a free government, that the people should make the laws by which they were to be governed. He who is controlled by another is a slave; and that government which is directed by the will of any one, or a few, or any number less than is the will of the community, is a government for slaves.

The new point was, How was the will of the community to be expressed? It was not possible for them to come together; the multitude would be too great: in order, therefore, to provide against this inconvenience, the scheme of representation had been adopted, by which the people deputed others to represent them. Individuals entering into society became one body, and that body ought to be animated by one mind; and he conceived that every form of government should have that complexion. It was true, notwithstanding all the experience we had from others, it had appeared that the experiment of representation had been fairly tried; there was something like it in the ancient republics, in which, being of small extent, the people could easily meet together, though, instead of deliberating, they only considered of those things which were submitted to them by their magistrates. In Great Britain, representation had been carried much further than in any government we knew of, except our own; but in that country it now had only a name. America was the only country in which the first fair opportunity had been offered. When we were colonies, our representation was better than any that was then known: since the revolution, we had advanced still nearer to perfection. He considered it as an object, of all others the most important, to have it fixed on its true principle; yet he was convinced that it was impracticable to have such a representation in a consolidated government. However, said he, we may approach a great way towards perfection by increasing the representation and limiting the powers of Congress. He considered that the great interests and liberties of the people could only be secured by the state governments. He admitted that, if the new government was only confined to great national objects, it would be less exceptionable; but it extended to every thing dear to human nature. That this was the case, would be proved without any long chain of reasoning; for that power which had both the purse and the sword had the government of the whole country, and might extend its powers to any and to every object. He had already observed that, by the true doctrine of representation, this principle was established — that the representative must be chosen by the free will of the majority of his constituents. It therefore followed that the representative should be chosen from small districts. This being admitted, he would ask, Could 65 men for 3,000,000, or 1 for 30,000, be chosen in this manner? Would they be possessed of the requisite information to make happy the great number of souls that were spread over this extensive country? There was another objection to the clause: if great affairs of government were trusted to few men, they would be more liable to corruption. Corruption, he knew, was unfashionable amongst us, but he supposed that Americans were like other men; and though they had hitherto displayed great virtues, still they were men; and therefore such steps should be taken as to prevent the possibility of corruption. We were now in that stage of society in which we could deliberate with freedom; how long it might continue, God only knew! Twenty years hence, perhaps, these maxims might become unfashionable. We already hear, said he, in all parts of the country, gentlemen ridiculing that spirit of patriotism, and love of liberty, which carried us through all our difficulties in times of danger. When patriotism was already nearly hooted out of society, ought we not to take some precautions against the progress of corruption?

He had one more observation to make, to show that the representation was insufficient. Government, he said, must rest, for its execution, on the good opinion of the people: for, if it was made heaven, and had not the confidence of the people, it could not be executed; that this was proved by the example given by the gentleman of the Jewish theocracy. It must have a good setting out, or the instant it takes place, there is an end of liberty. He believed that the inefficacy of the old Confederation had arisen from that want of confidence; and this caused, in a great degree, by the continual declamation of gentlemen of importance against it from one end of the continent to the other, who had frequently compared it to a rope of sand. It had pervaded every class of citizens; and their misfortunes, the consequences of idleness and extravagance, were attributed to the defects of that system. At the close of the war, our country had been left in distress; and it was impossible that any government on earth could immediately retrieve it; it must be time and industry alone that could effect it. He said, he would pursue these observation? no further at present, — and concluded with making the following motion: —

"*Resolved*, That it is proper that the number of representatives be fixed at the rate of one for every twenty thousand inhabitants, to he ascertained on the principles mentioned in the 2d section of the 1st article of the Constitution, until they amount to three hundred; after which they shall be apportioned among the states, in proportion to the number of inhabitants of the states respectively; and that, before the first enumeration shall be made, the several states shall be entitled to choose double the number of representatives, for that purpose mentioned in the Constitution."

## The Hon. Mr. HAMILTON then rose.

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

No arguments drawn from embarrassment or inconvenience ought to prevail upon us to adopt a system of government radically bad; yet it is proper that these arguments, among others, should be brought into view. In doing this, yesterday, it was necessary to reflect upon our situation; to dwell upon the imbecility of our union; and to consider whether we, as a state, could stand alone. Although I am persuaded this Convention will be resolved to adopt nothing that is bad, yet I think every prudent man will consider the merits of the plan in connection with the circumstances of our country, and that a rejection of the Constitution may involve must fatal consequences. I make these remarks to show that, though we ought not to be actuated by unreasonable fear, yet we ought to be prudent.

This day, sir, one gentleman has attempted to answer the arguments advanced by my honorable friend; another has treated him as having wandered from the subject. This being the case, I trust I shall be indulged in reviewing the remarks that have been made.

Sir, it appears to me extraordinary, that, while gentlemen in one breath acknowledge that the old Confederation requires many material amendments, they should in the next deny that its defects have been the cause of our political weakness, and the consequent calamities of our country. I cannot but infer from this, that there is still some lurking favorite imagination, that this system, with correctness, might become a safe and permanent one. It is proper that we should examine this matter. We contend that the radical vice in the old Confederation is, that the laws of the Union apply only to states in their corporate capacity. Has not every man who has been in our legislature experienced the truth of this position? It is inseparable from the disposition of bodies, who have a constitutional power of resistance, to examine the merits of a law. This has ever been the case with the federal requisitions. In this examination, not being furnished with those lights which directed the deliberations of the general government, and incapable of embracing the general interests of the Union, the states have almost uniformly weighed the requisitions by their own local interests, and have only executed them so far as answered their particular convenience or advantage. Hence there have ever been thirteen different bodies to judge of the measures of Congress, and the operations of government have been distracted by their taking different courses. Those which were to be benefited have complied with the requisitions; others have totally disregarded them. Have not all of us been witnesses to the unhappy embarrassments which resulted from these proceedings? Even during the late war, while the pressure of common danger connected strongly the bond of our union, and incited to vigorous exertion, we have felt many distressing effects of the important system. How have we seen this state, though most exposed to the calamities of the war, complying, in an unexampled manner, with the federal requisitions, and compelled by the delinquency of others to bear most unusual burdens! Of this truth we have the most solemn proof on our records. In 1779 and '80, when the state, from the ravages of war, and from her great exertions to resist them, became weak, distressed, and forlorn, every man avowed the principle which we now contend for — that our misfortunes, in a great degree, proceeded from the want of vigor in the Continental government. These were our sentiments when we did not speculate, but feel. We saw our weakness, and found ourselves its victims. Let us reflect that this may again, in all probability, be our situation. This is a weak state, and its relative state is dangerous. Your capital is accessible by land, and by sea is exposed to every daring invader; and on the north-west you are open to the inroads of a powerful foreign nation. Indeed, this state, from its situation, will, in time of war, probably be the theatre of its operations.

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

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

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

### New System

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

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

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

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

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

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

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

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

### Slaves

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

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

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

### New States and Apportionment

It has been asserted that it will be in the power of Congress to reduce the number. I acknowledge that there are no direct words of prohibition, but contend that the true and genuine construction of the clause gives Congress no power whatever to reduce the representation below the number as it now stands. Although they may limit, they can never diminish the number. One representative for every thirty thousand inhabitants is fixed as the standard of increase; till, by the natural course of population, it shall become necessary to limit the ratio. Probably, at present, were this standard to be immediately applied, the representation would considerably exceed sixty-five. In three years, it would exceed one hundred. If I understand the gentlemen, they contend that the number may be enlarged, or may not. I admit that this is in the discretion of Congress; and I submit to the committee whether it be not necessary and proper. Still, I insist that an immediate limitation is not probable, nor was it in the contemplation of the Convention. But, sir, who will presume to say to what precise point the representation ought to be increased? This is a matter of opinion, and opinions are vastly different upon the subject. A proof of this is drawn from the representations in the state legislatures. In Massachusetts, the Assembly consists of about three hundred; in South Carolina, of nearly one hundred; in New York, there are sixty-five. It is observed generally that the number ought to be large; let the gentlemen produce their criterion. I confess it is difficult for me to say what number may be said to be sufficiently large. On one hand, it ought to be considered that a small number will act with more facility, system, and decision; on the other, that a large one may enhance the difficulty of corruption. The Congress is to consist, at first, of ninety-one members. This, to a reasonable man, may appear as near the proper medium as any number whatever, at least for the present. There is one source of increase, also, which does not depend upon any constructions of the Constitution; it is the creation of **new states**. Vermont, Kentucky, and Franklin, will probably become independent. New members of the Union will also be formed from the unsettled tracts of western territory.

These must be represented, and will all contribute to swell the federal legislature. If the whole number in the United States be, at present, three millions, as is commonly supposed, according to the ratio of one for thirty thousand, we shall have, on the first census, a hundred representatives. In ten years, thirty more will be added; and in twenty-five years, the number will be double. Then, sir, we shall have two hundred, if the increase goes on in the same proportion. The Convention of Massachusetts, who made the same objections, have fixed upon this number as the point to which they chose to limit the representation. But can we pronounce, with certainty, that it will not be expedient to go beyond this number? We cannot. Experience alone must determine. This matter may, with more safety, be left to the discretion of the legislature, as it will be the interest of the large and increasing states of Massachusetts, New York, Pennsylvania, &c., to augment the representation. Only Connecticut, Rhode Island, Delaware, and Maryland, can be interested in limiting it. We may, therefore, safely calculate upon a growing representation, according to the advance of population, and the circumstances of the country.

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

Many other observations might be made on this subject, but I cannot now pursue them; for I feel myself not a little exhausted. I beg leave, therefore, to waive, for the present, the further discussion of the question.

# SATURDAY, *June* 21, 1788. — Convention met pursuant to adjournment.

## The Hon. Mr. WILLIAMS rose,

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

Sir, if we were to reassume all our old habits, we might expect to prosper. Let us, then, abandon all those foreign commodities which have hitherto deluged our country, which have loaded us with debt, and which, if continued, will forever involve us in difficulties. How many thousands are daily wearing the manufactures of Europe, when, by a little industry and frugality, they might wear those of their own country! One may venture to say, sir, that the greatest part of the goods are manufactured in Europe by persons who support themselves by our extravagance. And can we believe a government ever so well formed can relieve us from these evils? What dissipation is there from the immoderate use of spirits! Is it not notorious that men cannot be hired, in time of harvest, without giving them, on an average, a pint of rum per day? so that, on the lowest calculation, every twentieth part of the grain is expended on that article; and so, in proportion, all the farmer's produce. And what is worse, the disposition of eight tenths of the commonalty is such, that, if they can get credit, they will purchase unnecessary articles, even to the amount of their crop, before it becomes merchantable. And therefore it is evident that the best government ever devised, without economy and frugality, will leave us in a situation no better than the present.

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

Momentous is the question, and we are called upon by every motive to examine it well, and make up a wise and candid judgment.

In forming a constitution for a free country like this, the greatest care should be taken to define its powers, and guard against an abuse of authority. The constitution should be so formed as not to swallow up the state governments: the general government ought to be confined to certain national objects; and the states should retain such powers as concern their own internal police. We should consider whether or not this system is so formed, as, directly or indirectly, to annihilate the state governments. If so, care should be taken to check it in such a manner as to prevent this effect. Now, sir, with respect to the clause before us, I agree with the gentlemen from Albany and Duchess, who spoke yesterday. The number of representatives is, in my opinion, too small to resist corruption. Sir, how guarded is our state Constitution on this head! The number of the Senate and House of Representatives proposed in the Constitution does not surpass those of our state. How great the disparity, when compared with the aggregate number of the United States! The history of representation in England, from which we have taken our model, is briefly this: Before the institution of legislating by deputies, the whole free part of the community usually met for that purpose: when this became impracticable by increase of numbers, the people were divided into districts, from each of which was sent a number of deputies, for a complete representation of the various orders of the citizens within them. Can it be supposed that six men can be a complete representation of the various orders of the people of this state?

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

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

Before I conclude, I would only mention, that while, on one hand, I wish those endowed with a spirit of moderation through the whole debate, to give way to small matters, yet, on the other hand, not to be intimidated by imaginary dangers; for to say that a bad government must be established for fear of anarchy, is, in reality, saying that we must kill ourselves for fear of dying.

## Mr. M. SMITH.

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

He has taken up much time in endeavoring to prove that the great defect in the old Confederation was, that it operated upon states instead of individuals. It is needless to dispute concerning points on which we do not disagree. It is admitted that the powers of the general government ought to operate upon individuals to a certain degree. How far the powers should extend, and in what cases to individuals, is the question.

As the different parts of the system will come into view in the course of our investigation, an opportunity will be afforded to consider this question. I wish, at present, to confine myself to the subject immediately under the consideration of the committee. I shall make no reply to the arguments offered by the honorable gentleman to justify the rule of apportionment fixed by this clause; for, though I am confident they might be easily refuted, yet I am persuaded we must yield this point, in accommodation to the Southern States. The amendment therefore proposes no alteration to the clause in this respect.

The honorable gentleman says, that the clause, by obvious construction, fixes the representation. I wish not to torture words or sentences. I perceive no such obvious construction.

I see clearly that, on one hand, the representatives cannot exceed one for thirty thousand inhabitants; and, on the other, that whatever larger number of inhabitants may be taken for the rule of apportionment, each state shall be entitled to send one representative. Every thing else appears to me in the discretion of the legislature. If there be any other limitation, it is certainly implied. Matters of moment should not be left to doubtful construction. It is urged that the number of representatives will be fixed at one for thirty thousand, because it will be the interest of the larger states to do it. I cannot discern the force of this argument. To me it appears clear, that the relative weight of influence of the different states will be the same, with the number of representatives at sixty-five as at six hundred, and that of the individual members greater; for each member's share of power will decrease as the number of the House of Representatives increases. If, therefore, this maxim be true, that men are unwilling to relinquish powers which they once possess, we are not to expect the House of Representatives will be inclined to enlarge the numbers. The same motive will operate to influence the President and Senate to oppose the increase of the number of representatives; for, in proportion as the House of Representatives is augmented, they will feel their own power diminished. It is, therefore, of the highest importance that a suitable number of representatives should be established by the Constitution.

It has been observed, by an honorable member, that the Eastern States insisted upon a small representation, on the principles of economy. This argument must have no weight in the mind of a considerate person. The difference of expense, between supporting a House of Representatives sufficiently numerous, and the present proposed one, would be twenty or thirty thousand dollars per annum. The man who would seriously object to this expense, to secure his liberties, does not deserve to enjoy them. Besides, by increasing the number of representatives, we open a door for the admission of the substantial yeomanry of our country, who, being possessed of the habits of economy, will be cautious of imprudent expenditures, by which means a greater saving will be made of public money than is sufficient to support them. A reduction of the numbers of the state legislatures might also be made, by which means there might be a saving of expense much more than sufficient for the purpose of supporting the general legislature; for as, under this system, all the powers of legislation, relating to our general concerns, are vested in the general government, the powers of the state legislatures will be so curtailed as to render it less necessary to have them so numerous as they now are.

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

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

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

Besides, the influence of the great will generally enable them to succeed in elections. It will be difficult to combine a district of country containing thirty or forty thousand inhabitants, — frame your election laws as you please, — in any other character, unless it be in one of conspicuous military, popular, civil, or legal talents. The great easily form associations; the poor and middling class form them with difficulty. If the elections be by plurality, — as probably will be the case in this state, — it is almost certain none but the great will be chosen, for they easily unite their interests: the common people will divide, and their divisions will be promoted by the others. There will be scarcely a chance of their uniting in any other but some great man, unless in some popular demagogue, who will probably be destitute of principle. A substantial yeoman, of sense and discernment, will hardly ever be chosen. From these remarks, it appears that the government will fall into the hands of the few and the great. This will be a government of oppression. I do not mean to declaim against the great, and charge them indiscriminately with want of principle and honesty. The same passions and prejudices govern all men. The circumstances in which men are placed in a great measure give a cast to the human character. Those in middling circumstances have less temptation; they are inclined by habit, and the company with whom they associate, to set bounds to their passions and appetites. If this is not sufficient, the want of means to gratify them will be a restraint: they are obliged to employ their time in their respective callings; hence the substantial yeomanry of the country are more temperate, of better morals, and less ambition, than the great. The latter do not feel for the poor and middling class; the reasons are obvious — they are not obliged to use the same pains and labor to procure property as the other. They feel not the inconveniences arising from the payment of small sums. The great consider themselves above the common people, entitled to more respect, do not associate with them; they fancy themselves to have a right of preeminence in every thing. In short, they possess the same feelings, and are under the influence of the same motives, as an hereditary nobility. I know the idea that such a distinction exists in this country is ridiculed by some; but I am not the less apprehensive of danger from their influence on this account. Such distinctions exist all the world over, have been taken notice of by all writers on free government, and are founded in the nature of things. It has been the principal care of free governments to guard against the encroachments of the great. Common observation and experience prove the existence of such distinctions. Will any one say that there dues not exist in this country the pride of family, of wealth, of talents, and that they do not command influence and respect among the common people? Congress, in their address to the inhabitants of the province of Quebec, in 1775, state this distinction in the following forcible words, quoted from the Marquis Beccaria: "In every human society there is an essay continually tending to confer on one part the height of power and happiness, and to reduce the other to the extreme of weakness and misery. The intent of good laws is to oppose this effort, and to diffuse their influence universally and equally." We ought to guard against the government being placed in the hands of this class. They cannot have that sympathy with their constituents which is necessary to connect them closely to their interests. Being in the habit of profuse living, they will be profuse in the public expenses. They find no difficulty in paying their taxes, and therefore do not feel public burdens. Besides, if they govern, they will enjoy the emoluments of the government. The middling class, from their frugal habits, and feeling themselves the public burdens, will be careful how they increase them.

But I may be asked, Would you exclude the first class in the community from any share in legislation? I answer, By no means. They would be factious, discontented, and constantly disturbing the government. It would also be unjust. They have their liberties to protect, as well as others, and the largest share of property. But my idea is, that the Constitution should be so framed as to admit this class, together with a sufficient number of the middling class to control them. You will then combine the abilities and honesty of the community, a proper degree of information, and a disposition to pursue the public good. A representative body, composed principally of respectable yeomanry, is the best possible security to liberty. When the interest of this part of the community is pursued, the public good is pursued, because the body of every nation consists of this class, and because the interest of both the rich and the poor are involved in that of the middling class. No burden can be laid on the poor but what will sensibly affect the middling class. Any law rendering property insecure would be injurious to them. When, therefore, this class in society pursue their own interest, they promote that of the public, for it is involved in it.

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

The honorable gentleman from New York has said, that sixty-five members in the House of Representatives are sufficient for the present situation of the country; and, taking it for granted that they will increase as one for thirty thousand, in twenty-five years they will amount to two hundred. It is admitted, by this observation, that the number fixed in the Constitution is not sufficient without it is augmented. It is not declared that an increase shall be made, but is left at the discretion of the legislature, by the gentleman's own concession; therefore the Constitution is imperfect. We certainly ought to fix, in the Constitution, those things which are essential to liberty. If any thing falls under this description, it is the number of the legislature. To say, as this gentleman does, that our security is to depend upon the spirit of the people, who will be watchful of their liberties, and not suffer them to be infringed, is absurd. It would equally prove that we might adopt any form of government. I believe, were we to create a despot; he would not immediately dare to act the tyrant; but it would not be long before he would destroy the spirit of the people, or the people would destroy him. If our people have a high sense of liberty, the government should be congenial to this spirit, calculated to cherish the love of liberty, while yet it had sufficient force to restrain licentiousness. Government operates upon the spirit of the people, as well as the spirit of the people operates upon it; and if they are not conformable to each other, the one or the other will prevail. In a less time than twenty-five years, the government will receive its tone. What the spirit of the country may be at the end of that period, it is impossible to foretell. Our duty is to frame a government friendly to liberty and the rights of mankind, which will tend to cherish and cultivate a love of liberty among our citizens. If this government becomes oppressive, it will be by degrees: it will aim at its end by disseminating sentiments of government opposite to republicanism, and proceed from step to step in depriving the people of a share in the government. A recollection of the change that has taken place in the minds of many in this country in the course of a few years, ought to put us on our guard. Many, who are ardent advocates for the new system, reprobate republican principles as chimerical, and such as ought to be expelled from society. Who would have thought, ten years ago, that the very men, who risked their lives and fortunes in support of republican principles, would now treat them as the fictions of fancy? A few years ago, we fought for liberty; we framed a general government on free principles; we placed the state legislatures, in whom the people have a full and a fair representation, between Congress and the people. We were then, it is true, too cautious, and too much restricted the powers of the general government. But now it is proposed to go into the contrary, and a more dangerous extreme — to remove all barriers, to give the new government free access to our pockets, and ample command of our persons, and that without providing for a genuine and fair representation of the people. No one can say what the progress of the change of sentiment may be in twenty-five years. The same men who now cry up the necessity of an energetic government, to induce a compliance with this system, may, in much less time, reprobate this in as severe terms as they now do the Confederation, and may as strongly urge the necessity of going as far beyond this as this is beyond the Confederation. Men of this class are increasing: they have influence, talents, and industry. It is time to form a barrier against them. And while we are willing to establish a government adequate to the purposes of the Union, let us be careful to establish it on the broad basis of equal liberty.

## Mr. HAMILTON

then resumed his argument. When, said he, I had the honor to address the committee yesterday, I gave a history of the circumstances which attended the Convention, when forming the plan before you. I endeavored to point out to you the principles of accommodation on which this arrangement was made, and to show that the contending interests of the states led them to establish the representation as it now stands. In the second place, I attempted to prove that, in point of number, the representation would be perfectly secure. Sir, no man agrees more perfectly than myself to the main principle for which the gentlemen contend. I agree that there should be a broad democratic branch in the national legislature. But this matter, sir, depends on circumstances. It is impossible, in the first instance, to be precise and exact with regard to the number; and it is equally impossible to determine to what point it may be proper in future to increase it. On this ground I am disposed to acquiesce. In my reasonings on this subject of government, I rely more on the interests and opinions of men, than on any speculative parchment provisions whatever. I have found that constitutions are more or less excellent as they are more or less agreeable to the natural operation of things. I am, therefore, disposed not to dwell long on curious speculations, or pay much attention to modes and forms; but to adopt a system whose principles have been sanctioned by experience, adapt it to the real state of our country, and depend on probable reasonings for its operation and result. I contend that sixty-five and twenty-six, in two bodies, afford perfect security, in the present state of things; and that the regular progressive enlargement, which was in the contemplation of the general Convention, will leave not an apprehension of danger in the most timid and suspicious mind. It will be the interest of the large states to increase the representation. This will be the standing instruction to their delegates. But, say the gentlemen, the members of Congress will be interested not to increase the number, as it will diminish their relative influence. In all their reasoning upon this subject, there seems to be this fallacy: They suppose that the representative will have no motive of action, on the one side, but a sense of duty; or on the other, but corruption. They do not reflect that he is to return to the community; that he is dependent on the will of the people, and that it cannot be his interest to oppose their wishes. Sir, the general sense of the people will regulate the conduct of their representatives. I admit that there are exceptions to this rule: there are certain conjunctures, when it may be necessary and proper to disregard the opinions which the majority of the people have formed. But, in the general course of things, the popular views, and even prejudices, will direct the actions of the rulers.

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

### Checks and Balances

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

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

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

It has been further, by the gentlemen in the opposition, observed, that a large representation is necessary to understand the interests of the people. This principle is by no means true in the extent to which the gentlemen seem to carry it. I would ask, Why may not a man understand the interests of thirty as well as of twenty? The position appears to be made upon the unfounded presumption that all the interests of all parts of the community must be represented. No idea is more erroneous than this. Only such interests are proper to be represented as are involved in the powers of the general government. These interests come completely under the observation of one or a few men; and the requisite information is by no means augmented in proportion to the increase of number. What are the objects of the government? Commerce, taxation, &c. In order to comprehend the interests of commerce, is it necessary to know how wheat is raised, and in what proportion it is produced in one district and in another? By no means. Neither is this species of knowledge necessary in general calculations upon the subject of taxation. The information necessary for these purposes is that which is open to every intelligent inquirer, and of which five men may be as perfectly possessed as fifty. In royal governments, there are usually particular men to whom the business of taxation is committed. These men have the forming of systems of finance, and the regulation of the revenue. I do not mean to commend this practice. It proves, however, this point — that a few individuals may be competent to these objects, and that large numbers are not necessary to perfection in the science of taxation. But grant, for a moment, that this minute and local knowledge the gentlemen contend for is necessary; let us see if, under the new Constitution, it will not probably be found in the representation. The natural and proper mode of holding elections will be, to divide the state into districts, in proportion to the number to be elected. This state will consequently be divided, at first, into six. One man from each district will probably possess all the knowledge gentlemen can desire. Are the senators of this state more ignorant of the interests of the people than the Assembly? Have they not ever enjoyed their confidence as much? Yet, instead of six districts, they are elected in four; and the chance of their being collected from the smaller divisions of the state consequently diminishes. Their number is but twenty-four; and their powers are coextensive with those of the Assembly, and reach objects which are most dear to the people — life, liberty, and property.

### Phantom

Sir, we hear constantly a great deal which is rather calculated to awake our passions, and create prejudices, than to conduct us to the truth, and teach us our real interests. I do not suppose this to be the design of the gentlemen. Why, then, are we told so often of an aristocracy? For my part, I hardly know the meaning of this word, as it is applied. If all we hear be true, this government is really a very bad one. But who are the aristocracy among us? Where do we find men elevated to a perpetual rank above their fellow-citizens, and possessing powers entirely independent of them? The arguments of the gentlemen only go to prove that there are men who are rich, men who are poor, some who are wise, and others who are not; that, indeed, every distinguished man is an aristocrat. This reminds me of a description of the aristocrats I have seen in a late publication styled the Federal Farmer. The author reckons in the aristocracy all governors of states, members of Congress, chief magistrates, and all officers of the militia. This description, I presume to say, is ridiculous. The image is a phantom. Does the new government render a rich man more eligible than a poor one? No. It requires no such qualification. It is bottomed on the broad and equal principle of your state constitution.

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

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

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

### Checks and Balances

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

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

The Confederation was framed amidst the agitation and tumults of society. It was composed of unsound materials, put together in haste. Men of intelligence discovered the feebleness of the structure, in the first stages of its existence; but the great body of the people, too much engrossed with their distresses to contemplate any but the immediate causes of them, were ignorant of the defects of their constitution. But when the dangers of war were removed, they saw clearly what they had suffered, and what they had yet to suffer, from a feeble form of government. There was no need of discerning men to convince the people of their unhappy situation; the complaint was coextensive with the evil, and both were common to all classes of the community. We have been told that the spirit of patriotism and love of liberty are almost extinguished among the people, and that it has become a prevailing doctrine that republican principles ought to be hooted out of the world. Sir, I am confident that such remarks as these are rather occasioned by the heat of argument than by a cool conviction of their truth and justice. As far as my experience has extended, I have heard no such doctrine; nor have I discovered any diminution of regard for those rights and liberties, in defence of which the people have fought and suffered. There have been, undoubtedly, some men who have had speculative doubts on the subject of government; but the principles of republicanism are founded on too firm a basis to be shaken by a few speculative and skeptical reasoners. Our error has been of a very different kind. We have erred through excess of caution, and a zeal false and impracticable. Our counsels have been destitute of consistency and stability. I am flattered with the hope, sir, that we have now found a cure for the evils under which we have so long labored. I trust that the proposed Constitution affords a genuine specimen of representative and republican government, and that it will answer, in an eminent degree, all the beneficial purposes of society.

## The Hon. MELANCTON SMITH rose,

and observed, that the gentleman might have spared many of his remarks in answer to the ideas he had advanced. The only way to remedy and correct the faults in the proposed Constitution was, he imagined, to increase the representation and limit the powers. He admitted that no precise number could be fixed upon. His object only was to augment the number in such a degree as to render the government more favorable to liberty. The gentleman had charged his argument, that it would be the interest of Congress to diminish the number of representatives, as being puerile. It was only made in answer to another of the gentleman's, which he thought equally weak — that it would be their interest to increase it. It appeared to him, he said, evident that the relative interests of the states would not he in the least degree increased by augmenting the numbers. The honorable member had assured the committee that the states would be checks upon the general government, and had pledged himself to point out and demonstrate the operation of these checks. For his own part, he could see no possibility of checking a government of independent powers, which extended to all objects and resources without limitation. What he lamented was, that no constitutional checks were provided — such checks as would not leave the exercise of government to the operation of causes which, in their nature, are variable and uncertain.

The honorable member had observed, that the confidence of the people was not necessarily connected with the number of their rulers, and had cited the ephori of Sparta, and the tribunes in Rome, as examples. But it ought to be considered, that, in those places, the people were to contend with a body of hereditary nobles; they would, therefore, naturally have confidence in a few men who were their leaders in the constant struggle for liberty. The comparison between the representations of several states did not better apply. New York had but sixty-five representatives in Assembly. But because sixty-five was a proper representation of two hundred and forty thousand, did it follow that it was also sufficient for three millions? The state legislatures had not the powers of the general government, and were not competent to those important regulations which might endanger liberty.

The gentleman, continued Mr. Smith, had ridiculed his idea of an aristocracy, and had entered into a definition of the word. He himself agreed to this definition, but the dispute was not of words, but things. He was convinced that in every society there were certain men exalted above the rest. These men he did not consider as destitute of morality or virtue. He only insisted that they could not feel sympathetically the wants of the people.

## The Hon. Mr. LANSING said

that, in the course of the observations made on the paragraph under consideration, it had been shown that the democratic branch ought to possess the feelings of the people, and be above corruption. It was, therefore, with propriety contended that the House of Representatives ought to be large. This had been objected to, he said, because it was difficult to ascertain the precise number proper for this end. But though we could not always hit the exact medium, yet we could generally avoid the extremes. Allowing that it was the interest of the larger states to increase the representation, yet it would be imprudent to trust a matter of such infinite importance to possibilities, or the uncertain operations of interest. He said, we had it now in our power to fix and provide for the operations of this government; and we ought to embrace the opportunity. An honorable gentleman had said, that the state of New York had trusted her liberties to a few men. But was this a reason why the rights of the United States should be submitted to an equal number? The representatives of New York, in Assembly, were chosen from all parts of the state; they were intimately connected with and dependent on the people. In the general government, they were to be selected from the superior class of citizens, and subject to little or no control. Would it be prudent, said he, to trust the affairs of this extensive continent to a body of men, forty-six of whom would be competent to pass laws, and twenty-four of these a majority? The House of Commons of Great Britain consisted of more than eight times the number, and yet that house had been frequently corrupted. How much more easily might so small a body as the Congress be infected!

## His Excellency, Gov. CLINTON.

I rise, Mr. Chairman, to make a few observations, with a view to obtain information, and to discover on which side of this important question the truth rests. I have attended, with pleasure, to the gentlemen who have spoken before me. They appear, however, to have omitted some considerations, which have tended to convince my mind, that the representation in Congress ought to be more comprehensive and full than is proposed by this Constitution. It is said, that the representation of this state in the legislature is smaller than the representation of the United States will be in the general government. Hence it is inferred that the federal government, which, it is said, does not embrace more interesting powers than that of the states, will be more favorable to the liberties of the people, on the principle that safety consists in numbers. This appears plausible at first view; but if we examine it, we shall discover it to be only plausible. The cases, indeed, are so different, as to admit of little comparison; and this dissimilarity depends on the difference of extent of territory. Each state is but a narrow district, compared with the United States. The situation of its commerce, its agriculture, and the system of its resources, will be proportionably more uniform and simple. To a knowledge of these circumstances, therefore, every member of the state legislature will be in some degree competent. He will have a considerable share of information necessary for enacting laws which are to operate in every part of the state. The easy communication with a large number of representatives, from the minute districts of the state, will increase his acquaintance with the public wants. All the representatives, having the same advantages, will furnish a mass of information, which will be the securest defence from error How different will be the situation of the general government! The body of the legislature will be totally unacquainted with all those local circumstances of any particular state, which mark the proper objects of laws, and especially of taxation. A few men, possessed of but a very general knowledge of these objects, must alone furnish Congress with that information on which they are to act; and on these few men, in the most interesting transactions, must they rely. Do not these considerations afford reasons for an enlargement of the representation?

Another argument may be suggested to show, that there will be more safety in the state than in the federal government. In the state, the legislators, being generally known, and under the perpetual observation of their fellow-citizens, feel strongly the check resulting from the facility of communication and discovery. In a small territory, maladministration is easily corrected, and designs unfavorable to liberty frustrated and punished. But in large confederacies, the alarm excited by small and gradual encroachments rarely extends to the distant members, or inspires a general spirit of resistance. When we take a view of the United States, we find them embracing interests as various as their territory is extensive. Their habits, their productions, their resources, and their political and commercial regulations, are as different as those of any nation upon earth. A general law, therefore, which might be well calculated for Georgia. might operate most disadvantageously and cruelly upon New York. However, I only suggest these observations, for the purpose of hearing them satisfactorily answered. I am open to conviction, and if my objections can be removed, I shall be ready frankly to acknowledge their weakness.

## The Hon. Mr. HAMILTON.

Mr. Chairman, I rise to take notice of the observation of the honorable member from Ulster. I imagine the objections he has stated are susceptible of a complete and satisfactory refutation. But, before I proceed to this, I shall attend to the arguments advanced by the gentleman from Albany and Duchess. These arguments have been frequently urged, and much confidence has been placed in their strength. The danger of corruption has been dwelt upon with peculiar emphasis, and presented to our view in the most heightened and unnatural coloring. Events merely possible have been magnified, by distempered imagination, into inevitable realities; and the most distant and doubtful conjectures have been formed into a serious and infallible prediction. In the same spirit, the most fallacious calculations have been made. The lowest possible quorum has been contemplated, as the number to transact important business; and a majority of these to decide in all cases on questions of infinite moment. Allowing, for the present, the propriety and truth of these apprehensions, it would be easy, in comparing the two Constitutions, to prove that the chances of corruption under the new are much fewer than those to which the old is exposed. Under the old Confederation, the important powers of declaring war, making peace, &c., can be exercised by nine states. On the presumption that the smallest constitutional number will deliberate and decide, those interesting powers will be committed to fewer men under the ancient than under the new government. In the former, eighteen members, in the latter, not less than twenty-four, may determine all great questions. Thus, on the principles of the gentlemen, the fairer prospect of safety is clearly visible in the new government. That we may have the fullest conviction of the truth of this position, it ought to be suggested, as a decisive argument, that it will ever be the interest of the several states to maintain, under the new government, an ample representation; for, as every member has a vote, the relative influence and authority of each state will be in proportion to the number of representatives she has in Congress. There is not, therefore, a shadow of probability that the number of acting members, in the general legislature, will be ever reduced to a bare quorum; especially as the expense of their support is to be defrayed from a federal treasury. But, under the existing Confederation, each state has but one vote. It will be a matter of indifference, on the score of influence, whether she delegates two or six representatives; and the maintenance of them, forming a striking article in the state expenditures, will forever prove a capital inducement to retain or withdraw from the federal legislatures those delegates which her selfishness may too often consider as superfluous.

There is another source of corruption, in the old government, which the proposed plan is happily calculated to remedy. The concurrence of nine states, as has been observed, is necessary to pass resolves the most important, and on which the safety of the public may depend. If these nine states are at any time assembled, a foreign enemy, by dividing a state, and gaming over and silencing a single member, may frustrate the most indispensable plan of national policy, and totally prevent a measure essential to the welfare or existence of the empire. Here, then, we find a radical, dangerous defect, which will forever embarrass and obstruct the machine of government, and suspend our fate on the uncertain virtue of an individual. What a difference between the old and new Constitution strikes our view! In the one, corruption must embrace a majority; in the other, her poison, administered to a single man, may render the efforts of a majority totally vain. This mode of corruption is still more dangerous, as its operations are more secret and imperceptible. The exertions of active villainy are commonly accompanied with circumstances which tend to its own exposure; but this negative kind of guilt has so many plausible apologies as almost to elude suspicion.

In all reasonings on the subject of corruption, much use has been made of the examples furnished by the British House of Commons. Many mistakes have arisen from fallacious comparisons between our government and theirs. It is time that the real state of this matter should be explained. By far the greatest part of the House of Commons is composed of representatives of towns or boroughs. These towns had anciently no voice in Parliament; but on the extension of commercial wealth and influence, they were admitted to a seat. Many of them are in the possession and gift of the king; and, from their dependence on him, and the destruction of the right of free election, they are stigmatized with the appellation of *rotten boroughs*.[**[2]**](http://www.constitution.org/rc/rat_ny.htm#02) This is the true source of the corruption which has so long excited the severe animadversion of zealous politicians and patriots. But the knights of the shire, who form another branch of the House of Commons, and who are chosen from the body of the counties they represent, have been generally esteemed a virtuous and incorruptible set of men. I appeal, sir, to the history of that house: this will show us that the rights of the people have ever been safely trusted to their protection; that they have been the ablest bulwarks of the British commons; and that, in the conflict of parties, by throwing their weight into one scale or the other, they have uniformly supported and strengthened the constitutional claims of the people. Notwithstanding the cry of corruption that has been perpetually raised against the House of Commons, it has been found that that house, sitting at first without any constitutional authority, became, at length, an essential member of the legislature, and have since, by regular gradations, acquired new and important accessions of privilege; that they have, on numerous occasions, impaired the prerogative, and limited the monarchy.

An honorable member from Duchess (Mr. Smith) has observed, that the delegates from New York (for example) can have very little information of the local circumstances of Georgia or South Carolina, except from the representatives of those states; and on this ground insists upon the expediency of an enlargement of the representation; since, otherwise, the majority must rely too much on the information of a few. In order to determine whether there is any weight in this reasoning, let us consider the powers of the national government, and compare them with the objects of state legislation. The powers of the new government are general, and calculated to embrace the aggregate interests of the Union, and the general interest of each state, so far as it stands in relation to the whole. The object of the state governments is to provide for their internal interests, as unconnected with the United States, and as composed of minute parts or districts. A particular knowledge, therefore, of the local circumstances of any state, as they may vary in different districts, is unnecessary for the federal representative. As he is not to represent the interests or local wants of the county of Duchess or Montgomery, neither is it necessary that he should be acquainted with their particular resources. But in the state governments) as the laws regard the interest of the people, in all their various minute divisions, it is necessary that the smallest interests should be represented. Taking these distinctions into view, I think it must appear evident, that one discerning and intelligent man will be as capable of understanding and representing the general interests of a state as twenty; because one man can be as fully acquainted with the general state of the commerce, manufactures, population, production, and common resources of a state, which are the proper objects of federal legislation. It is presumed that few men originally possess a complete knowledge of the circumstances of other states. They must rely, therefore, on the information to be collected from the representatives of those states. And if the above reasoning be just, it appears evident, I imagine, that this reliance will be as secure as can be desired.

Sir, in my experience of public affairs, I have constantly remarked, in the conduct of members of Congress, a strong and uniform attachment to the interests of their own state. These interests have, on many occasions, been adhered to with an undue and illiberal pertinacity, and have too often been preferred to the welfare of the Union. This attachment has given birth to an unaccommodating spirit of party, which has frequently embarrassed the best measures. It is by no means, however, an object of surprise. The early connections we have formed, the habits and prejudices in which we have been bred, fix our affections so strongly, that no future objects of association can easily eradicate them. This, together with the entire and immediate dependence the representative feels on his constituent, will generally in dine him to prefer the particular before the public good.

The subject on which this argument of a small representation has been most plausibly used, is taxation. As to internal taxation, in which the difficulty principally rests, it is not probable that any general regulation will originate in the national legislature. If Congress, in times of great danger and distress, should be driven to this resource, they will undoubtedly adopt such measures as are most conformable to the laws and customs of each state. They will take up your own codes, and consult your own systems. This is a source of information which cannot mislead, and which will be equally accessible to every member. It will teach them the most certain, safe, and expeditious mode of laying and collecting taxes in each state. They will appoint the officers of revenue agreeably to the spirit of your particular establishments, or they will make use of your own.

### Checks and Balances Interposition

Sir, the most powerful obstacle to the members of Congress betraying the interest of their constituents, is the state legislatures themselves, who will be standing bodies of observation, possessing the confidence of the people, jealous of federal encroachments, and armed with every power to check the first essays of treachery. They will institute regular modes of inquiry. The complicated domestic attachments, which subsist between the state legislators and their electors, will ever make them vigilant guardians of the people's rights. Possessed of the means and the disposition of resistance, the spirit of opposition will be easily communicated to the people, and, under the conduct of an organized body of leaders, will act with weight and system. Thus it appears that the very structure of the confederacy affords the surest preventives from error, and the most powerful checks to misconduct.

Sir, there is something in an argument that has been urged, which, if it proves any thing, concludes against all union and all governments; it goes to prove that no powers should be intrusted to any body of men, because they may be abused. This is an argument of possibility and chance — one that would render useless all reasonings upon the probable operation of things, and defeat the established principles of natural and moral causes. It is a species of reasoning sometimes used to excite popular jealousies, but is generally discarded by wise and discerning men. I do not suppose that the honorable member who advanced the idea had any such design. He undoubtedly would not wish to extend his arguments to the destruction of union or government; but this, sir, is its real tendency.

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

### Disunion Banter

## Gov. CLINTON.

The gentleman has attempted to give an unjust and unnatural coloring to my observations. I am really at a loss to determine whence he draws his inference. I declare that the dissolution of the Union is, of all events, the remotest from my wishes. That gentleman may wish for a consolidated, I wish for a federal republic. The object of both of us is a firm, energetic government; and we may both have the good of our country in view, though we disagree as to the means of procuring it. It is not fair reasoning to infer that a man wants no government at all, because he attempts to qualify it so as to make it safe and easy.

## Mr. HAMILTON.

I only rise to observe that the gentleman has misunderstood me. What I meant to express was this — that if we argued from possibilities only, — if we reasoned from chances, or an ungovernable propensity to evil, instead of taking into view the control which the nature of things, or the form of the Constitution, provided, — the argument would lead us to withdraw all confidence from our fellow-citizens, and discard the chimerical idea of government. This is a true deduction from such reasoning.

## Mr. SMITH

then made a few observations; after which the committee rose, and the Convention adjourned to Monday morning at ten o'clock.

# MONDAY, *June* 23, 1788. —

## Mr. HARRISON.

The subject under consideration, Mr. Chairman, is of the highest importance. It is a subject with which the liberties, the prosperity, and the glory of our country are most intimately connected. It has very properly employed the time and attention of the greatest and wisest men. Impressed with the most earnest desire to discover truth, and to acquit myself well in defence of its cause, I have listened with attention to the gentlemen who have spoken before me. It may, at first view, appear unnecessary to enlarge on a point which has undergone so thorough a discussion; but I trust the committee will consider no time lost which is spent on this interesting subject.

The gentlemen who have preceded me in the debate, however they may have differed with respect to certain points, they have agreed in others of capital importance, and which I shall beg leave in a concise manner to review. It is conceded that the old Confederation is inadequate to the purposes of good government; that, for its support, it has no other resources but feeble requisitions, which may be complied with or rejected by the states, as whim, caprice, or local interest, may influence them: in this point, gentlemen have agreed that remedy is necessary. The second point agreed on, and which is of equal consequence, is, that a close union is essential to the prosperity of the states; that, therefore, some measures should be pursued to strengthen that union, and prevent a dissolution. But, sir, interesting as these points are, there is another, which, on all sides, has been conceded, and which shall ever govern my conduct. It is, that, although the union ought to be secured, we are by no means to sacrifice to it the liberties of the people. It is our duty, sir, to abandon prejudices, and examine the Constitution closely and candidly; and if we find that it leads to the sacrifice I have mentioned, we shall undoubtedly reject it. But if, on the contrary, we discover that its principles tend to unite the perfect security of liberty with the stability of union, we shall adopt it with a unanimity which will recommend it to the confidence of the people.

I come now, sir, to offer a few ideas on the article under debate. Among the objections, that which has been made to the mode of apportionment of representatives has been relinquished. I think this concession does honor to the gentleman who had stated the objection. He has candidly acknowledged that this apportionment was the result of accommodation, without which no union could have been formed. But, sir, there are other objections, which are certainly plausible, and which, were they made to the paragraph in its genuine sense, I would acknowledge to be forcible. The gentlemen first consider the House of Representatives as too small, and not capable of representing the interests of their constituents. I cannot, by any means, agree with them, that there probably will be a time when six men cannot, in this state, be found sufficiently honest and well informed to represent the feelings, as well as interests, of the body of the people. The gentlemen should, in the debate, have adverted to this circumstance, that the number, as well as the apportionment, of representatives was a matter of conciliation; that some states, impressed with a sense of the public burdens, were willing to oppress the people as little as possible: they were disinclined to have that body more numerous than was requisite to insure and protect their liberties and their true interests. We might suppose the number proposed in the Constitution to be inadequate: they were of a different opinion. But, sir, though the number specified in this article were barely sufficient, or even too small, yet I contend that it is a thing merely temporary, and that the article itself clearly provides a remedy. An honorable gentleman, who preceded me, has proved that the article contemplates and secures a regular increase of the representation. I confess that my mind is entirely satisfied with his reasoning.

I beg leave, however, sir, to state the subject to the committee in one more point of light. It appears to me that the gentlemen who have supposed that Congress have it in their power to reduce the number, have not attended, with sufficient care, to the language of the paragraph. It is declared that the representation shall be in proportion to the number of inhabitants, and that every state shall have at least one. The state of Delaware may contain about thirty-three thousand inhabitants. Every gentleman acquainted with that state knows that it has been long settled, and probably has been for some time stationary in point of population. While the large tracts of vacant territory in the states. which surround it hold out so many allurements to emigration, I am convinced there is no prospect of its increasing, at least for a very long period of years. When I make this observation, I think I argue from established principles. From this I infer that there is the utmost probability that the number of Delaware will be taken as the standard If this be done, the number composing the House of Representatives, after the first census, will be more than sixty-five, which is the present number; because this specified number is calculated on the ratio of about one for forty thousand. Upon the same principles, while Delaware is stationary, and the population of the other states advances rapidly, the number of Delaware will continue to be the standard. Thus, if Delaware, at the first census, contains thirty-five thousand inhabitants, New York may then contain about two hundred and sixty-five thousand, and will be entitled to eight representatives. To pursue the argument a little further: It will ever be the interest of the larger states to keep the ratio uniform, by assuming the number of the smallest state as the standard; because, by this, as the smallest state will be confined to one, the relative influence of the larger states will be augmented. For example: if Delaware possesses thirty thousand, and Maryland a hundred thousand, it will be the interest of Maryland to fix the ratio at one for thirty, and not one for forty thousand, because, in the first case, she will have three representatives, or two more than Delaware; in the latter, she will have only two representatives, or one more than Delaware. This reasoning appears to me to lead to mathematical certainty.

According to the *ratio* established in the Constitution, as the number of the inhabitants in the United States increases, the number of representatives would also increase to a great degree, and in a century would become an unwieldy mob. It is therefore expedient and necessary that the Constitution should be so framed as to leave to the general legislature a discretionary power to limit the representation by forming a new ratio. These considerations have left no doubt in my mind of the propriety of the article under debate. I am clear that it contemplates an increase, till the extensive population of the country shall render a limitation indispensable. What, then, is the object of our fears? I am convinced that a legislature composed of ninety-one members is amply sufficient for the present state of our country. I have too high an opinion of the integrity of my fellow-citizens to believe they will or can be corrupted in three years, and at the expiration of this term, the increase I mention will most assuredly take place. Let us, therefore, dispel all visionary apprehensions on this subject, and, disregarding possible dangers, let us reason from the probable operation of things, and rely on this for our safety.

## The Hon. Mr. LANSING.

I do not rise, Mr. Chairman, to answer any of the arguments of the gentlemen, but to mention a few facts. In this debate, much reliance has been placed on an accommodation which took place in the *general Convention*. I will state the progress of that business. When the subject of the apportionment of representatives came forward, the large states insisted that the equality of suffrage should be abolished. This the small states opposed, contending that it would reduce them to a state of subordination. There was such a division that a dissolution of the Convention appeared unavoidable, unless some conciliatory measure was adopted. A committee of the states was then appointed, to agree upon some plan for removing the embarrassment. They recommended, in their report, the inequality of representation, which is the groundwork of the section under debate. With respect to the ratio of representation, it was at first determined that it should be one for forty thousand. In this situation the subject stood when I left the Convention. The objection to a numerous representation, on account of the expense, was not considered as a matter of importance: other objections to it, however, were fully discussed; but no question was taken.

Sir, I rose only to state this subject in the point of view in which it appeared to me: I shall, however, since I am up, pay some attention to the arguments which have been advanced. It is acknowledged that this clause may be so construed, as that, if the people of the smallest state shall amount to fifty thousand, this number may be taken as the ratio. What, then, is to control the general government? If I understand the gentlemen right, they grant that, by the plain construction of the clause, Congress may fix the ratio as high as they please: if so, they will have no other control than the precarious operation of interest. Now, the very argument of the gentlemen on the point of interest seems to imply that it will be the interest of the small states to limit the representation; for these states, like Delaware, not increasing, will be interested in allowing the growing states as small a number of representatives as possible, in proportion to their own. If, then, it be the interest of the larger states to augment the representation, it will be equally the interest of the smaller states to diminish it; and their equal suffrage in the *Senate* will enable them to oppose the policy of the large states with success.

In the discussion of this subject, it has been found necessary to bring several objections into view, which will not be very strongly insisted on. The gentleman who suggested them declared that he did not intend they should embarrass or prolong the debates. He only mentioned them to show that it would be our disposition to conciliate in certain points of inferior magnitude, provided we could secure such essential rights of the people as we supposed this Constitution would have a tendency to infringe. The question has been fully discussed; and I believe few new lights can he thrown on it. Much time will be spent, if we pursue the investigation in so slow and minute a manner. However, if the subject can receive any further elucidation, I shall not think the time lost.

## Hon. Mr. HAMILTON.

It is not my design, Mr. Chairman, to extend this debate by any new arguments on the genera] subject. I have delivered my sentiments so fully on what has been advanced by the gentlemen this morning, that any further reasoning from me will be easily dispensed with. I only rise to state a fact with respect to the motives which operated in the general Convention. I had the honor to state to the committee the diversity of interests which prevailed between the navigating and non-navigating, the large and the small states, and the influence which those states had upon the conduct of each. It is true, a difference did take place between the large and the small states, the latter insisting on equal advantages in the House of Representatives. Some private business calling me to New York, I left the Convention for a few days: on my return, I found a plan, reported by the committee of details; and soon after, a motion was made to increase the number of representatives. On this occasion, the members rose from one side and the other, and declared that the plan reported was entirely a work of accommodation, and that to make any alterations in it would destroy the Constitution. I discovered that several of the states, particularly New Hampshire, Connecticut, and New Jersey, thought it would be difficult to send a great number of delegates from the extremes of the continent to the national government: they apprehended their constituents would be displeased with a very expensive government; and they considered it as a formidable objection. After some debate on this motion, it was withdrawn. Many of the facts stated by the gentleman and myself are not substantially different. The truth is, the plan, in all its parts, was a plan of accommodation.

## Mr. LANSING.

I will enter no further into a discussion of the motives of the Convention; but there is one point in which the gentleman and myself do not agree. The committee of details recommend an equality in the Senate. In addition to this, it was proposed that every forty thousand should send one representative to the general legislature. Sir, if it was a system of accommodation, and to remain untouched, how came that number afterwards to be reduced to thirty thousand?

## Mr. HAMILTON.

I recollect well the alteration which the gentleman alludes to; but it by no means militates against my idea of the principles on which the Convention acted, at the time the report of the committee was under deliberation. This alteration did not take place till the Convention was near rising, and the business completed; when his excellency, the president, expressing a wish that the number should be reduced to thirty thousand, it was agreed to without opposition.

## Mr. Chancellor LIVINGSTON.

The gentleman from Duchess appears to have misapprehended some of the ideas which dropped from me. My argument was, that a republic might very properly be formed by a league of states, but that the laws of the general legislature must act, and be enforced upon individuals. I am contending for this species of government. The gentlemen who have spoken in opposition to me have either misunderstood or perverted my meaning; but, sir, I natter myself it has not been misunderstood by the Convention at large.

If we examine the history of federal republics, whose legislative powers were exercised only in states, in their collective capacity, we shall find in their fundamental principles the seeds of domestic violence and consequent annihilation. This was the principal reason why I thought the old Confederation would be forever impracticable.

Much has been said, sir, about the number which ought to compose the House of Representatives; and the question has been debated with great address by the gentlemen on both sides of the house. It is agreed that the representative body should be so small as to prevent the disorder inseparable from the deliberations of a mob, and yet sufficiently numerous to represent the interests of the people, and to be a safe depository of power. There is, unfortunately, no standard by which we can determine this matter. Gentlemen who think that a hundred may be the medium, in which the advantages of regular deliberation and the safety of the people are united, will probably be disposed to support the plan as it stands; others, who imagine that no number less than three or four hundred can insure the preservation of liberty, will contend for an alteration. Indeed, these effects depend so much upon contingency, and upon circumstances totally unconnected with the idea of numbers, that we ought not to be surprised at the want of a standing criterion. On so vague a subject, it is very possible that the opinions of no two gentlemen in this Assembly, if they were governed by their own original reflections, would entirely coincide. I acknowledge myself one of those who suppose the number expressed in the Constitution, to be about the proper medium; and yet future experience may induce me to think it too small or too large. When I consider the objects and powers of the general government, I am of opinion that one hundred men may at all times be collected of sufficient information and integrity to manage well the affairs of the Union. Some gentlemen suppose that, to understand and provide for the general interests of commerce and manufactures, our legislators ought to know how all commodities are produced, from the first principle of vegetation to the last polish of mechanical labor; that they ought to be minutely acquainted with all the process of all the arts. If this were true, it would be necessary that a great part of the British House of Commons should be woollen-drapers; yet we seldom find such characters in that celebrated assembly.

As to the idea of representing the feelings of the people, I do not entirely understand it, unless by their feelings are meant their interests. They appear to me to be the same thing. But if they have feelings which do not rise out of their interests, I think they ought not to be represented. What! shall the unjust, the selfish, the unsocial feelings, be represented? Shall the vices, the infirmities, the passions, of the people, be represented? Government, sir, would be a monster; laws made to encourage virtue and maintain peace would have a preposterous tendency to subvert the authority and outrage the principles on which they were founded; besides, the feelings of the people are so variable and inconstant, that our rulers should be chosen every day: people have one sort of feeling to-day, another to-morrow, and the voice of the representative must be incessantly changing in correspondence with these feelings. This would be making him a political weathercock.

The honorable gentleman from Duchess, [Mr. Smith,] who has so copiously declaimed against all declamation, has pointed his artillery against the rich and the great. I am not interested in defending rich men: but what does he mean by telling us that the rich are vicious and intemperate? Will he presume to point out to us the class of men in which intemperance is not to be found? Is there less intemperance in feeding on beef than on turtle? or in drink ing rum than wine? I think the gentleman does not reason from facts. If he will look round among the rich men of his acquaintance, I fancy he will find them as honest and virtuous as any class in the community. He says the rich are unfeeling; I believe they are less so than the poor; for it seems to me probable that those who are most occupied by their own cares and distresses have the least sympathy with the distresses of others. The sympathy of the poor is generally selfish, that of the rich a more disinterested emotion.

The gentleman further observes, that ambition is peculiarly the vice of the wealthy. But have not all classes of men their objects of ambition? Will not a poor man contend for a constable's staff with as much assiduity and eagerness as a man of rank will aspire to the chief magistracy? The great offices in the state are beyond the view of the poor and ignorant man: he will therefore contemplate an humbler office as the highest alluring object of ambition; he will look with equal envy on a successful competitor, and will equally sacrifice to the attainment of his wishes the duty he owes to his friends or to the public. But, says the gentleman, the rich will be always brought forward; they will exclusively enjoy the suffrages of the people. For my own part, I believe that, if two men of equal abilities set out together in life, one rich, the other of small fortune, the latter will generally take the lead in your government. The rich are ever objects of envy; and this, more or less, operates as a bar to their advancement. What is the fact? Let us look around us: I might mention gentlemen in office who have not been advanced for their wealth; I might instance, in particular, the honorable gentleman who presides over this state, who was not promoted to the chief magistracy for his riches, but his virtue.

The gentleman, sensible of the weakness of this reasoning, is obliged to fortify it by having recourse to the phantom aristocracy. I have heard much of this. I always considered it as the bugbear of the party. We are told that, in every country, there is a natural aristocracy, and that this aristocracy consists of the rich and the great: nay, the gentleman goes further, and ranks in this class of men the wise, the learned, and those eminent for their talents or great virtues. Does a man possess the confidence of his fellow-citizens for having done them important services? He is an *aristocrat*. Has he great integrity? Such a man will be greatly trusted: he is an aristocrat. Indeed, to determine that one is an aristocrat, we need only be assured he is a man of merit. But I hope we have many such. I hope, sir, we are all aristocrats. So sensible am I of that gentleman's talents, integrity, and virtue, that we might at once hail him the first of the nobles, the very prince of the Senate. But whom, in the name of common sense, will we have to represent us? Not the rich, for they are sheer aristocrats. Not the learned, the wise, the virtuous, for they are all aristocrats. Whom then? Why, those who are not virtuous; those who are not wise; those who are not learned: these are the men to whom alone we can trust our liberties. He says further, we ought not to choose these aristocrats, because the people will not have confidence in them; that is, the people will not have confidence in those who best deserve and most possess their confidence. He would have his government composed of other classes of men: where will we find them? Why, he must go out into the highways, and pick up the rogue and the robber; he must go to the hedges and ditches, and bring in the poor, the blind, and the lame. As the gentleman has thus settled the definition of aristocracy, I trust that no man will think it a term of reproach; for who among us would not be wise? Who would not be virtuous? Who would not be above want? How, again, would he have us to guard against aristocracy? Clearly by doubling the representation, and sending twelve aristocrats instead of six. The truth is, in these republican governments, we know no such ideal distinctions. We are all equally aristocrats. Offices, emoluments, honors, are open to all.

Much has been said by the gentleman about corruption: he calculates that twenty-four may give the voice of Congress; that is, they will compose a bare majority of a bare quorum of both houses. He supposes here the most singular, and I might add, the most improbable combination of events. First, there is to be a power in the government who has the means, and whose interest it is to be corrupt. Next, twenty-four men are to compose the legislature; and these twenty-four, selected by their fellow-citizens as the most virtuous, are all, in violation of their oath and their real interests, to be corrupted. Then he supposes the virtuous minority inattentive, regardless of their own honor, and the good of their country; making no alarm, no struggle; a whole people suffering the injury of a ruinous law, yet ignorant, inactive, and taking no measures to redress the grievance.

Let us take a view of the present Congress. The gentleman is satisfied with our present federal government, on the score of corruption. Here he has confidence. Though each state may delegate seven, they generally send no more than three; consequently thirty-nine men may transact any business under the old government; while the new legislature, which will be, in all probability, constantly full, will consist of ninety-one. But, say the gentlemen, our present Congress have not the same powers. I answer, They have the very same. Congress have the power of making war and peace, of levying money and raising men; they may involve us in a war at their pleasure; they may negotiate loans to any extent, and make unlimited demands upon the states. Here the gentleman comes forward, and says that the states are to carry these powers into execution; and they have the power of non-compliance. But is not every state bound to comply? What power have they to control Congress in the exercise of those rights which they have pledged themselves to support? It is true they have broken, in numerous instances, the compact by which they were obligated; and they may do it again; but will the gentleman draw an argument of security from the facility of violating their faith? Suppose there should be a majority of creditor states, under the present government; might they not combine, and compel us to observe the covenant by which we had bound ourselves?

We are told that this Constitution gives Congress the power over the purse and the sword. Sir, have not all good governments this power? Nay, does any one doubt that, under the old Confederation, Congress holds the purse and the sword? How many loans did they procure, which we are bound to pay! How many men did they raise, whom we are bound to maintain! How will gentlemen say, that that body, which is indeed extremely small, can be more safely trusted than a much larger body, possessed of the same authority? What is the ground of such entire confidence in the one — what the cause of so much jealousy of the other?

An honorable member from New York has viewed the subject of representation in a point of light which had escaped me, and which I think clear and conclusive. He says, that the state of Delaware must have one; and, as that state will not probably increase for a long time, it will be the interest of the larger states to determine the ratio by what Delaware contains. The gentlemen in opposition say, suppose Delaware contains fifty thousand, why not fix one ratio at sixty thousand? Clearly, because by this the other states will give up a sixth part of their interests. The members of Congress, also, from a more private motive, will be induced to augment the representation. The chance of their own reëlection will increase with the number of their colleagues.

It has been further observed that the sense of the people is for a larger representation, and that this ought to govern us — that the people generally are of opinion, that even our House of Assembly is too small. I very much doubt this fact. As far as my observation has extended, I have found a very different sentiment prevail. It seems to be the predominant opinion of our state government; and I presume that the people have as much confidence in their Senate of twenty-four as in their Assembly of sixty-five. All these considerations have united to give my mind the most perfect conviction, that the number specified in the Constitution is fully adequate to the present wants of the country, and that this number will be increased to the satisfaction of the most timid and jealous.

## Hon. Mr. SMITH.

I did not intend to make any more observations on this article. Indeed, I have heard nothing to-day which has not been suggested before, except the polite reprimand I have received for my declamation. I should not have risen again, but to examine who has proved himself the greatest declaimer. The gentleman wishes me to describe what I meant by representing the feelings of the people. If I recollect right, I said the representative ought to understand and govern his conduct by the true interest of the people. I believe I stated this idea precisely. When he attempts to explain my ideas, he explains them away to nothing; and, instead of answering, he distorts, and then sports with them. But he may rest assured that, in the present spirit of the Convention, to irritate is not the way to conciliate. The gentleman, by the false gloss he has given to my argument, makes me an enemy to the rich: this is not true. All I said was, that mankind were influenced, in a great degree, by interests and prejudices; that men, in different ranks of life, were exposed to different temptations, and that ambition was more peculiarly the passion of the rich and great. The gentleman supposes the poor have less sympathy with the sufferings of their fellow-creatures, for that those who feel most distress themselves, have the least regard to the misfortunes of others. Whether this be reasoning or declamation, let all who hear us determine. I observed, that the rich were more exposed to those temptations which rank and power hold out to view; that they were more luxurious and intemperate, because they had more fully the means of enjoyment; that they were more ambitious, because more in the hope of success. The gentleman says my principle is not true, for that a poor man will be as ambitious to be a constable as a rich man to be a governor; but he will not injure his country so much by the party he creates to support his ambition.

The next object of the gentleman's ridicule is my idea of an aristocracy; and, indeed, he has done me the honor to rank me in the order. If, then, I am an aristocrat, and yet publicly caution my countrymen against the encroachments of the aristocrats, they will surely consider me as one of the most disinterested friends. My idea of aristocracy is not new; it is embraced by many writers on government. I would refer the gentleman for a definition of it to the Hon. JOHN ADAMS, one of our natural aristocrats. This writer will give him a description the most ample and satisfactory. But I by no means intended to carry my idea of it to such a ridiculous length as the gentleman would have me; nor will any of my expressions warrant the construction he imposes on them. My argument was, that, in order to have a true and genuine representation, you must receive the middling class of people into your government, such as compose the body of this assembly. I observed that a representation from the United States could not be so constituted as to represent completely the feelings and interests of the people; but that we ought to come as near this object as possible. The gentlemen say, that the exactly proper number of representatives is so indeterminate and vague, that it is impossible for them to ascertain it with any precision. But surely they are able to see the distinction between twenty and thirty. I acknowledge that a complete representation would make the legislature too numerous; and therefore it is our duty to limit the powers, and form the checks on the government, in proportion to the smallness of the number.

The honorable gentleman next animadverts on my apprehensions of corruption, and instances the present Congress, to prove an absurdity in my argument. But is this fair reasoning? There are many material checks to the operations of that body, which the future Congress will not have. In the first place, they are chosen annually. What more powerful check? They are subject to *recall*. Nine states must agree to any important resolution, which will not be carried into execution till it meets the approbation of the people in the state legislatures. Admitting what he says, that they have pledged their faith to support the acts of Congress, yet, if these be contrary to the essential interests of the people, they ought not to be acceded to; for they are not bound to obey any law which tends to destroy them.

It appears to me that, had economy been a motive for making the representation small, it might have operated more properly in leaving out some of the offices which this Constitution requires. I am sensible that a great many of the common people, who do not reflect, imagine that a numerous representation involves a great expense; but they are not aware of the real security it gives to an economical management in all the departments of government.

The gentleman further declared that, as far as his acquaintance extended, the people thought sixty-five a number fully large enough for our state Assembly; and hence inferred that sixty-five is to two hundred and forty thousand as sixty-five is to three millions. This is curious reasoning.

I feel that I have troubled the committee too long. I should not have risen again upon this subject, had not my ideas been grossly misrepresented.

## The Hon. Mr. JAY.

I will make a few observations or. this article, Mr. Chairman, though I am sensible it may not appear very useful to travel over the field which has been already so fully explored.

Sir, it seems to be, on all sides, agreed that a strong, energetic federal government is necessary for the United States.

It has given me pleasure to hear such declarations come from all parts of the house. If gentlemen are of this opinion, they give us to understand that such a government is the favorite of their desire; and also that it can be instituted; that, indeed, it is both necessary and practicable; or why do they advocate it?

The gentleman last on the floor has informed us that, according to his idea of a complete representation, the extent of our country is too great for it. [Here he called on Mr. Smith, to know if he had mistaken him; who replied, My idea is not that a proper representation for a strong federal government is unattainable; but that such a representation, under the proposed Constitution, is impracticable.] Sir, continued Mr. Jay, I now understand the gentleman in a different sense: however, what I shall say will reach equally his explanation. I take it that no federal government is worth having, unless it can provide for the general interests of the United States. If this Constitution be so formed as to answer these purposes, our object is obtained. The providing for the general interests of the Union requires certain powers in government, which the gentleman seems to bf willing it should possess; that is, the important powers of war and peace. These powers are peculiarly interesting; their operation reaches objects the most dear to the people; and every man is concerned in them; yet, for the exercise of these powers the gentleman does not think a very large representation necessary. But, sir, if the proposed Constitution provides for a representation adequate to the purposes I have described, why not adequate to all other purposes of a federal government? The adversaries of the plan seem to consider the general government as possessing all the minute and local powers of the state governments. The direct inference from this, according to their principle, would be, that the federal representation should be propor-tionably large. In this state, as the gentleman says, we have sixty-five. If the national representation is to be extended in proportion, what an unwieldy body shall we have! If the United States contain three millions of inhabitants, in this ratio, the Congress must consist of more than eight hundred. But, sir, let us examine whether such a number is necessary or reasonable. What are the objects of our state legislatures? Innumerable things of small moment occupy their attention; matters of a private nature, which require much minute and local information. The objects of the general government are not of this nature. They comprehend the interests of the states in relation to each other, and in relation to foreign powers. Surely there are men in this state fully informed of the general interests of its trade, its agriculture, its manufactures. Is any thing more than this necessary? Is it requisite that our representatives in Congress should possess any particular knowledge of the local interests of the county of Suffolk, distinguished from those of Orange and Ulster? The Senate is to be composed of men appointed by the state legislatures: they will certainly choose those who are most distinguished for their general knowledge. I presume they will also instruct them, that there will be a constant correspondence supported between the senators and the state executives, who will be able, from time to time, to afford them all that particular information which particular circumstances may require. I am in favor of large representations: yet, as the minds of the people are so various on this subject, I think it best to let things stand as they are. The people in Massachusetts are satisfied with two hundred: many others suppose either number unnecessarily large. There is no point on which men's opinions vary more materially. If the matter be doubtful, — and much may be rationally said on both sides, — gentlemen ought not to be very strenuous on such points. The Convention who decided this question took all these different opinions into consideration, and were directed by a kind of necessity of mutual accommodation, and by reasons of expediency; it would therefore be unfair to censure them. Were I asked if the number corresponds exactly with my own private judgment, I should answer, No. But I think it is best, under our present circumstances, to acquiesce. Yet, sir, if I could be convinced that danger would probably result from so small a number, I should certainly withhold my acquiescence. But whence will this danger arise? Sir, I am not fearful of my countrymen: we have yet known very little of corruption: we have already experienced great distresses and difficulties; we have seen perilous times, when it was the interest of Great Britain to hold out the most seducing temptations to every man worth gaining. I mention this as a circumstance to show that, in case of a war with any foreign power, there can be little fear of corruption; and I mention it to the honor of the American character. At the time I allude to, how many men had you in Congress? Generally fewer than sixty-five.

Sir, all the arguments offered on the other side serve to show that it will be easier to corrupt under the old than under the new government: such arguments, therefore, do not seem to answer the gentleman's purpose. In the federal government, as it now stands, there are but thirteen votes, though there may be sixty or seventy voices. Now, what is the object of corruption? To gain votes. In the new government there are to be ninety-one votes. Is it easier to buy many than a few? In the present Congress, you cannot declare war, make peace, or do any other important act, without the concurrence of nine states. There are rarely more than nine present. A full Congress is an extraordinary thing. Is it necessary to declare war, or pass a requisition of money to support it? A foreign prince says, this will be against my interest; I must prevent it. How? By having recourse to corruption. If there are eleven states on the floor, it will be necessary to corrupt three. What measure shall I take? Why, it is common for each state to have no more than two members in Congress. I will take off one, and the vote of that state is lost. I will take off three, and their most important plan is defeated. Thus, in the old government, it is only necessary to bribe the few; in the new government, it is necessary to corrupt the many. Where lies the greater security? The gentleman says, the election is annual, and you may recall your delegate when you please. But how are you to form your opinion of his conduct? He may excuse himself from acting without giving any reason. Nay, on a particular emergency, he has only to go home, for which he may have a thousand plausible reasons to offer, and you have no mode of compelling his attendance. To detect corruption is at all times difficult, but, under these circumstances, it appears almost impossible I give out these hints to show that, on the score of corruption, we have much the best chance under the new Constitution; and that, if we do not reach perfection, we certainly change for the better. But, sir, suppose corruption should infect one branch of the government, — for instance, the House of Representatives; what a powerful check you have in the Senate! You have a double security; you have two chances in your favor to one against you. The two houses will naturally be in a state of rivalship: this will make them always vigilant, quick to discern a bad measure, and ready to oppose it. Thus the chance of corruption is not only lessened by an increase of the number, but vastly diminished by the necessity of concurrence. This is the peculiar excellence of a division of the legislature.

Sir, I argue from plain facts. Here is no sophistry, no construction, no false glosses, but simple inferences from the obvious operation of things. We did not come here to carry points. If the gentleman will convince me I am wrong, I will submit. I mean to give my ideas frankly upon the subject. If my reasoning is not good, let them show me the folly of it. It is from this reciprocal interchange of ideas that the truth must come out. My earnest wish is, that we may go home attended with the pleasing consciousness that we have industriously and candidly sought the truth, and have done our duty. I cannot conclude without repeating that, though I prefer a large representation, yet, considering our present situation, I see abundant reason to acquiesce in the wisdom of the general Convention, and to rest satisfied that the representation will increase in a sufficient degree to answer the wishes of the most zealous advocate for liberty.

## The Hon. Mr. SMITH rose,

and said, it appeared to him probable that it would be the interest of the stale having the least number of inhabitants to make its whole number the measure of the representation; that it would be the interest of Delaware, supposing she has forty thousand, and consequently only one vote, to make this whole number the ratio; so if she had fifty thousand, or any number under sixty thousand. The interest also of some other of the small states would correspond with hers; and thus the representation would be reduced in proportion to the increase of Delaware. He still insisted that the number of representatives might be diminished.

He would make one observation more upon the gentleman's idea of corruption. His reasoning, he said, went only to prove that the present Congress might be restrained from doing good by the wilful absence of two or three members. It was rare, he said, that the people were oppressed by a government's not doing; and little danger to liberty could flow from that source.

After some further desultory conversation on this point, the committee rose, and the Convention adjourned.

# TUESDAY, *June* 24th, 1788. —

Convention assembled; and being resolved into a committee, the 1st paragraph of the 3d section of the 1st article was read; when

## Mr. G. LIVINGSTON rose,

and addressed the chair.

He, in the first place, considered the importance of the *Senate* as a branch of the legislature, in three points of view: —

First, they would possess legislative powers coextensive with those of the House of Representatives except with respect to originating revenue laws; which, however, they would have power to reject or amend, as in the case of other bills. Secondly, they would have an importance, even exceeding that of the representative house, as they would be composed of a smaller number, and possess more firmness and system. Thirdly, their consequence and dignity would still further transcend those of the other branch, from their longer continuance in office. These powers, Mr. Livingston contended, rendered the Senate a dangerous body.

He went on, in the second place, to enumerate and animadvert on the powers with which they were clothed in their judicial capacity, and in their capacity of council to the President, and in the forming of treaties. In the last place, as if too much power could not be given to this body, they were made, he said, a council of appointment, by whom ambassadors and other officers of state were to be appointed. These are the powers, continued he, which are vested in this small body of twenty-six men; in some cases, to be exercised by a bare quorum, which is fourteen; a majority of which number, again, is eight. What are the checks provided to balance this great mass of power? Our present Congress cannot serve longer than three years in six: they are at any time subject to recall. These and other checks were considered as necessary at a period which I choose to honor with the name of *virtuous*. Sir, I venerate the spirit with which every thing was done at the trying time in which the Confederation was formed. America had then a sufficiency of this virtue to resolve to resist perhaps the first nation in the universe, even unto bloodshed. What was her aim? Equal liberty and safety. What ideas had she of this equal liberty? Read them in her Articles of Confederation. True it is, sir, there are some powers wanted to make this glorious compact complete. But, sir, let us be cautious that we do not err more on the other hand, by giving power too profusely, when, perhaps, it will be too late to recall it. Consider, sir, the great influence which this body, armed at all points, will have. What will be the effect of this? Probably a security of their reëlection, as long as they please. Indeed, in my view, it will amount nearly to an appointment for life. What will be their situation in a federal town? Hallowed ground! Nothing so unclean as state laws to enter there, surrounded, as they will be, by an impenetrable wall of adamant and gold, the wealth of the whole country flowing into it. [Here a member, who did not fully understand, called out to know what WALL the gentleman meant; on which he turned, and replied, "A wall of gold — of adamant, which will flow in from all parts of the continent." At which flowing metaphor, a great laugh in the house.] The gentleman continued: Their attention to their various business will probably require their constant attendance. In this Eden will they reside with their families, distant from the observation of the people. In such a situation, men are apt to forget their dependence, lose their sympathy, and contract selfish habits. Factions are apt to be formed, if the body becomes permanent. The senators will associate only with men of their own class, and thus become strangers to the condition of the common people. They should not only return, and be obliged to live with the people, but return to their former rank of citizenship, both to revive their sense of dependence, and to gain a knowledge of the country. This will afford opportunity to bring forward the genius and information of the states, and will be a stimulus to acquire political abilities. It will be the means of diffusing a more general knowledge of the measures and spirit of the administration. These things will confirm the people's confidence in government. When they see those who have been high in office residing among them as private citizens, they will feel more forcibly that the government is of their own choice. The members of this branch having the idea impressed on their minds, that they are soon to return to the level whence the suffrages of the people raised them, — this good effect will follow: they will consider their interests as the same with those of their constituents, and that they legislate for themselves as well as others. They will not conceive themselves made to receive, enjoy, and rule, nor the people solely to earn, pay, and submit.

Mr. Chairman, I have endeavored, with as much perspicuity and candor as I am master of, shortly to state my objections to this clause. I would wish the committee to believe that they are not raised for the sake of opposition, but that I am very sincere in my sentiments in this important investigation. The Senate, as they are now constituted, have little or no check on them. Indeed, sir, too much is put into their hands. When we come to that part of the system which points out their powers, it will be the proper time to consider this subject more particularly.

I think, sir, we must relinquish the idea of safety under this government, if the time for services is not further limited, and the power of recall given to the state legislatures. I am strengthened in my opinion by an observation made yesterday, by an honorable member from New York, to this effect — "that there should be no fear of corruption of the members in the House of Representatives; especially as they are, in two years, to return to the body of the people." I therefore move that the committee adopt the following resolution, *as* an amendment to this clause: —

"*Resolved*, That no person shall be eligible as a senator for more than six years in any term of twelve years, and that it shall be in the power of the legislatures of the several states to recall their senators, or either of them, and to elect others in their stead, to serve for the remainder of the time for which such senator or senators, so recalled, were appointed."

## Hon. Mr. LANSING.

I beg the indulgence of the committee, while I offer some reasons in support of the motion just made; in doing which, I shall confine myself to the point, and shall hear with attention, and examine with candor, the objections which may be opposed to it.

The representation of the United States, by the proposed system, is vested in two bodies. On the subject of one of these, we have debated several days, and now come to the organization and powers of the other. I believe it was undoubtedly the intention of the framers of this Constitution to make the lower house the proper, peculiar representative of the interests of the people; the Senate, of the sovereignty of the states.

Some very important powers are given to the latter, to be executed without the concurrence of the representative house. Now, if it was the design of the plan to make the Senate a kind of bulwark to the independence of the states, and a check to the encroachments of the general government, certainly the members of this body ought to be peculiarly under the control, and in strict subordination to the state who delegated them. In proportion to their want of dependence, they will lose their respect for the power from whom they receive their existence, and, consequently, will disregard the great object for which they are instituted. The idea of rotation has been taken from the articles of the old Confederation. It has thus far, in my opinion, operated with great advantage. The power of recall, too, his been an excellent check, though it has, in fact, never been exercised. The thing is of so delicate a nature, that few men will step forward to move a recall, unless there is some strong ground for it.

Sir, I am informed by gentlemen who have been conversant in public affairs, and who have had seats in Congress, that there have been, at different times, violent parties in that body — an evil that a change of members has contributed, more than any other thing, to remedy. If, therefore, the power of recall should be never exercised, if it should have no other force than that of a check to the designs of the bad, and to destroy party spirit, certainly no harm, but much good, may result from adopting the amendment. If my information be true, there have been parties in Congress which would have continued to this day, if the members had not been removed. No inconvenience can follow from placing the powers of the Senate on such a foundation as to make them feel their dependence. It is only a check calculated to make them more attentive to the objects for which they were appointed. Sir, I would ask, Is there no danger that the members of the Senate will sacrifice the interest of their state to their own private views? Every man in the United States ought to look with anxious concern to that body. Their number is so exceedingly small, that they may easily feel their interests distinct from those of the community. This smallness of number also renders them subject to a variety of accidents, that may be of the highest disadvantage. If one of the members is sick, or if one or both are prevented occasionally from attending, who are to take care of the interests of their state?

Sir, we have frequently observed that deputies have been appointed for certain purposes, who have not punctually attended to them, when it was necessary. Their private concerns may often require their presence at home. In what manner is this evil to be corrected? The amendment provides a remedy. It is the only thing which can give the states a control over the Senate. It will be said, there is a power in Congress to compel the attendance of absent members; but will the members from the other states be solicitous to compel such attendance, except to answer some particular view, or promote some interest of their own? It. it be the object of the senators to protect the sovereignty of their several states, and if, at any time, it be the design of the other states to make encroachments on the sovereignty of any one state, will it be for their interest to compel the members from this state to attend, in order to oppose and check them? This would be strange policy indeed.

A number of other reasons might be adduced on this point; but those which have been advanced are sufficient, I imagine, to convince the committee that such a provision is necessary and proper. If it be not adopted, the interests of any one state may be easily sacrificed to the ambition of the others, or to the private advantage of individuals.

## Mr. R. R. LIVINGSTON.

The amendment appears to have in view two objects — that a rotation shall be established in the Senate, and that its members shall be subject to recall by the state legislatures. It is not contended that six years are too long a time for the senators to remain in office. Indeed, this cannot be objected to, when the purposes for which this body is instituted are considered. They are to form treaties with foreign nations. This requires a comprehensive knowledge of foreign politics, and an extensive acquaintance with characters, whom, in this capacity, they have to negotiate with, together with such an intimate conception of our best interests, relative to foreign powers, as can only be derived from much experience in this business. What singular policy, to cut off the hand which has just qualified itself for action! But, says the gentleman, as they are the representatives of the states, those states have a control. Will this principle hold good? The members of the lower house are the representatives of the people. Have the people any power to recall them? What would be the tendency of the power contended for? Clearly this: The state legislatures, being frequently subject to factious and irregular passions, may be unjustly disaffected and discontented with their delegates; and a senator may be appointed one day and recalled the next. This would be a source of endless confusion. The Senate are indeed designed to represent the state governments; but they are also the representatives of the United States, and are not to consult the interest of any one state alone, but that of the Union. This could never be done, if there was a power of recall; for sometimes it happens that small sacrifices are absolutely indispensable for the good and safety of the confederacy; but, if a senator should presume to consent to these sacrifices, he would be immediately recalled. This reasoning turns on the idea that a state, not being able to comprehend the interest of the whole, would, in all instances, adhere to her own, even to the hazard of the Union.

I should disapprove of this amendment, because it would open so wide a door for faction and intrigue, and afford such scope for the arts of an evil ambition. A man might go to the Senate with an incorruptible integrity, and the strongest attachment to the interest of his state. But if he deviated, in the least degree, from the line which a prevailing *party* in a popular assembly had marked for him, he would be immediately recalled. Under these circumstances, how easy would it be for an ambitious, factious demagogue to misrepresent him, to distort the features of his character, and give a false color to his conduct! How easy for such a man to impose upon the public, and influence them to recall and disgrace their faithful delegate! The general government may find it necessary to do many things which some states might never be willing to consent to. Suppose Congress should enter into a war to protect the fisheries, or any of the northern interests; the Southern States, loaded with their share of the burden which it would be necessary to impose, would condemn their representatives in the Senate for acquiescing in such a measure. There are a thousand things which an honest man might be obliged to do, from a conviction that it would be for the general good, which would give great dissatisfaction to his constituents.

Sir, all the arguments drawn from an imaginary prospect of corruption have little weight with me. From what source is this corruption to be derived p One gentleman tells you that this dreadful Senate is to be surrounded by a wall of adamant — of gold, and that this wall is to be a liquid one, and to flow in from all quarters. Such arguments as these seem rather the dreamings of a distempered fancy, than the cool, rational deductions of a deliberate mind. Whence is this corruption to be derived? Are the people to corrupt the senators with their own gold? Is *bribery* to enter the *federal city*, with the amazing influx of adamant the gentleman so pathetically contemplates? Are not Congress to publish, from time to time, an account of their receipts and expenditures? Can there be any appropriation of money by the Senate, without the concurrence of the Assembly? And can we suppose that a majority of both houses can be corrupted? At this rate we must suppose a miracle indeed.

But to return: The people are the best judges who ought to represent them. To dictate and control them, to tell them whom they shall not elect, is to abridge their natural rights. This rotation is an absurd species of ostracism — a mode of proscribing eminent merit, and banishing from stations of trust those who have filled them with the greatest faithfulness. Besides, it takes away the strongest stimulus to public virtue — the hope of honors and rewards. The acquisition of abilities is hardly worth the trouble, unless one is to enjoy the satisfaction of employing them for the good of one's country. We all know that experience is indispensably necessary to good government. Shall we, then, drive experience into obscurity? I repeat that this is an absolute abridgment of the people's rights.

As to the Senate's rendering themselves perpetual, or establishing such a power as to prevent their being removed, it appears to me. chimerical. Can they make interest with their legislatures, who are themselves varying every year, sufficient for such a purpose? Can we suppose two senators will be able to corrupt the whole legislature of this state? The idea, I say, is chimerical. The thing is impossible.

## Hon. Mr. LANSING.

The objects of this amendment are, first, to place the senators in such a situation of dependence on their several state legislatures, as will induce them to pay a constant regard to the good of their constituents; secondly, to oblige them to return, at certain periods, to their fellow-citizens, that, by mingling with the people, they may recover that knowledge of their interests, and revive that sympathy with their feelings, which power and an exalted station are too apt to efface from the minds of rulers.

It has been urged that the senators should be acquainted with the interests of the states in relation to each other, and to foreign powers, and that they should remain in office, in order to acquire extensive political information. If these were the only objects, the argument would extend to the rendering their dignity perpetual — an idea which probably none of the gentlemen will consent to; but, if one third of the senators go out every two years, cannot those who succeed them acquire information from the remaining members, with respect to the relative interests of the states? It is to be presumed that the Senate will be composed of the best informed men, and that no such men will be incapable of comprehending the interests of the states either singly or collectively. If it be the design of representation that the sense and spirit of the people's interests and feelings should be carried into the government, it is obvious that this design can be accomplished in no way so perfectly as by obliging our rulers, at certain periods, to relinquish their offices and rank. The people cannot be represented by men who are perpetually separated from them.

It is asked, Why not place the senators in the same situation as the representatives? or, Why not give the people a power of recall? Because, sir, this is impracticable, and contrary to the first principles of representative government. There is no regular way of collecting the people's sentiments But a power in the state legislatures to recall their senators, is simple and easy, and will be attended with the highest advantages.

An honorable gentleman, who has spoken largely on the preceding question, has acknowledged that a variety of views, and great diversity of sentiment, prevailed in the federal Convention; that particularly there was a difference of interest between the navigating and non-navigating states. The same opposition of interests will probably ever remain; and the members of Congress will retain the same disposition to regard as their principal object the genuine good of their respective states. If they do not, if they presume to sacrifice the fundamental advantages of their state, they betray the confidence reposed in them, and violate their duty. I wish gentlemen would uniformly adhere to the distinction between the grand design of the House of Representatives and that of the Senate. Does not one represent the individuals, the people of a state, and the other its collective sovereignty? This distinction is properly noticed, when it is convenient and useful to the gentlemen's argument; but when it stands in their way, it is easily passed by and disregarded.

Sir, it is true there have been no instances of the success of corruption under the old Confederation; and may not this be attributed to the power of recall, which has existed from its first formation? It has operated effectually, though silently. It has never been exercised, because no great occasion has offered. The power has by no means proved a discouragement to individuals, in serving their country. A seat in Congress has always been considered a distinguished honor, and a favorite object of ambition: I believe no public station has been sought with more avidity. If this power has existed for so many years, and through so many scenes of difficulty and danger, without being exerted, may it not be rationally presumed that it never will be put in execution, unless the indispensable interest of a state shall require it? I am perfectly convinced that, in many emergencies, mutual concessions are necessary and proper; and that, in some instances, the smaller interests of the states should be sacrificed to great national objects. But when a delegate makes such sacrifices as tend to political destruction, or to reduce sovereignty to subordination, his state ought to have the power of defeating his design, and reverting to the people. It is observed, that the appropriation of money is not in the power of the Senate alone; but, sir, the exercise of certain powers, which constitutionally and necessarily involve the disposal of money, belongs to the Senate: they have, therefore, a right of disposing of the property of the United States. If the Senate declare war, the lower house must furnish the supplies.

It is further objected to this amendment, that it will restrain the people from choosing those who are most deserving of their suffrages, and will thus be an abridgment of their rights. I cannot suppose this last inference naturally follows. The rights of the people will be best supported by checking, at a certain point, the current of popular favor, and preventing the establishment of an influence which may leave to elections little more than the form of freedom. The Constitution of this state says, that no man shall hold the office of sheriff or coroner beyond a certain period. Does any one imagine that the rights of the people are infringed by this provision? The gentlemen, in their reasoning on the subject of corruption, seem to set aside experience, and to consider the Americans as exempt from the common vices and frailties of human nature. It is unnecessary to particularize the numerous ways in which public bodies are accessible to corruption. The poison always finds a channel, and never wants an object. Scruples would be impertinent arguments would be in vain, checks would be useless, if we were certain our rulers would be good men; but for the virtuous government is not instituted: its object is to restrain and punish vice; and all free constitutions are formed with two views — to deter the governed from crime, and the governors from tyranny.

## The CHANCELLOR rose

only to correct an error which had appeared in the course of the debate. It had been intimated that the Senate had a right to declare war. This was a mistake. The power could not be exercised except by the whole legislature; nor, indeed, had the Senate a right alone to appoint a single federal officer. The President, with the advice and consent of the Senate, made these appointments. He believed that the power of recall would have a tendency to bind the senators too strongly to the interests of their respective states; and for that reason he objected to it. It will destroy, said he, that spirit of independence and free deliberation which ought to influence the senator. Whenever the interests of a state clash with those of the Union, it will oblige him to sacrifice the great objects of his appointment to local attachments. He will be subjected to all the caprices, the parties, the narrow views, and illiberal politics, of the state governments, and become a slave to the ambitions and factions at home.

These observations, continued the chancellor, are obvious inferences from a principle which has been already explained — that the state legislatures will be ever more or less incapable of comprehending the interests of the Union. They cannot perceive the propriety, or feel the necessity, of certain great expedients in politics, which may seem, in their immediate operation, to injure the private interests of the members.

## Hon. R. MORRIS.

I am happy, Mr. Chairman, to perceive that it is a principle on all sides conceded, and adopted by this committee, that an energetic federal government is essential to the preservation of our Union; and that a constitution for these states ought to unite firmness and vigor in the national operations, with the full security of our rights and liberties. It is our business, then, to examine whether the proposed Constitution be agreeable to this description. I am pretty well convinced that, on this examination, the system will be found capable of accomplishing these purposes; hut if the event of our deliberations should be different, I hope we shall not adopt any amendments which will defeat their own design. Let us be cautious, that, in our eager pursuit of the great object, we do not run into those errors which disfigure the old Confederation. We may render useless all our provisions for security, by urging and straining them too far: we may apply checks which may have a direct tendency to impede the most salutary operations of the government, and ultimately deprive it of the strength and vigor necessary to preserve our national freedom. I fear the proposed amendment, were it adopted, would have such an effect. My reason has been anticipated by my honorable colleague. It is, that it would create a slavish subjection to the contracted views and prevailing factions of the state governments, or, in its exercise, would deprive the national council of its members in many difficult emergencies, and thus throw the Union into disorder, take away the means of defence, and expose it an easy prey to its enemies.

The gentlemen, in all their zeal for liberty, do not seem to see the danger to be apprehended from foreign power; they consider that all the danger is derived from a fancied tyrannical propensity in their rulers; and against this they are content to provide. I am sorry their views are so confined and partial. An extensive and liberal survey of the subject should teach us that vigor in the government is as necessary to the protection of freedom, as the warmest attachment to liberty in the governors. Sir, if the proposed amendment had been originally incorporated in the Constitution, I should consider it as a capital objection: I believe it would have ultimately defeated the very design of our Union.

## Mr. G. LIVINGSTON

asked if any reasonable man could suppose that the United States of America would suffer a sister state to be invaded, and refuse to assist in repelling the enemy? If so, we might conclude that they would be so dishonorable as to recall their senators in such a conjuncture. The gentleman's reasoning would apply, when such a flagrant violation of the principles of the Union became probable, and not till then.

## Mr. HARRISON.

I have but a few observations to make, in addition to those which have been already offered. it seems, sir, to be granted by all parties, not only that a vigorous government is necessary, but that the national legislature ought to be divided into two branches, and that these branches should be organized in a different mode, and possess different powers. The object of this difference of formation is a very important one. The design of the House of Representatives is to represent the people of the United States, and to protect their liberties. The design of the Senate is to give stability and energy to the government. A single democratic assembly would be subject to changes and inconstancy incompatible with a regular administration. But the gentlemen carry their amendment further than the power of recall; they say that a rotation in office ought to be established; that the senators may return to the private walks of life, in order to recover their sense of dependence. I cannot agree with them in this. If the senator is conscious that his reëlection depends only on the will of the people, and is not fettered by any law, he will feel an ambition to deserve well of the public. On the contrary, if he knows that no meritorious exertions of his own can procure a reappointment, he will become more unambitious, and regardless of the public opinion. The love of power, in a republican government, is ever attended by a proportionable sense of dependence. As the Constitution now stands, I see no possible danger of the senators' losing their attachment to the states; but the amendment proposed would tend to weaken this attachment, by taking away the principal incentives to public virtue. We may suppose two of the most enlightened and eminent men in the state, in whom the confidence of the legislature and the love of the people are united, engaged, at the expiration of their office, in the most important negotiations, in which their presence and agency may be indispensable. In this emergency, shall, we incapacitate them? Shall we prohibit the legislature from reappointing them? It might endanger our country, and involve us in inextricable difficulties. Under these apprehensions, and with a full conviction of the imprudence of depriving the community of the services of its most valuable citizens, I feel very strongly the impropriety of this amendment, and hope it may not be adopted.

## Mr. Chancellor LIVINGSTON

rose to suggest an idea which had not been before expressed. It is necessary, said he, that every government should have the power of continuing itself. It ought never to be destroyed, or fundamentally changed, but by the people who gave it birth; and yet the gentleman's amendment would enable the state legislatures to annihilate the government by recalling the senators.

## Hon. Mr. M. SMITH,

in answer to the chancellor, observed that, if the gentleman's position was true, that every government should have the power of continuing itself, it followed that the Senate should be capable of perpetuating itself, and assuming a complete independent authority. But, according to his argument, the state legislatures had already a power to destroy the government; for, at the expiration of six years, they had only to neglect to reappoint, and the government would fall of course.

## Hon. Mr. LANSING.

I trust the committee will indulge me with a few additional observations. It has been an argument urged with considerable zeal, that, if the state legislatures possessed the power of recall, its exercise would be governed by faction or caprice, and be subject to the impulses of the moment. Sir, it has been sufficiently proved to the committee, that, although there have been factions in the state governments — though they have been subject, in some instances, to inconstant humors and a disaffected spirit, — they have never yet exercised the power of recall which was vested in them. As far, therefore, as experience is satisfactory, we may safely conclude that none of these factious humors will operate to produce the evils which the gentlemen apprehend. If, however, the legislature should be so deluded as to recall an honest and faithful senator, certainly every opportunity would be allowed him of defending himself, of explaining his motives which influenced him, and of convincing them of the injustice of the imputation. If the state has been imposed upon by ambitious and designing men, the intrigue, on full examination, will be detected and exposed. If misinformation or false views have produced the measure, the error may easily be corrected.

It has been observed, that the power of recall might be exercised to the destruction of the Union. Gentlemen have expressed their apprehensions that, if one part of the continent was invaded, the states most distant from the danger might refuse their aid, and consequently the whole fall a sacrifice. Is this reasoning upon probability? Is not every state fully convinced that her interest and safety are involved in those of the Union? It is impossible, sir, for such an event to happen, till, in the decline of the human species, the social principles, on which our union is founded, are utterly lost and forgotten. It is by no means necessary that the state which exercises the power contended for, should continue unrepresented. I have no objection that a clause should be added to the amendment, obliging the state, in case of a recall, to choose immediately other senators, to fill the vacancy. Such a provision would probably, in some measure, remove the apprehensions which are entertained.

In the gentlemen's reasoning on the subject, there appears an inconsistency which I cannot but notice. It is observed, that one design of the Senate, as it is now organized, is to form a counterpoise to the local prejudices which are incompatible with a liberal view of national objects, and which commonly accompany the representatives of a state. On the other hand, it is said, the amendment will have a tendency to lessen the attachment of the senators to their constituents, and make them regardless of the public sentiments, by removing the motive to virtue; that is, a continuation of honors and employments. This reasoning seems to be calculated upon the idea of dependence on the state governments, and a close connection between the interest of the several states and that of their representatives. But this dependence, say the gentlemen, is the very source of all those local prejudices which are so unfavorable to good government, and which the design of the Senate was to correct and remove. I am, however, sir, by no means in sentiment with the honorable gentleman, that the rotation proposed would diminish the senator's ambition to merit the good-will of the people. Though, at the expiration of his office, he would be incapacitated for a term of six years, yet to the end of this term he would look forward with as earnest ambition as if he were constantly the object of the public suffrages. Nay, while in office, he would have an additional motive to act well; for, conscious of the people's inconstant disposition, he would be obliged, in order to secure a future election, to fix in their minds the most lasting impression of his services. It is entirely probable that local interests, opinions, and prejudices, will ever prevail in the general government, in a greater or less degree. It was upon this presumption that the small states were induced to join themselves to the Union.

## Hon. Mr. HAMILTON.

I am persuaded, Mr. Chairman, that I, in my turn, shall be indulged in addressing the committee. We all, in equal sincerity, profess to be anxious for the establishment of a republican government on a safe and solid basis. It is the object of the wishes of every honest man in the United States; and I presume I shall not be disbelieved, when I declare that it is an object, of all others, the nearest and most dear to my own heart. The means of accomplishing this great purpose become the most important study which can interest mankind. It is our duty to examine all those means with peculiar attention, and to choose the best and most effectual. It is our duty to draw from nature, from reason, from examples, the best principles of policy, and to pursue and to apply them in the formation of our government. We should contemplate and compare the systems which, in this examination, come under our view; distinguish, with a careful eye, the defects and excellences of each, and, discarding the former, incorporate the latter, as far as circumstances will admit, into our Constitution. If we pursue a different course, and neglect this duty, we shall probably disappoint the expectation of our country and of the world.

In the commencement of a revolution which received its birth from the usurpations of tyranny, nothing was more natural than that the public mind should be influenced by an extreme spirit of jealousy. To resist these encroachments, and to nourish this spirit, was the great object of all our public and private institutions. The zeal for liberty became predominant and excessive. In forming our Confederation, this passion alone seemed to actuate us, and we appear to have had no other view than to secure ourselves from despotism. The object certainly was a valuable one, and deserved our utmost attention; but, sir, there is another object, equally important, and which our enthusiasm rendered us little capable of regarding: I mean a principle of *strength* and *stability* in the organization of our government, and *vigor* in its operations. This purpose could never be accomplished but by the establishment of some select body, formed particularly upon this principle. There are few positions more demonstrable than that there should be, in every republic, some permanent body to correct the prejudices, check the intemperate passions, and regulate the fluctuations, of a popular assembly. It is evident that a body instituted for these purposes must be so formed as to exclude, as much as possible, from its own character, those infirmities, and that mutability, which it is designed to remedy. It is, therefore, necessary that it should be small, that it should hold its authority during a considerable period, and that it should have such an independence in the exercise of its powers, as will divest it, as much as possible, of local prejudices. It should be so formed as to be the centre of political knowledge, to pursue always a steady line of conduct, and to reduce every irregular propensity to system. Without this establishment, we may make experiments without end, but shall never have an efficient government.

It is an unquestionable truth, that the body of the people, in every country, desire sincerely its prosperity; but it is equally unquestionable, that they do not possess the discernment and stability necessary for systematic government. To deny that they are frequently led into the grossest errors by misinformation and passion, would be a flattery which their own good sense must despise. That branch of administration, especially, which involves our political relation with foreign states, a community will ever be incompetent to. These truths are not often held up in public assemblies; but they cannot be unknown to any who hear me.

From these principles it follows that there ought to be two distinct bodies in our government — one which shall be immediately constituted by and peculiarly represent the people, and possess all the popular features; another formed upon the principle and for the purposes before explained. Such considerations as these induced the Convention who formed your state Constitution to institute a Senate upon the present plan. The history of ancient and modern republics had taught them that many of the evils which these republics suffered arose from the want of a certain balance and mutual control indispensable to a wise administration; they were convinced that popular assemblies were frequently misguided by ignorance, by sudden impulses, and the intrigues of am bilious men, and that some firm barrier against these operations was necessary: they, therefore, instituted your Senate, and the benefits we have experienced have fully justified their conceptions.

Now, sir, what is the tendency of the proposed amendment? To take away the stability of government by depriving the Senate of its permanency; to make this body subject to the same weakness and prejudices which are incident to popular assemblies, and which it was instituted to correct; and, by thus assimilating the complexion of the two branches, destroy the balance between them. The amendment will render the senator a slave to all the capricious humors among the people. It will probably be here suggested, that the legislatures, not the people, are to have the power to recall. Without attempting to prove that the legislatures must be, in a great degree, the image of the multitude, in respect to federal affairs, and that the same prejudices and factions will prevail, I insist that, in whatever body the power of recall is vested, the senator will perpetually feel himself in such a state of vassalage and dependence, that he never can possess that firmness which is necessary to the discharge of his great duty to the Union.

Gentlemen, in their reasoning, have placed the interests of the several states, and those of the United States, in contrast; this is not a fair view of the subject; they must necessarily be involved in each other. What we apprehend is, that some sinister prejudice, or some prevailing passion, may assume the form of a genuine interest. The influence of these is as powerful as the most permanent conviction of the public good; and against this influence we ought to provide. The local interests of a state ought, in every case, to give way to the interests of the Union; for when a sacrifice of one or the other is necessary, the former becomes only an apparent partial interest, and should yield, on the principle that the small good ought never to oppose the great one. When you assemble from your several counties in the legislature, were every member to be guided only by the apparent interest of his county, government would be impracticable. There must be a perpetual accommodation and sacrifice of local advantage to general expediency; but the spirit of a mere popular assembly would rarely be actuated by this important principle. It is therefore absolutely necessary that the Senate should be so formed as to be unbiased by false conceptions of the real interests or undue attachment to the apparent good of their several states.

Gentlemen indulge too many unreasonable apprehensions of danger to the state governments; they seem to suppose that, the moment you put men into a national council, they become corrupt and tyrannical, and lose all affection for their fellow-citizens. But can we imagine that the senators will ever be so insensible of their own advantage as to sacrifice the genuine interest of their constituents? The state governments are essentially necessary to the form and spirit of the general system. As long, therefore, as Congress have a full conviction of this necessity, they must, even upon principles purely national, have as firm an attachment to the one as to the other. This conviction can never leave them, unless they become madmen. While the Constitution continues to be read, and its principles known, the states must, by every rational man, be considered as essential, component parts of the Union; and therefore the idea of sacrificing the former to the latter is wholly inadmissible.

The objectors do not advert to the natural strength and resources of state governments, which will ever give them an important superiority over the general government. If we compare the nature of their different powers, or the means of popular influence which each possesses, we shall find the advantage entirely on the side of the states. This consideration, important as it is, seems to have been little attended to. The aggregate number of representatives throughout the states may be two thousand. The personal influence will, therefore, be proportionably more extensive than that of one or two hundred men in Congress. The state establishments of civil and military officers of every description, infinitely surpassing in number any possible correspondent establishments in the general government, will create such an extent and complication of attachments, as will ever secure the predilection and support of the people. Whenever, therefore, Congress shall meditate any infringement of the state constitutions, the great body of the people will naturally take part with their domestic representatives. Can the general government withstand such a united opposition? Will the people suffer themselves to be stripped of their privileges? Will they suffer their legislatures to be reduced to a shadow and name? The idea is shocking to common sense.

From the circumstances already explained, and many others which might be mentioned, results a complicated, irresistible check, which must ever support the existence and importance of the state governments. The danger, if any exists, flows from an opposite source. The probable evil is, that the general government will be too dependent on the state legislatures, too much governed by their prejudices, and too obsequious to their humors; that the states, with every power in their hands, will make encroachments on the national authority, till the Union is weakened and dissolved.

Every member must have been struck with an observation of a gentleman from Albany. Do what you will, says he, local prejudices and opinions will go into the government. What! shall we then form a constitution to cherish and strengthen these prejudices? Shall we confirm the distemper, instead of remedying it? It is undeniable that there must be a control somewhere. Either the general interest is to control the particular interests, or the contrary. If the former, then certainly the government ought to be so framed, as to render the power of control efficient to all intents and purposes; if the latter, a striking absurdity follows: the controlling powers must be as numerous as the varying interests, and the operations of government must therefore cease; for the moment you accommodate these different interests, which is the only way to set the government in motion, you establish a general controlling power. Thus, whatever constitutional provisions are made to the contrary, every government will be at last driven to the necessity of subjecting the partial to the universal interest. The gentlemen ought always, in their reasoning, to distinguish between the real, genuine good of a state, and the opinions and prejudices which may prevail respecting it. The latter may be opposed to the general good, and consequently ought to be sacrificed; the former is so involved in it, that it never can be sacrificed. Sir, the main design of the Convention, in forming the Senate, was to prevent fluctuations and cabals. With this view, they made that body small, and to exist for a considerable period. Have they executed this design too far? The senators are to serve six years. This is only two years longer than the senators of this state hold their places. One third of the members are to go out every two years; and in six, the whole body will be changed. Prior to the revolution, the representatives in the several colonies were elected for different periods — for three years, for seven years, &c Were those bodies ever considered as incapable of representing the people, or as too independent of them? There is one circumstance which will have a tendency to increase the dependence of the senators on the states, in proportion to the duration of their appointments. As the state legislatures are in continual fluctuation, the senator will have more attachments to form, and consequently a greater difficulty of maintaining his place, than one of shorter duration. He will, therefore, be more cautious and industrious to suit his conduct to the wishes of his constituents.

Sir, when you take a view of all the circumstances which have been recited, you will certainly see that the senators will constantly look up to the state governments with an eye of dependence and affection. If they are ambitious to continue in office, they will make every prudent arrangement. for this purpose, and, whatever may be their private sentiments or politics, they will be convinced that the surest means of obtaining a reëlection will be a uniform attachment to the interests of their several states.

The gentlemen, to support their amendment, have observed that the power to recall, under the old government, has never been exercised. There is no reasoning in this. The experience of a few years, under peculiar circumstances, can afford no probable security that it never will be carried into execution with unhappy effects. A seat in Congress has been less an object of ambition; and the arts of intrigue, consequently, have been less practised. Indeed, it has been difficult to find men who were willing to suffer the mortifications to which so feeble a government, and so dependent a station, exposed them.

Sir, if you consider but a moment the purposes for which the *Senate* was instituted, and the nature of the business which they are to transact, you will see the necessity of giving them duration. They, together with the President, are to manage all our concerns with foreign nations; they must understand all their interests, and their political systems. This knowledge is not soon acquired; but a very small part is gained in the closet. Is it desirable, then, that new and unqualified members should be continually thrown into that body? When public bodies are engaged in the exercise of general powers, you cannot judge of the propriety of their conduct, but from the result of their systems. They may be forming plans which required time and diligence to bring to maturity. It is necessary, therefore, that they should have a considerable and fixed duration, that they may make their calculations accordingly. If they are to be perpetually fluctuating, they can never have that responsibility which is so important in republican governments. In bodies subject to frequent changes, great political plans must be conducted by members in succession. A single assembly can have but a partial agency in them, and, consequently, cannot properly be answerable for the final event. Considering the Senate, therefore, with a view to responsibility, duration is a very interesting and essential quality. There is another view in which duration in the Senate appears necessary. A government changeable in its policy must soon lose its sense of national character, and forfeit the respect of foreigners. Senators will not be solicitous for the reputation of public measures, in which they had but a temporary concern, and will feel lightly the burden of public disapprobation, in proportion to the number of those who partake of the censure. Our political rivals will ever consider our mutable counsels as evidence of deficient wisdom, and will be little apprehensive of our arriving at any exalted station in the scale of power.

Such are the internal and external disadvantages which would result from the principle contended for. Were it admitted, I am fully persuaded, sir, that prejudices would govern the public deliberations, and passions rage in the counsels of the Union. If it were necessary, I could illustrate my subject by historical facts. I could travel through an extensive field of detail, and demonstrate that wherever the fatal principle, of the head suffering the control of the members, has operated, it has proved a fruitful source of commotions and disorder.

This, sir, is the first fair opportunity that has been offered of deliberately correcting the errors in government. Instability has been a prominent and very defective feature in most republican systems. It is the first to be seen, and the last to be lamented, by a philosophical inquirer. It has operated most banefully in our infant republics. It is necessary that we apply an immediate remedy, and eradicate the poisonous principle from our government. If this be not done, sir, we shall feel, and posterity will be convulsed by, a painful malady.

## The Hon. Mr. LANSING said,

### Encroachments

he had very closely attended to the arguments which had been advanced on the subject; but, however strongly and ingenuously they had been urged, he confessed they had not had a tendency to change his sentiments. The principles which the gentleman had laid down, with respect to a division of the legislature, and the necessity of a balance, he admitted. If he had been inclined to dispute the expediency of two distinct branches in the government, he should not now be taking up the time of the committee in a contest respecting the form and powers of these two branches. He granted, therefore, that there ought to be two houses, to afford a mutual check. The gentleman seemed disposed to render the federal government entirely independent, and to prevent the possibility of its ever being influenced by the interests of the several states; and yet he had acknowledged them to be necessary, fundamental parts of the system. Where, then, was the check? The states, having no constitutional control, would soon be found unnecessary and useless, and would be gradually extinguished. When this took place, the people would lose their liberties, and be reduced from the condition of citizens to that of subjects. It had been remarked, that there were more than two thousand state representatives throughout the Union, and that the number of civil and military officers on the state establishments would far exceed those of the United States; and these circumstances, it has been said, would create such an attachment and dependence on the state governments, as would give them a superiority over the general government. But, said he, were the states arrayed in all the powers of sovereignty? Could they maintain armies? Had they the unlimited power of taxation? There was no comparison, he said, between the powers of the two governments. The circumstances the gentleman had enumerated, which seemed to be in favor of the states, only proved that the/people would be under some advantages to discern the encroachments of *Congress*, and to take the alarm; but what would this signify? The gentleman did not mean that his principles should encourage rebellion; what other resource had they? None, but to wait patiently till the long terms of their senators were expired, and then elect other men. All the boasted advantages enjoyed by the states were finally reduced to this. The gentleman had spoken of an enmity which would subsist between the general and state governments: what, then, would be the situation of both? His wish, he said, was to prevent any enmity, by giving the states a constitutional and peaceable mode of checking maladministration, by recalling their senators, and not driving them into hostilities, in order to obtain redress.

## The Hon. Mr. SMITH observed,

that, when he had the honor to address the committee on the preceding question of the *representation*, he stated to them his idea, that it would be impossible, under the new Constitution as it stands, to have such a genuine representation of the people as would itself form a check in the government; that therefore it became our duty to provide checks of another nature. The honorable gentleman from New York had made many pertinent observations on the propriety of giving stability to the Senate. The general principles laid down, he thought, were just. He only disputed the inferences drawn from them, and their application to the proposed amendments. The only question was, whether the checks attempted in the amendment were incompatible with that stability which, he acknowledged, was essential to good government. Mr. Smith said he did not rise to enter at present into the debate at large. Indisposition compelled him to beg leave of the committee to defer what he had to offer to them till the succeeding day.

# WEDNESDAY, *June* 25. —

Section the third was again read, when

## Mr. SMITH

resumed his argument, as follows: The amendment embraces two objects — first, that the senators shall be eligible for only six years in any term of twelve years; second, that they shall be subject to the recall of the legislatures of their several states. It is proper that we take up these points separately. I concur with the honorable gentleman that there is a necessity for giving this branch a greater stability than the House of Representatives. I think his reasons are conclusive on this point. But, sir, it does not follow, from this position, that the *senators* ought to hold their places during life. Declaring them ineligible during a certain term after six years, is far from rendering them less stable than necessary. We think the amendments will place the Senate in a proper medium between a fluctuating and a perpetual body. As the clause now stands, there is no doubt that senators will hold their office perpetually; and in this situation they must of necessity lose their dependence, and attachments to the people. It is certainly inconsistent with the established principles of republicanism that the Senate should be a fixed and unchangeable body of men. There should be, then, some constitutional provision against this evil. A rotation I consider as the best possible mode of effecting a remedy. The amendment will not only have a tendency to defeat any plots which may be formed against the liberty and authority of the state governments, but will be the best means to extinguish the factions which often prevail, and which are sometimes so fatal to legislative bodies. This appears to me an important consideration. We have generally found that perpetual bodies have either combined in some scheme of usurpation, or have been torn and distracted with cabals. Both have been the source of misfortunes to the state. Most people acquainted with history will acknowledge these facts. Our Congress would have been a fine field for party spirit to act in. That body would undoubtedly have suffered all the evils of faction, had it not been secured by the rotation established by the Articles of Confederation. I think a *rotation* in the government is a very important and truly republican institution. All good republicans, I presume to say, will treat it with respect.

It is a circumstance strongly in favor of rotation, that it will have a tendency to diffuse a more general spirit of emulation, and to bring forward into office the genius and abilities of the continent: the ambition of gaining the qualifications necessary to govern will be in some proportion to the chance of success. If the office is to be perpetually confined to a few, other men, of equal talents and virtue, but not possessed of so extensive an influence, may be discouraged from aspiring to it. The more perfectly we are versed in the political science, the more firmly will the happy principles of republicanism be supported. The true policy of constitutions will be to increase the information of the country, and disseminate the knowledge of government as universally as possible. If this be done, we shall have, in any dangerous emergency, a numerous body of enlightened citizens, ready for the call of their country. As the Constitution now is, you only give an opportunity to two men to be acquainted with the public affairs. It is a maxim with me that every man employed in a high office by the people, should, from time to time, *return* to them, that he may be in a situation to satisfy them with respect to his conduct and the measures of administration. If I recollect right, it was observed by an honorable member from New York, that this amendment would be an infringement on the natural rights of the people. I humbly conceive, if the gentleman reflects maturely on the nature of his argument, he will acknowledge its weakness. What is government itself but a restraint upon the natural rights of the people? What constitution was ever devised that did not operate as a restraint on their original liberties? What is the whole system of qualifications, which take place in all free governments, but a restraint? Why is a certain age made necessary? why a certain term of citizenship? This Constitution itself, sir, has restraints innumerable. The amendment, it is true, may exclude two of the best men; but it can rarely happen that the state will sustain any material loss by this. I hope and believe that we shall always have more than two men who are capable of discharging the duty of a senator. But, if it should so happen that the state possessed only two capable men, it would be necessary they should return home, from time to time, to inspect and regulate our domestic affairs. I do not conceive the state can suffer any inconvenience. The argument, indeed, might have some weight, were the representation very large; but, as the power is to be exercised upon only two men, the apprehensions of the gentleman are entirely without foundation.

With respect to the second part of the amendment, I would observe, that, as the senators are the representatives of the *state legislatures*, it is reasonable and proper that they should be under their control. When a state sends an agent commissioned to transact any business, or perform any service, it certainly ought to have a power to recall. These are plain principles, and so far as they apply to the case under examination, they ought to be adopted by us. Form this government as you please, you must, at all events, lodge in it very important powers. These powers must be in the hands of a few men, so situated as to procure a small degree of responsibility. These circumstances ought to put us upon our guard, and the inconvenience of this necessary delegation of power should be corrected, by providing some suitable checks.

Against this part of the amendment a great deal of argument has been used, and with considerable plausibility. It is said, if the amendment takes place, the senators will hold their office only during the pleasure of the state legislatures, and consequently will not possess the necessary firmness and stability. I conceive, sir, there is a fallacy in this argument, founded upon the suspicion that the legislature of a state will possess the qualities of a mob, and be incapable of any regular conduct. I know that the impulses of the multitude are inconsistent with systematic government. The people are frequently incompetent to deliberate discussion, and subject to errors and imprudences. Is this the complexion of the state legislatures? I presume it is not. I presume that they are never actuated by blind impulses; that they rarely do things hastily and without consideration. My apprehension is, that the power of recall would not be exercised as often as it ought. It is highly improbable that a man in whom the state has confided, and who has an established influence, will be recalled, unless his conduct has been notoriously wicked. The arguments of the gentleman, therefore, do not apply in this case. It is further observed, that it would be improper to give the legislatures this power, because the local interests and prejudices ought not to be admitted into the general government; and that, if the senator is rendered too dependent on his constituents, he will sacrifice the interests of the Union to the policy of his state. Sir, the Senate has been generally held up, by all parties, as a safeguard to the rights of the several states. In this view, the closest connection between them has been considered as necessary. But now, it seems, we speak in a different language; we now look upon the least attachment to their states as dangerous; we are now for separating them, and rendering them entirely independent, that we may root out the last vestige of state sovereignty.

An honorable gentleman from New York observed yesterday, that the *states* would always maintain their importance and authority, on account of their superior influence over the people. To prove this influence, he mentioned the aggregate number of the state representatives throughout the continent. But I ask him how long the people will retain their confidence for two thousand representatives who shall meet once in a year to make laws for regulating the height of your fences and the repairing of your roads. Will they not, by and by, be saying, Here, we are paying a great number of men for doing nothing: we had better give up all the civil business of our state, with its powers, to Congress, who are sitting all the year round: we had better get rid of the useless burden. That matters will come to this at last, I have no more doubt than I have of my existence. The state governments, without object or authority, will soon dwindle into insignificance, and be despised by the people themselves. I am, sir, at a loss to know how the *state legislatures* will spend their time. Will they make laws to regulate agriculture? I imagine this will be best regulated by the sagacity and industry of those who practise it. Another reason offered by the gentleman is, that the states will have a greater number of officers than the general government. I doubt this. Let us make a comparison. In the first place, the federal government must have a complete set of judicial officers of different ranks throughout the continent; then, a numerous train of executive officers, in all the branches of the revenue, both internal and external; and all the civil and military departments. Add to this, their *salaries* will probably be larger and better secured than those of any state officers. If these numerous offices are not at once established, they are in the power of Congress, and will all in time be created. Very few offices will be objects of ambition in the states. They will have no establishment at all to correspond with some of those I have mentioned; in other branches, they will have the same as Congress. But I ask, What will be their comparative influence and importance? I will leave it, sir, to any man of candor to determine whether there will not probably be more lucrative and honorable places in the gift of Congress than in the disposal of the states altogether. But the whole reasoning of the gentlemen rests upon the principle that the states will be able to check the general government, by exciting the people to opposition: it only goes to prove that the state officers will have such influence over the people as to impel them to hostility and rebellion. This kind of check, I contend, would be a pernicious one, and certainly ought to be prevented. *Checks* in government ought to act silently, and without public commotion. I think that the harmony of the two powers should by all means be maintained: if it be not, the operation of government will be baneful; one or the other of the parties must finally be destroyed in the conflict. The constitutional line between the authority of each should be so obvious, as to leave no room for jealous apprehensions or violent contests.

It is further said, that the operation of local interests should be counteracted; for which purpose the Senate should be rendered permanent. I conceive that the true interest of every state is the interest of the whole; and that, if we should have a well-regulated government, this idea will prevail. We shall, indeed, have few local interests to pursue, under the new Constitution, because it limits the claims of the states by so close a line, that on their part there can be but little dispute, and little worth disputing about. But, sir, I conceive that partial interests will grow continually weaker, because there are not those fundamental differences between the real interests of the several states, which will long prevent their coming together, and becoming uniform. Another argument advanced by the gentlemen is, that our amendment would be the means of producing factions among the electors; *that aspiring men* would misrepresent the conduct of a faithful senator, and by intrigue procure a *recall upon false grounds*, in order to make room for themselves. But, sir, men who are ambitious for places will rarely be disposed to render those places unstable. A truly ambitious man will never do this, unless he is mad. It is not to be supposed that a state will recall a man once in twenty years, to make way for another. Dangers of this kind are very remote: I think they ought not to be brought seriously into view.

More than one of the gentlemen have ridiculed my apprehensions of corruption. How, say they, are the people to be corrupted? By their own money? Sir, in many countries, the people pay money to corrupt themselves: why should it not happen in this? Certainly, the Congress will be as liable to *corruption* as other bodies of men. Have they not the same frailties, and the same temptations? With respect to the corruption arising from the disposal of offices, the gentlemen have treated the argument as insignificant. But let any one make a calculation, and see whether there will not be good offices enough to dispose of to every man who goes there, who will then freely resign his seat; for can any one suppose that a member of Congress will not go out and relinquish his four dollars a day, for two or three thousand pounds a year? It is here objected that no man can hold an office created during the time he is in Congress. But it will be easy for a man of influence, who has in his eye a favorite office previously created, and already tilled, to say to his friend who holds it, Here, I will procure you another place of more emolument, provided you will relinquish yours in favor of me. The Constitution appears to be a restraint, when, in fact, it is none at all. I presume, sir, there is not a government in the world in which there is a greater scope for influence and corruption in the disposal of offices. Sir, I will not declaim, and say all men are dishonest; but I think, in forming a constitution, if we presume this, we shall be on the safest side. This extreme is certainly less dangerous than the other. It is wise to multiply checks to a greater degree than the present state of things requires. It is said that corruption has never taken place under the old government: I believe gentlemen hazard this assertion without proofs. That it has taken place in some degree is very probable. Many millions of money have been put into the hands of government, which have never yet been accounted for: the accounts are not yet settled, and Heaven only knows when they will be.

I have frequently observed a restraint upon the state governments, which Congress never can be under, construct that body as you please. It is a truth capable of demonstration, that the nearer the representative is to his constituents, the more attached and dependent he will be. In the states, the elections are frequent, and the representatives numerous: they transact business in the midst of their constituents, and every man must be called upon to account for his conduct. In this state, the council of appointment are elected for one year. The proposed Constitution establishes a council of appointment who will be perpetual. Is there any comparison between the two governments in point of security? It is said that the governor of this state is always eligible; but this is not in point. The governor of this state is limited in his powers; indeed, his authority is small and insignificant, compared to that of the Senate of the United States.

## The Hon. Mr. HAMILTON.

Mr. Chairman, in debates of this kind, it is extremely easy, on either side, to say a great number of plausible things. It is to be acknowledged that there is even a certain degree of truth in the reasonings on both sides. In this situation, it is the province of judgment and good sense to determine their force and application, and how far the arguments advanced on one side are balanced by those on the other. The ingenious dress in which both may appear renders it a difficult task to make this decision, and the mind is frequently unable to come to a safe and solid conclusion. On the present question, some of the principles on each side are admitted, and the conclusions from them denied, while other principles, with their inferences, are rejected altogether. It is the business of the committee to seek the truth in this labyrinth of argument.

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

Sir, it is a truth sufficiently illustrated by experience, that when the *people* act by their representatives, they are commonly *irresistible*. The gentleman admits the position, that stability is essential to the government, and yet enforces principles which, if true, ought to banish stability from the system. The gentleman observes, that there is a fallacy in my reasoning, and informs us that the legislatures of the states, not the people, are to appoint the senators. Does he reflect that they are the immediate agents of the people, that they are so constituted as to feel all their prejudices and passions, and to be governed, in a great degree, by their misapprehensions? Experience must have taught him the truth of this. Look through their history: what factions have arisen from the most trifling causes! What intrigues have been practised for the most illiberal purposes! Is not the state of Rhode Island, at this moment, struggling under difficulties and distresses, for having been led blindly by the spirit of the multitude? What is her legislature but the picture of a *mob*? In this state, we have a senate, possessed of the proper qualities of a permanent body. Virginia, Maryland, and a few other states, are in the same situation. The rest are either governed by a single democratic assembly, or have a senate constituted entirely upon democratic principles. These have been more or less embroiled in factions, and have generally been the image and echo of the multitude. It is difficult to reason on this point, without touching on certain delicate chords. I could refer you to periods and conjunctures when the people have been governed by improper passions, and led by factious and designing men. I could show that the same passions have infected their representatives. Let us beware that we do not make the state legislatures a vehicle in which the evil humors may be conveyed into the national system. To prevent this, it is necessary that the *Senate* should be so formed, as in some measure to check the *state governments*, and preclude the communication of the false impressions which they receive from the people. It has been often repeated, that the legislatures of the states can have only a partial and confined view of national affairs; that they can form no proper estimate of great objects which are not in the sphere of their interests. The observation of the gentleman, therefore, cannot take off the force of argument.

Sir, the senators will constantly be attended with a reflection, that their future existence is absolutely in the power of the states. Will not this form a powerful check? It is a reflection which applies closely to their feelings and interests; and no candid man, who thinks deliberately, will deny that it would be alone a sufficient check. The legislatures are to provide the mode of electing the President, and must have a great influence over the electors. Indeed, they convey their influence, through a thousand channels, into the general government. Gentlemen have endeavored to show that there will be no clashing of local and general interests: they do not seem to have sufficiently considered the subject. We have, in this state, a duty of sixpence per pound on salt, and it operates lightly and with advantage; but such a duty would be very burdensome to some of the states. If Congress should, at any time, find it convenient to impose a salt tax, would it not be opposed by the Eastern States? Being themselves incapable of feeling the necessity of the measure, they could only feel its apparent injustice. Would it be wise to give the New England States a power to defeat this measure, by recalling their senators who may be engaged for it? I beg the gentlemen once more to attend to the distinction between the real and the apparent interests of the states. I admit that the aggregate of individuals constitute the government; yet every state is not the government; every petty district is not the government. Sir, in our state legislatures, a *compromise* is frequently necessary between the interests of counties: the same must happen, in the general government, between states. In this, the few must yield to the many; or, in other words, the particular must be sacrificed to the general interest. If the members of Congress are too dependent on the state legislatures, they will be eternally forming secret combinations from local views. This is reasoning from the plainest principles. Their interest is interwoven with their dependence, and they will necessarily yield to the impression of their situation. Those who have been in Congress have seen these operations. The first question has been, How will such a measure affect my constituents, and, consequently, how will the part I take affect my reëlection? This consideration may be in some degree proper; but to be dependent from day to day, and to have the idea perpetually present, would be the source of numerous evils. *Six years*, sir, is a period short enough for a proper degree of dependence. Let us consider the peculiar state of this body, and see under what impressions they will act. *One third* of them are to go out at the end of two years, *two thirds* at four years, and the *whole* at six years. When one year is elapsed, there is a number who are to hold their places for one year, others for three, and others for five years. Thus there will not only be a constant and frequent change of members, but there will be some whose office is near the point of expiration, and who, from this circumstance, will have a lively sense of their dependence. The *biennial* change of members is an excellent invention for increasing the difficulty of combination. Any scheme of usurpation will lose, every two years, a number of its oldest advocates, and their places will be supplied by an equal number of new, unaccommodating, and virtuous men. When two principles are equally important, we ought, if possible, to reconcile them, and sacrifice neither. We think that safety and permanency in this government are completely reconcilable. The state governments will have, from the causes I have described, a sufficient influence over the Senate, without the check for which the gentlemen contend.

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

Sir, in contending for a rotation, the gentlemen carry their zeal beyond all reasonable bounds. I am convinced that no government, founded on this feeble principle, can operate well: I believe also that we shall be singular in this proposal. We have not felt the embarrassments resulting from rotation that other states have; and we hardly know the strength of their objection to it. There is no probability that we shall ever persuade a majority of the states to agree to this amendment. The gentlemen deceive themselves; the amendment would defeat their own design. When a man knows he must quit his station, let his merit be what it may, he will turn his attention chiefly to his own emolument: nay, he will feel temptations, which few other situations furnish, to perpetuate his power by unconstitutional usurpations. Men will pursue their interests. It is as easy to change human nature as to oppose the strong current of the selfish passions. A wise legislator will gently divert the channel, and direct it, if possible, to the public good.

It has been observed, that it is not possible there should be in a state only two men qualified for senators. But, sir, the question is not, whether there may be no more than two men; but whether, in certain emergencies, you could find two equal to those whom the amendment would discard. Important negotiations, or other business to which they shall be most competent, may employ them at the moment of their removal. These things often happen. The difficulty of obtaining men capable of conducting the affairs of a nation in dangerous times, is much more serious than the gentlemen imagine

As to corruption, sir, admitting, in the *President*, a disposition to corrupt, what are the instruments of bribery? It is said he will have in his *disposal* a great number of *offices*. But how many offices are there, for which a man would relinquish the senatorial dignity? There may be some in the judicial, and some in other principal departments. But there are few whose respectability can, in any measure, balance that of the office of senator. Men who have been in the Senate once, and who have a reasonable hope of a reëlection, will not be easily bought by offices. This reasoning shows that a *rotation* would be productive of many *disadvantages*: under particular circumstances, it might be extremely inconvenient, if not fatal to the prosperity of our country.

The Hon. Mr. SMITH.

Few observations have fallen from the gentleman which appear to be new. He supposes *factions* cannot exist in the Senate without the knowledge of the state legislatures, who may, at the expiration of their office, elect other men. I believe, sir, that factions may prevail to a considerable degree without being known. Violent factions have sometimes taken place in Congress, respecting foreign matters, of which the public are ignorant. Some things have happened which are not proper to be divulged. So it by no means appears probable that the clashing of state interests will be the only cause of parties in the government. It has also been observed that the Senate has the check of the House of Representatives. The gentlemen are not accurate in stating this matter. The Senate is vested with certain great exclusive powers; and in the exercise of these powers, factions may as probably take place as in any transactions whatever. The honorable member further remarks that, from the intimate connection between the state legislatures and the people, the former will be the image of the latter, and subject to the same passions and prejudices. Now, I will ask every candid man if this is a true position. Certainly, it cannot be supposed that a small body of men, selected from the people for the purpose of making laws, will be incapable of a calm and deliberate view of political subjects. Experience has not proved that our legislatures are commonly guilty of errors arising from this source. There always has been, and ever will be, a considerable proportion of moderate and well-informed men among them. Though factions have prevailed, there are no instances of tumultuous proceedings; no instances to prove that they are not capable of wise deliberations. It is perhaps useless for me to continue this discussion, in order to answer arguments which have been answered before. I shall not, therefore, trouble the committee any more at present.

## Mr. Chancellor LIVINGSTON observed,

that it would not, perhaps, be altogether impertinent to remind the committee, that, since the intelligence of yesterday, it had become evident that the circumstances of the country were greatly altered, and the ground of the present debate changed. The Confederation, he said, was now *dissolved*. The question before the committee was now a question of policy and expediency. He presumed the Convention would consider the situation of their country. He supposed, however, that some might contemplate disunion without pain They might natter themselves that some of the Southern States would form a league with us; but he could not look without horror at the dangers to which any such confederacy would expose the state of New York. He said, it might be political cowardice in him, but he had felt since yesterday an alteration of circumstances, which had made a most solemn impression on his mind. The amendment he considered as derogatory to the principles of the Constitution, and contrary to the design of the institution of the Senate. It was as clear as any position proved by experience, that the people, in many instances, could not know their own good; that, as a body, they were not capable of pursuing the true road to happiness; and that they were rarely competent to judge of the politics of a great nation, or the wisdom of public measures. This principle, he said, seemed to be admitted. But the gentlemen had remarked that, though the argument was a good one with respect to the people at large, it did not apply to the state legislatures. The chancellor acknowledged that the application in the last case was not so forcible; yet he contended that the people at large were little less capable of judging of the civil interests of their state, than the state legislatures were of comprehending the great political interests of the Union. He said that no single member of a body could judge properly of the affairs of that body. The sphere in which *the states* moved was of a different nature; the transactions in which they were engaged were of a different complexion the objects which came under their view wore an aspect totally dissimilar. The legislatures of the states, he said, were not elected with a political view, nor for the same purposes as the members of Congress. Their business was to regulate the *civil affairs* of their several states, and therefore they ought not to possess powers, to a proper exercise of which they were not competent. The Senate was to transact all foreign business: of this the states, from the nature of things, must be entirely ignorant. The Constitution of New York (continued the chancellor) had contemplated a deficiency of wisdom in the legislature, even in their domestic regulations: it had provided a council of revision, to correct their errors. Would the gentlemen, then, acknowledge that the legislatures are liable to frequent mistakes in civil affairs, and yet maintain that they are infallible with respect to the general politics of the Union?

One gentleman had enumerated the formidable powers of *the Senate*, and closed the detail by a piteous description of the flowing, adamantine wall. He had mentioned the power to try *impeachments*. But the power of impeaching was in the House of Representatives, and that was the important power. It could hardly be supposed that the representatives would exercise this power for the purposes of tyranny; but if they should, it certainly could be of no disadvantage to enable the Senate to check them. In the next place, he said, the power of *appointing officers* was mentioned. This was unfairly stated; the Senate had but a negative upon the President; they had only an advisory power. In making laws they had only a partial agency; they were checked by the representatives and President. To any unprejudiced examiner, he said, it would appear that the Constitution had provided every reasonable check, and that the authority of the Senate was sufficiently circumscribed. But the gentlemen would multiply checks till the new government was as relaxed and nerveless as the old one.

## The Hon. Mr. SMITH

took notice of the remark of one of the gentlemen, that a majority of the states would not agree to the amendment. He wondered whence the gentleman derived his knowledge. It was true no state had yet proposed it; but it was equally true that we had not yet fully obtained the sentiments of any Convention respecting amendments. The Constitution had been carried in most of the states, in such a manner that no opportunity was afforded of bringing forward and discussing them.

With respect to the change of circumstances which had such a solemn effect upon the honorable gentleman, he confessed it had not altered his feelings or wishes on the subject. He had long been convinced that nine states would receive the Constitution. The gentleman had taken great pains to prove that the state legislatures would be influenced by the same passions and erroneous views which actuated the people at large. For his own part, he did not understand such reasoning; he had always been taught that the state legislatures were select bodies of men, chosen for their superior wisdom, and so organized as to be capable of calm and regular conduct. It had been observed, that the Senate was only *a check*; if this was true, he begged to be informed where the positive power was lodged. The House of Representatives had been held up as a check; the Senate had been held up as a check. At this rate, it was a government of negative powers. It had also been remarked that no man could be qualified for the office of senator till he had had a long experience, because there was a certain kind of knowledge necessary, which could only be acquired in the Senate. But, if the policy of the government was such, said he, as to keep in the senators till they died, or were displaced, we should always have but a few men who were acquainted with the duties of their office. The best way was to limit them to six years; and then let them come home. We should then always have a large number of men capable of serving their country in any dangerous conjuncture.

## Hon. Mr. LANSING.

Mr. Chairman, I do not rise to speak to the paragraph under consideration, but to make some remarks on the sentiments of the honorable gentleman from New York, respecting the change in our situation. That our particular circumstances are in fact altered since yesterday, I cannot agree. It is true, we have received information that the *ninth state has ratified the Constitution*; but I contend that no such event ought to influence our deliberations. I presume I shall not be charged with rashness, if I continue to insist that it is still our duty to maintain our rights. We acknowledge that our dissent cannot prevent the operation of the government: since nine states have acceded to it, let them make the experiment. It has been said that some might contemplate disunion without terror. I have heard no sentiment from any gentleman that can warrant such an insinuation. We ought not, however, to suffer our fears to force us to adopt a system which is dangerous to liberty. The idea of the importance of this state has not been entertained by any in sentiment with me. The suggestion first came from the other side of the house. It was nothing more than a false construction of our argument, that if, unfortunately, a disunion should take place, we were not in so bad a situation that we could not provide for our safety independently of the other states. Sir, I know not any gentleman who wishes for a dissolution of the Union. I make this remark because an idea has been circulated, that there are certain persons in this body who are disposed to dissolve the Union, which I am persuaded is utterly false.

Several paragraphs of section 3d being passed over without debate, the 4th section of article I was read; when

## Mr. JONES

 rose, and observed, that it was a fact universally known, that the present Confederation had not proved adequate to the purposes of good government. Whether this arose from the want of powers in the federal head, or from other causes, he would not pretend to determine. Some parts of the proposed plan appeared to him imperfect, or at least not satisfactory. He did not think it right that Congress should have the power of prescribing or altering the time, place, and manner of holding elections. He apprehended that the clause might be so construed as to deprive the states of an essential right, which, in the true design of the Constitution, was to be reserved to them. He therefore wished the clause might be explained, and proposed, for the purpose, the following amendment: —

"*Resolved*, as the opinion of this committee, that nothing in the Constitution, now under consideration, shall be construed to authorize the Congress to make or alter *any regulations*, in any state, respecting the times, places, or manner of holding elections for senators or representatives, unless the legislature of such state shall neglect or refuse to make laws or regulations for the purpose, or, from any circumstance, be incapable of making the same, and then only until the legislature of such state shall make provision in the premises."

## The Hon. Mr. JAY

said that, as far as he understood the ideas of the gentleman, he seemed to have doubts with respect to this paragraph, and feared it might be misconstrued and abused. He said that every government was imperfect, unless it had a power of preserving itself. Suppose that, by design or accident, the states should *neglect to appoint representatives*; certainly there should be some constitutional remedy for this evil. The obvious meaning of the paragraph was, that, if this neglect should take place, Congress should have power, by law, to support the government, and prevent the dissolution of the Union. He believed this was the design of the federal Convention.

## The Hon. R. MORRIS

suggested, that, so far as the people, distinct from their legislatures, were concerned in the operation of the Constitution, it was absolutely necessary that the existence of the general government should not depend, for a moment, on the will of the state legislatures. The power of perpetuating the government ought to belong to their federal representatives; otherwise, the right of the people would be essentially abridged.

## His excellency, Governor CLINTON,

rose, just to notice the attempts that had been made to influence the committee by fear, and to introduce gloomy reflections upon the situation of the state. This had been done in heightened colors, and, he thought, in an indelicate manner. He said, he had observed also, in the course of the debates, that a distinction had been kept up between the state legislatures and the representatives of the people, and also between the legislatures and the senators. He did not think these distinctions warrantable. They were distinctions which would never appear in operation, while the government was well administered. It was true, he said, the representatives of the people, and the senators, might deviate from their duty, and express a will distinct from that of the people, or that of the legislatures; but any body might see that this must arise from corruption. Congress, in all its branches, was to speak the will of the people, and that will was law, and must be uniform. The distinction, therefore, of the honorable gentleman could have no proper weight in the discussion of this question.

## Mr. JAY

did not think the gentleman had taken up the matter right. The *will of the people* certainly ought to be the law, but the only question was, How was this will to be expressed: — whether the will of the people, with respect to the time, place, and manner of holding elections, ought to be expressed by the general government, or by the state legislatures.

## Mr. M. SMITH

proposed the following addition to Mr. Jones's motion: —

"And that each state shall be divided into as many districts as the representatives it is entitled to, and that each representative shall be chosen by a majority of votes."

But on suggestion that this motion was ill timed, it was withdrawn for the present.

# THURSDAY, *June* 26. —

## Mr. SMITH

again moved the additional amendment proposed the preceding day; when the

## Hon. Mr. DUANE

called on him to explain the motives which induced his proposal.

## Mr. SMITH

expressed his surprise that the gentleman should want such an explanation. He conceived that the amendment was founded on the fundamental principles of representative government. As the Constitution stood, the whole state might be a single district for election. This would be improper. The state should be divided into as many districts as it sends representatives. The whole number of representatives might otherwise be taken from a small part of the state, and the bulk of the people, therefore, might not be fully represented. He would say no more at present on the propriety of the amendment. The principle appeared to him so evident, that he hardly knew how to reason upon it, until he heard the arguments of the gentlemen in opposition.

## Mr. DUANE.

I will not examine the merits of the measure the gentleman recommends. If the proposed mode of election be the best, the legislature of this state will undoubtedly adopt it. But I wish the gentleman to prove that his plan will be practicable, and will succeed. By the Constitution of this state, the representatives are apportioned among the counties, and it is wisely left to the people to choose whom they will, in their several counties, without any further division into districts. Sir, how do we know the proposal will be agreeable to the other states? Is every state to be compelled to adopt our ideas on all subjects? If the gentleman will reflect, I believe he will be doubtful of the propriety of these things. Will it not seem extraordinary that any one state should presume to dictate to the Union? As the Constitution stands, it will be in the power of each state to regulate this important point. While the legislatures do their duty, the exercise of their discretion is sufficiently secured. Sir, this measure would carry with it a presumption which I should be sorry to see in the acts of this state. It is laying down, as a principle, that whatever may suit our interest or fancy should be imposed upon our sister states. This does not seem to correspond with that moderation which I hope to see in all the proceedings of this Convention.

## Mr. SMITH.

The gentleman misunderstands me. I did not mean the amendment to operate on the other states: they may use their discretion. The amendment is in the negative. The very design of it is to enable the states to act their discretion, without the control of Congress. So the gentleman's reasoning is directly against himself.

If the argument had any force, it would go against proposing any amendment at all; because, says the gentleman, it would be dictating to the Union. What is the object of our consultations? For my part, I do not know, unless we are to express our sentiments of the Constitution before we adopt it. It is only exercising the privilege of freemen; and shall we be debarred from this? It is said, it is left to the discretion of the states. If this were true, it would be all we contend for. But, sir, Congress can alter as they please any mode adopted by the states. What discretion is there here? The gentleman instances the Constitution of New York, as opposed to my argument. I believe that there are now gentlemen in this house, who were members of the Convention of this state, and who were inclined for an amendment like this. It is to be regretted that it was not adopted. The fact is, as your Constitution stands, a man may have a seat in your legislature, who is not elected by a majority of his constituents. For my part, I know of no principle that ought to be more fully established than the right of election by a majority.

## Mr. DUANE.

I neglected to make one observation which I think weighty. The mode of *election* recommended by the gentleman must be attended with great embarrassments. His idea is, that a *majority* of all the votes should be necessary to return a member.

I will suppose a state divided into *districts*. How seldom will it happen that a majority of a district will unite their votes in favor of one man! In a neighboring state, where they have this mode of election, I have been told that it rarely happens that more than one half unite in a choice. The consequence is, they are obliged to make provision, by a previous election, for *nomination*, and another election for appointment; thus suffering the inconvenience of a double election. If the proposition was adopted, I believe we should be seldom represented — the election must be lost. The gentleman will, therefore, I presume, either abandon his project, or propose some remedy for the evil I have described.

## Mr SMITH.

I think the example the gentleman adduces is in my favor. The states of Massachusetts and Connecticut have regulated elections in the mode I propose; but it has never been considered inconvenient, nor have the people ever been unrepresented. I mention this to show that the thing has not proved impracticable in those states. If not, why should it in New York?

## Mr. LANSING

After some further conversation, proposed the following modification of Mr. Smith's motion —

"And that nothing in this Constitution shall be construed to prevent the legislature of any state to pass laws, from time to time, to divide such state into as many convenient districts as the state shall be entitled to elect representatives for Congress, nor to prevent such legislature from making provision, that the electors in each district shall choose a citizen of the United States, who shall have been an inhabitant of the district, for the term of one year immediately preceding the time of his election, for one of the representatives of such state."

Which being added to the motion of Mr. Jones, the committee passed the succeeding paragraphs without debate, till they came to the 2d clause of section 6. Mr. LANSING then proposed the following amendment: —

"No senator or representative shall, during the time for which he was elected, be appointed to any office under the authority of the United States, and no person holding any office under the United States shall be a member of either house during his continuance in office."

On which no debate took place. The 7th section was also passed over, and the first paragraph of section 8 was read; when

## The Hon. Mr. WILLIAMS

### Necessary and Proper A/F

spoke as follows: In the preamble, the intent of the Constitution, among other things, is declared to be, "to provide for the common defence, and promote the general welfare;" and in the clause under consideration, the power is in express words given to Congress "to provide for the common defence and general welfare." And in the last paragraph of the same section, there is an express authority to make all laws which shall be necessary and proper for the carrying into execution this power. It is therefore evident that the legislature, under this Constitution, may pass any law which they may think proper. It is true, the 9th section restrains their power with respect to certain objects. But these restrictions are very limited, some of them improper, some unimportant, and others not easily understood. Sir, Congress have authority to lay and collect taxes, duties, imposts, and excises, and to pass all laws which shall be necessary and proper for carrying this power into execution; and what limitation, if any, is set to the exercise of this power by the Constitution?

Sir, to detail the particulars comprehended in the general terms, *taxes, duties, imposts*, and *excises*, would take up more time than would be proper at present; indeed, it would be a task far beyond my ability, and to which no one can be competent, unless possessed of a mind capable of comprehending every possible source of revenue; for they extend to every possible means of raising money, whether by direct or indirect taxation. Under this clause may be imposed a poll-tax, a tax on houses and buildings, on windows and fireplaces, on cattle, and on all kinds of personal property. It extends to duties on all kinds of goods, to tonnage and poundage of vessels, to duties on written instruments, newspapers, almanacs, &c. It comprehends an excise on all kinds of liquors, spirits, wine, cider, beer, &c.; indeed, on every necessary or convenience of life, whether of foreign or home growth or manufacture. In short, we can have no conception of any way in which a government can raise money from the people, but what is included in one or the other of these general terms. Every source of revenue is therefore committed to the hands of the general legislature. Not only these terms are very comprehensive, and extend to a vast number of objects, but the power to lay and collect has great latitude: it will lead to the passing of a vast number of laws, which may affect the personal rights of the citizens of the states, and put their lives in jeopardy. It will open a door to the appointment of a swarm of revenue and excise officers, to prey upon the honest and industrious part of the community.

Let us inquire also what is implied in the authority to pass all laws which shall be necessary and proper to carry this power into execution. It is perhaps utterly impossible fully to define this power. The authority granted in the first clause can only be understood, in its full extent, by descending to all the particular cases in which a revenue can be raised. The number and variety of these cases are so endless, that no man hath yet been able to reckon them up. The greatest geniuses of the world have been for ages employed in the research, and when mankind had supposed the subject was exhausted, they have been astonished with the refined improvements that have been made in modern times, and especially in the English nation, on the subject. If, then, the objects of this power cannot be comprehended, how is it possible to understand the extent of that power which can pass all laws that may be necessary and proper for carrying it into execution? A case cannot be conceived which is not included in this power. It is well known that the subject of revenue is the most difficult and extensive in the science of government: it requires the greatest talents of a statesman, and the most numerous and exact provisions of a legislature. The command of the revenues of a state gives the command of every thing in it. He that hath the purse will have the sword; and they that have both have every thing; so that Congress will have every source from which money can be drawn.

I should enlarge on this subject, but as the usual time draws near for an adjournment, I conclude with this remark, — that I conceive the paragraph gives too great a power to Congress; and in order that the state governments should have some resource of revenue, and the means of support, I beg leave to offer the following resolution: —

"*Resolved*, That no excise shall be imposed on any article of the growth or manufacture of the United States, or any part of them; and that Congress do not lay direct taxes, but when moneys arising from the impost and excise are insufficient for the public exigencies; nor then, until Congress shall first have made a requisition upon the states, to assess, levy, and pay their respective proportion of such requisition, agreeably to the census fixed in the said Constitution, in such way and manner as the legislatures of the respective states shall judge best; and in such case, if any state shall neglect or refuse to pay its proportion, pursuant to such requisition, then Congress may assess and levy such state's proportion, together with interest thereon, at the rate of six per cent. per annum, from the time of payment prescribed in such requisition."

# FRIDAY, *June* 27,

Section 8 was again read, and

## Mr. SMITH

The Hon. Mr. SMITH rose.

### Jurisdiction A/F

We are now come to a part of the system which requires our utmost attention and most careful investigation. It is necessary that the powers vested in government should be precisely denned, that the people may be able to know whether it moves in the circle of the Constitution. It is the more necessary in governments like the one under examination, because Congress here is to be considered as only a part of a complex system. The *state governments* are necessary for certain local purposes; the *general government* for national purposes. The latter ought to rest on the former, not only in its form, but in its operations. It is therefore of the highest importance that the line of **jurisdiction** should be accurately drawn; it is necessary, sir, in order to maintain harmony between the governments, and to prevent the constant interference which must either be the cause of perpetual differences, or oblige one to yield, perhaps unjustly, to the other. I conceive the system cannot operate well, unless it is so contrived as to preserve harmony. If this be not done, in every contest, the weak must submit to the strong. The clause before us is of the greatest importance: it respects the very vital principle of government. The power is the most efficient and comprehensive that can be delegated, and seems in some measure to answer for all others. I believe it will appear evident that money must be raised for the support of both governments. If, therefore, you give to one or the other a power which may, in its operation, become exclusive, it is obvious that one can exist only at the will of the other, and must ultimately be sacrificed. The power of the general government extends to the raising of money, in all possible ways, except by duties on exports; to the laying taxes on imports, lands, buildings, and even on persons. The individual states, in time, will be allowed to raise no money at all: the United States will have a right to raise money from every quarter. The general government has, moreover, this advantage — all disputes relative to **jurisdiction** must be decided in a federal court.

It is a general maxim, that all governments find a use for as much money as they can raise. Indeed, they have commonly demands for more. Hence it is that all, as far as we are acquainted, are in debt. I take this to be a settled truth, that they will all spend as much as their revenue; that is, will live at least up to their income. Congress will ever exercise their powers to levy as much money as the people can pay. They will not be restrained from direct taxes by the consideration that necessity does not require them. If they forbear, it will be because the people cannot answer their demands. There will be no possibility of preventing the clashing of jurisdictions, unless some system of accommodation is formed. Suppose taxes are laid by both governments on the same article. It seems to me impossible that they can operate with harmony. I have no more conception, that, in taxation, two powers can act together, than that two bodies can occupy the same place. They will therefore not only interfere, but they will be hostile to each other. Here are to be two lists of all kinds of officers — supervisors, assessors, constables, &c., employed in this business. It is unnecessary that I should enter into a minute detail, to prove that these complex powers cannot operate peaceably together, and without one being overpowered by the other. On one day, the continental collector calls for the tax; he seizes a horse: the next, the state collector comes, procures a replevin, and retakes the horse, to satisfy the state tax. I just mention this to show that the people will not submit to such a government, and that finally it must defeat itself.

It must appear evident that there will be a constant jarring of claims and interests. Now, will the states, in this contest, stand any chance of success? If they will, there is less necessity for our amendment. But consider the superior advantages of the general government. Consider their extensive, exclusive revenues, the vast sums of money they can command, and the means they thereby possess of supporting a powerful standing force. The states, on the contrary, will not have the command of a shilling or a soldier. The two governments will be like two men contending for a certain property. The one has no interest but that which is the subject of the controversy, while the other has money enough to carry on the lawsuit for twenty years. By this clause unlimited powers in taxation are given. Another clause declares that Congress shall have power to make all laws necessary to carry the Constitution into effect. Nothing, therefore, is left to *construction*; but the powers are most express. How far the state legislatures will be able to command a revenue, every man, on viewing the subject, can determine. If he contemplates the ordinary operation of causes, he will be convinced that the powers of the confederacy will swallow up those of the members. I do not suppose that this effect will be brought about suddenly. As long as the people feel universally and strongly attached to the state governments, Congress will not be able to accomplish it. If they act prudently, their powers will operate and be increased by degrees. The tendency of taxation, though it be moderate, is to lessen the attachment of the citizens. If it becomes oppressive, it will certainly destroy their confidence. While the general taxes are sufficiently heavy, every attempt of the states to enhance them will be considered as a tyrannical act, and the people will lose their respect and affection for a government which cannot support itself without the most grievous impositions upon them. If the Constitution is accepted as it stands, I am convinced that in seven years as much will be said against the state governments as is now said in favor of the proposed system.

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

Another idea is in my mind, which I think conclusive against a simple government for the United States. It is not possible to collect a set of representatives who are acquainted with all parts of the continent. Can you find men in Georgia who are acquainted with the situation of New Hampshire, who know what taxes will best suit the inhabitants, and how much they are able to bear? Can the test men make laws for the people of whom they are entirely ignorant? Sir, we have no reason to hold our state governments in contempt, or to suppose them incapable of acting wisely. I believe they have operated more beneficially than most people expected, who considered that those governments were erected in a time of war and confusion, when they were very liable to errors in their structure. It will be a matter of astonishment to all unprejudiced men hereafter, who shall reflect upon our situation, to observe to what a great degree good government has prevailed. It is true some bad laws have been passed in most of the states; but they arose from the difficulty of the times rather than from any want of honesty or wisdom. Perhaps there never was a government which, in the course of ten years, did not do something to be repented of. As for Rhode Island, I do not mean to justify her; she deserves to he condemned. If there were in the world but one example of political depravity, it would be hers; and no nation ever merited, or suffered, a more genuine infamy than a wicked administration has attached to her character. Massachusetts also has been guilty of errors, and has lately been distracted by an internal convulsion. Great Britain, notwithstanding her boasted constitution, has been a perpetual scene of revolutions and civil war. Her Parliaments have been abolished; her kings have been banished and murdered. I assert that the majority of the governments in the Union have operated better than any body had reason to expect, and that nothing but experience and habit is wanting to give the state laws all the stability and wisdom necessary to make them respectable. If these things be true, I think we ought not to exchange our condition, with a hazard of losing our state constitutions. We all agree that a general government is necessary; but it ought not to go so far as to destroy the authority of the members. We shall be unwise to make a new experiment, in so important a matter, without some known and sure grounds to go upon. The state constitutions should be the guardians of our domestic rights and interests, and should be both the support and the check of the federal government.

The want of the means of raising a general revenue has been the principal cause of our difficulties. I believe no man will doubt that, if our present Congress had money enough, there would be but few complaints of their weakness. Requisitions have perhaps been too much condemned. What has been their actual operation? Let us attend to experience, and see if they are such poor, unproductive things as is commonly supposed. If I calculate right, the requisitions for the ten years past have amounted to thirty-six millions of dollars; of which twenty-four millions, or two thirds, have been actually paid. Does not this fact warrant a conclusion that some reliance is to be placed on this mode? Besides, will any gentleman say that the states have generally been able to collect more than two thirds of their taxes from the people? The delinquency of some states has arisen from the fluctuations of paper money, &c. Indeed, it is my decided opinion, that no government, in the difficult circumstances which we have passed through, will be able to realize more than two thirds of the taxes it imposes. I might suggest two other considerations which have weight with me. there has probably been more money called for than was actually wanted, on the expectation of delinquencies; and it is equally probable that, in a short course of time, the increasing ability of the country will render requisitions a much more efficient mode of raising a revenue. The war left the people under very great burdens, and oppressed with both public and private debts. They are now fast emerging from their difficulties. Many individuals, without doubt, still feel great inconveniences; but they will find a gradual remedy.

Sir, has any country which has suffered distresses like ours exhibited, within a few years, more striking marks of improvement and prosperity? How its population has grown! How its agriculture, commerce, and manufactures have been extended and improved! How many forests have been cut down! How many wastes have been cleared and cultivated! How many additions have been made to the extent and beauty of our towns and cities! I think our advancement has been rapid. In a few years, it is to be hoped that we shall be relieved from our embarrassments, and, unless new calamities come upon us, shall be flourishing and happy. Some difficulties will ever occur in the collection of taxes by any mode whatever. Some states will pay more, some less. If New York lays a tax, will not one county or district furnish more, another less, than its proportion? The same will happen to the United States as happens in New York, and in every other country. Let them impose a duty equal and uniform, those districts where there is plenty of money will pay punctually. Those in which money is scarce will be in some measure delinquent. The idea that Congress ought to have *unlimited powers* is entirely novel. I never heard it till the meeting of this Convention. The general government once called on the states to invest them with the command of funds adequate to the exigencies of the Union; but they did not ask to command all the resources of the states. They did not wish to have a control over all the property of the people. If we now give them this control, we may as well give up the state governments with it. I have no notion of setting the two powers at variance; nor would I give a farthing for a government which could not command a farthing. On the whole, it appears to me probable, that, unless some certain specific source of *revenue* is reserved to the states, their governments, with their independency, will be totally annihilated.

## Mr. WILLIAMS.

Yesterday I had the honor of laying before the committee objections to the clause under consideration, which I flatter myself were forcible. They were, *however, treated by the gentlemen on the other side as general observations*, and unimportant in their nature. It is not necessary, nor indeed would it consist with delicacy, to give my opinion as to what cause their silence is imputable. Let them now step forward, and refute the objections which have been stated by an honorable gentleman from Duchess, who spoke last, and those which I expect will be alleged by gentlemen more capable than myself — by gentlemen who are able to advance arguments which require the exertion of their own great abilities to overcome. In the mean time, I request the indulgence of the committee, while I make a few recapitulatory and supplementary remarks.

Sir, I yesterday expressed my fears that this clause would tend to annihilate the state governments. I also observed, that the powers granted by it were indefinite, since the Congress are authorized to provide for the common defence and general welfare, and to pass all laws necessary for the attainment of those important objects. The legislature is the highest power in a government. Whatever they judge necessary for the proper administration of the powers lodged in them, they may execute without any check or impediment. Now, if the Congress should judge it a proper provision, for the common defence and general welfare, that the state governments should be essentially destroyed, what, in the name of common sense, will prevent them? Are they not constitutionally authorized to pass such laws? Are not the terms, *common defence and general welfare*, indefinite, undefinable terms? What checks have the state governments against such encroachments? Why, they appoint the senators once in six years. So do the electors of Germany appoint their emperor. And what restraint have they against tyranny in their head? Do they rely on any thing but arms, the *ultima ratio*? And to this most undesirable point must the states recur, in order to secure their rights. But have they the means necessary for the purpose? Are they not deprived of the command of the purse and the sword of their citizens? Is not the power, both over taxation and the militia, wrested from their hands by this Constitution, and bestowed upon the general government? Yes, sir, it is. But it may be said (I expect to be answered) that the states have concurrent jurisdiction with Congress, as to taxation I answer, that the Constitution does not say so: it is a mere opinion, a mere construction, a thing of too much uncertainty to risk the rights of the states upon, which I have heard, with peculiar pleasure, an honorable gentleman from New York acknowledge to he of great utility to the people. The Constitution grants the power of taxation to Congress, but is silent with regard to the power in the states. If it is inferred from this that it is not taken away from the states, we may, sir, with equal justice, deduce, from the positive establishment of the trial by jury in criminal cases, that it is annihilated in civil. Ingenious men may assign ingenious reasons for opposite constructions of the same clause. They may heap refinement upon refinement, and subtilty upon subtilty, until they construe away every republican principle, every right sacred and dear to man. I am, sir, for certainty in the establishment of a constitution which is not only to operate upon us, but upon millions yet unborn. I would wish that little or no latitude might be left to the sophistical constructions of men who may be interested in betraying the rights of the people, and elevating themselves upon the ruins of liberty. Sir, it is an object of infinitely too much importance to be committed to the sport of caprice, and the construction of interested men. If we adopt this Constitution, it is impossible, absolutely impossible, to know what we give up, and what we retain. I wish that this may, as far forth as possible, be ascertained; and, for this purpose. it is absolutely necessary that this clause should be amended.

Suppose, however, that the states have concurrent jurisdiction with Congress in *taxation*; it is evident, as the laws of Congress are the supreme laws of the land, that their taxes, whenever they interfere with the taxes laid by the states, must and will claim a priority as to the collection; in fact, that they may, in order to pass the laws necessary for the end, abolish the *state taxes*; and that they may constitutionally monopolize every source of revenue, and thus indirectly overturn the state governments; for how can the latter exist without revenue? How can they exist, I say, when they cannot raise one sixpence for their support, without the sovereign will and pleasure of Congress? Let us suppose, however, that both governments have and exercise the right of taxation; will there not be a struggle between them continually? Will there not be jealousies, contentions, and animosities? Every man that knows human nature will answer in the affirmative. Is this, then, a desirable thing? Will it promote the public good, the great end of all government? Sir, the questions admit of easy answers. This must evidently be the result of two taxing powers — either that the people are doubly taxed, or that the state governments are destroyed. Both will be pernicious. There must necessarily be a double set of revenue officers if the first happens, which will be an enormous expense. I know, sir, that these ideas will be considered struggle by some as bugbears; but, sir, if we reason from the practice of all governments, we must acknowledge at least the probability of the thing. In England, for instance, the people are not only oppressed with a variety of other heavy taxes, but, if my information is right, absolutely pay taxes for births, marriages, and deaths, for the light of heaven, and even for paying their debts. What reason have we to suppose that our rulers will be more sympathetic, and heap lighter burdens upon their constituents than the rulers of other countries? If crossing the Atlantic can make men virtuous and just, I acknowledge that they will be forever good and excellent rulers; hut otherwise, I must consider them us I do the magistrates of all other countries. Sir, a capitation is an oppressive species of tax. This may be laid by the general government. Where an equality in property exists, it is a just and good tax; it is a tax easy to assess, and on this account eligible; but, where a great disparity of fortune exists, as in this state, I insist upon it, that it is a most unjust, unequal, and ruinous tax. It is heaping all the support of the government upon the poor; it is making them beasts of burden to the rich; and it is probable it will be laid, if not stifled in the womb; because I think it almost morally certain that this new government will be administered by the wealthy. Will they not be interested in the establishment of a tax that will cause them to pay no more, for the defraying the public expenditures, than the poorest man in America?

The great Montesquieu says, that a poll tax upon the person is indicative of despotism, and that a tax upon property is congenial with the spirit of a free government. These, sir, are a few of the many reasons that render the clause defective, in my mind. I might here mention the dangers to freedom from an excise; but I forbear. I ought not to engross the attention of the committee, when it can be more usefully improved by gentlemen of more abilities than myself — gentlemen who, I trust, will paint in the clearest colors the impropriety and danger of this, as well as they have done of the other paragraphs. Sir, as I remarked before, if this power is given to the general government, without some such amendment as I proposed, it will annihilate all the powers of the state governments. There cannot be a greater solecism in politics than to talk of power in government without the command of any revenue: it is as absurd as to talk of an animal without blood, or of subsistence without food.

## Mr. Chancellor LIVINGSTON.

Mr. Chairman, I shall readily agree with the honorable member from Duchess, that no government can exist without revenues; that we ought to avoid a consolidation of the states; and that the extent of our country will not admit of a representation upon principles in any great degree democratic. These concessions are entirely indifferent to the point of dispute. But, sir, we will examine the amendment particularly, and adduce only such principles as immediately apply to it.

The first proposition in the amendment is, that no *excise* shall be laid on the manufactures of the United States; the second, that a requisition shall precede the imposition of a direct tax. The object of the first is to prevent our infant manufactures from being overburdened. Sir, if the manufactures of this country were always to be in a state of infancy, if the amendment were only a temporary expedient, the provision might consist with good policy; but, at a future day, an enlarged population will render us a manufacturing people. The imposts will then necessarily lessen, and the public wants will call for new sources of revenue. These sources will be multiplied with the increase of our wealth; and necessity, as well as policy, will induce us to improve them. We may naturally suppose that wines, brandy, spirits, malt liquors, &c., will be among the first subjects of excise. These are proper objects of taxation, not only as they will be very productive, but as charges on them will be favorable to the morals of the citizens. It should be considered that the burdens of government will be supported by the United States. They are to pay the interest of loans; they are to maintain the army and navy, and the most expensive civil establishment. If the individual states had any concern in these capital expenses, it would be proper that they should command the means of defraying them. But if you impose upon the Union all the burdens, and take from them a principal resource, what will they do when the imposts diminish, and the expenses of government increase? Why, they must have recourse to direct taxes; that is, taxes on land, and specific duties. Will this he a mode of raising money the most agreeable and satisfactory to the people? The gentlemen seem to calculate only from present appearances: they would insert in the Constitution a clause which in time may deprive the United States of a fruitful and in dispensable branch of revenue. I presume, sir, that, on deliberate reflection, they will see the impropriety of this part of the amendment.

The second part is of the greatest importance; its object is to prevent Congress from laying *direct taxes* in any of the states till they have previously made requisitions. Let us examine whether this measure will be compatible with sound policy: let us reason from experience. We have seen something of requisitions — enough, one would suppose, to make us exceedingly suspicious of them. We all know how they have hitherto operated. There are no arguments so forcible as those drawn from facts within our own knowledge. We may form as many conjectures and hypotheses as we please, but shall ever recur at last to experience as a sure guide. The gentlemen will, without doubt, allow that the United States will be subject to the same kind of expenses, and will have the same demand for money, as other nations. There are no governments that have not been obliged to levy direct taxes, and even procure loans, to answer the public wants; there are no governments which have not, in certain emergencies, been compelled to call for all the capital resources of the country. This may be the situation of the United States: we hope not in our day; but we must not presume it will never happen. Indeed, the motion itself is made upon the contemplation of this event. We conclude, therefore, that the gentleman who brought it forward is convinced that the necessities of government will call for more money than external and indirect taxation can produce. Our business, then, is to consider the mode recommended by the gentleman, and see whether it can possibly furnish supplies adequate to the exigencies of government. He says, Let requisitions precede coercion. Sir, what are these requisitions? What are these pompous petitions for public charity, which have made so much noise, and brought so little cash into the treasury? Have we not sported with the bubble long enough to discover its emptiness? What have requisitions done? Have they paid off our foreign and domestic debts? Have they supported our civil and small military establishments? The gentleman declares that a great sum has been paid; he includes the bounties given to the soldiers. Were not these obtained by coercion on individuals? Let him deduct these bounties, and he will find the amount actually paid to be extremely small. We know that the states which have paid most have not fully complied with the requisitions: some have contributed little, and some nothing. The gentleman also says, that delinquencies have been occasioned by the distresses of the war. Facts prove the contrary. New Hampshire has hardly felt the calamities of the war, and yet that state has paid little or nothing to the treasury. These circumstances show that the motives for compliance, which, during the contest, were as strong as they could be in any possible situation, have never been sufficient to produce any considerable exertions. Necessity of circumstances, which operates with almost a physical energy, alone procured any tolerable supplies. Thus the state of New York, which was continually the seat of war, was more punctual than the other states. The neighboring states afforded something, apparently in proportion to their sense of danger. When the enemy appeared in any state, we find them making efforts, and wearing at once a very federal complexion. If we look at the accounts of South Carolina, we shall find that they are credited for supplies furnished in their own state, and furnished only while the enemy were in the midst of them.

I imagine, sir, that *indirect taxes* will be generally sufficient in time of peace. But a constitution should be calculated for all circumstances — for the most critical and dangerous conjunctures. Let us suppose a sudden emergency, in which the ordinary resources are entirely inadequate to the public wants, and see what difficulties present themselves on the gentleman's plan. First, a requisition is to go out to all the states. It is by no means probable that half their legislatures will be in session; perhaps none of them. In the next place, they must be convened solely to consider the requisition. When assembled, some may agree to it; some may totally refuse; others may be dilatory, and contrive plausible excuses for delay. This is an exact picture of the proceedings on this subject which have taken place for a number of years. While these complicated and lingering operations are going on, the crisis may be passed, and the Union may be thrown into embarrassments, or involved in ruin. But immediately on refusal, the amendment proposes compulsion. This supposes that a complete establishment of executive officers must be constantly maintained, and that they will have firmness enough to oppose and set aside the law of the state. Can it be imagined, by any rational man, that the legislature of a state, which has solemnly declared that it will not grant a requisition, will suffer a tax for the same to be immediately levied on its citizens? We are then brought to this dilemma — either the collectors could not be so hardy as to disregard the laws of the states, or an internal war will take place. But, on either of these events, what becomes of the requisition and the tax? Sir, is there a people under heaven, who, countenanced and imboldened by the voice of their state legislatures, will ever pay a farthing of such a tax? They will resist it as they would a foreign tribute, or the invasion of an enemy. Under such circumstances, will Congress be able to borrow? We all know what has been the difficulty of procuring *loans*: we are sensible that foreign loans could not have been procured at all, had not the lenders been greatly interested in the success of the revolution. Besides, they undoubtedly expected such a change in our government as would enable the United States to provide efficient funds. Now, we are forming a constitution for ages, which will forever preclude the establishment of any certain funds. What hopes have we of borrowing, unless we have something to pledge for payment? And the avails of direct taxes are the only positive fund which can be pledged. I presume the impost and excise will not be more than sufficient to fund the debts we now owe. If future wars should lead us into extraordinary expenses, it will be necessary not only to lay direct taxes, but to procure new loans, to support those expenses.

Sir, if these reflections should have little weight with other states, they ought certainly to influence us, as we are a navigating state, and, from our local situation, shall be the first to suffer. This state will probably be the theatre of war. Gentlemen should remember that for a time we were compelled to bear almost the whole weight of the last war. If we form this Constitution so as to take away from the Union the means of protecting us, we must, in a future war, either be ruined by the enemy, or ruined by our exertions to protect ourselves. If the gentlemen acknowledge the necessities I have described may exist, they should be willing to give Congress the fullest power to provide for them

### Checks and Balances

But the point on which gentlemen appear to dwell with most attention and concern, is *the jurisdiction* of the united and individual states, in taxation. They say a concurrent jurisdiction cannot exist, and that the two powers will clash, and one or the other must be overpowered. Their arguments are considerably plausible; but if we investigate this matter properly, we shall see that the dangers they apprehend are merely ideal. Their fears originate in a supposed corruption of Congress; for, if the state governments are valuable and necessary to the system, it cannot be imagined that the representatives of the people, while they have a single principle of honesty, will consent to abolish them. If I proceeded here to prove the improbability of corruption, I should only repeat arguments which the committee have already heard most clearly and copiously detailed. The fact is, that, in our present state of society, and under the operation of this Constitution, interest and integrity will be connected by the closest ties. Interest will form a check which nothing can overcome. On interest, sir, we rest our principal hopes of safety. Your state government has the unlimited power over the purse and the sword: why do you not fear that your rulers will raise armies, to oppress and enslave the citizens? Clearly, because you feel a confidence in the men you elect; and that confidence is founded on the conviction you have that tyranny is totally inconsistent with their interest. You will give up to your state legislatures every thing dear and valuable; but you will give no power to Congress, because it may be abused; you will give them no revenue, because the public treasures may be squandered. But do you not see here a capital check? Congress are to publish, from time to time, an account of their receipts and expenditures. These may be compared together; and if the former, year after year, exceed the latter, the corruption will be detected, and the people may use the constitutional mode of redress. The gentleman admits that corruption will not take place immediately: its operations can only be conducted by a long series and a steady system of measures. These measures will be easily defeated, even if the people are unapprized of them They will be defeated by that continual change of members, which naturally takes place in free governments, arising from the disaffection and inconstancy of the people. A changeable assembly will be entirely incapable of conducting a system of mischief; they will meet with obstacles and embarrassments on every side.

It is observed that, if the general government are disposed, they can levy taxes exclusively. But, sir, they have not an exclusive right, except in a few specific cases. Their right is only concurrent. Let us see if the taxes will be exclusive in their operation. Whatever the gentleman may conjecture, I think it hardly possible that, when a state has laid a large duty upon a particular article, the Congress will be so unwise as to impose another upon the same, unless in extraordinary emergencies. There are certain capital subjects of taxation, which both the general and state governments must improve. But it is remarked that two taxes cannot operate together without confusion. Sir, experience has proved the contrary. We have state taxes, county taxes, and corporation taxes. How do these operate together? It is true that in some places they are collected by the same man; and probably also the federal and state taxes will be. But this is not material. It is the taxes, not the collectors, that are to contend; and if the taxes are incompatible with each other, a single collector, acting in different capacities, must go through the same ceremony of seizure, replevin, &c., which the gentleman has so humorously described. If the state collector gets the horse first, I suppose he will have the first satisfaction; and so the federal collector. Of what importance is it, whether a man pays forty shillings to one, or twenty shillings each, to two officers? I have never learned that there has been any clashing or confusion in the collection of our taxes. It is to be supposed that we have resources sufficient for the support of both the general and state governments: if this be not true, we may as well discard the system altogether, and either dissolve our Union, or form a simple consolidated government. But we presume, very justly, that the system will find ample resources for its support, as it stands. If this be acknowledged, I see no difficulty in the matter. The people have so much to pay; if they can afford this, if it be ready for the proper officers, what should occasion a quarrel between them? As for the gentleman's principle, that every government can raise more money than it can use, I confess I do not understand it.

It appears to me that the people cannot be very anxious about the particular channel through which their money flows into the federal treasury. They have such and such taxes to pay: can it be a matter of concern to them whether they are levied by a law of their state, or by a law of Congress? If they have any preference, one would suppose it would be for the latter mode; for that will be the least expensive.

In this argument, sir, I have endeavored to confine myself to the true point of dispute, and have taken notice of those observations only which appeared to me to be applicable. I beg the committee to keep in mind, as an important idea, that the accounts of the general government are, "from time to time," to be submitted to the public inspection.

## Hon. Mr. SMITH

remarked, that "from time to time" might mean from century to century, or any period of twenty or thirty years.

## The CHANCELLOR

asked if the public were more anxious about any thing under heaven than the expenditure of money. Will not the representatives, said he, consider it as essential to their popularity, to gratify their constituents with full and frequent statements of the public accounts? There can be no doubt of it.

## The Hon. Mr. HAMILTON.

This is one of those subjects, Mr. Chairman, on which objections very naturally arise, and assume the most plausible shape. Its address is to the passions, and its first impressions create a prejudice, before cool examination has an opportunity for exertion. It is more easy for the human mind to calculate the evils than the advantages of a measure; and vastly more natural to apprehend the danger than to see the necessity of giving powers to our rulers. Hence I may justly expect that those who hear me will place less confidence in those arguments which oppose, than in those which favor, their prepossessions.

### Checks and Balances

After all our doubts, our suspicions, and speculations, on the subject of government, we must return at last to this important truth — that, when we have formed a constitution upon free principles, when we have given a proper balance to the different branches of administration, and fixed representation upon pure and equal principles, we may, with safety, furnish it with all the powers necessary to answer, in the most ample manner, the purposes of government. The great *desiderata* are, *free representation* and *mutual checks*.

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

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

The great leading objects of the federal government, in which revenue is concerned, are to maintain domestic peace, and provide for the common defence. In these are comprehended the regulation of commerce, — that is, the whole system of foreign intercourse, — the support of armies and navies, and of the civil administration. It is useless to go into detail. Every one knows that the objects of the general government are numerous, extensive, and important. Every one must acknowledge the necessity of giving powers, in all respects, and in every degree, equal to these objects. This principle assented to, let us inquire what are the objects of the state governments. Have they to provide against foreign invasion? Have they to maintain fleets and armies? Have they any concern in the regulation of commerce, the procuring alliances, or forming treaties of peace? No. Their objects are merely civil and domestic — to support the legislative establishment, and to provide for the administration of the laws.

### Invasion

Let any one compare the expense of supporting the civil list in a state with the expense of providing for the defence of the Union. The difference is almost beyond calculation. The experience of Great Britain will throw some light on this subject. In that kingdom, the ordinary expenses of peace to those of war are as one to fourteen. But there they have a monarch, with his splendid court, and an enormous civil establishment, with which we have nothing in this country to compare. If, in Great Britain, the expenses of war and peace are so disproportioned, how wide will be their disparity in the United States! How infinitely wider between the general government and each individual state! Now, sir, where ought the great resources to be lodged? Every rational man will give an immediate answer. To what extent shall these resources be possessed? Reason says, As far as possible exigencies can require; that is, without limitation. A constitution cannot set bounds to a nation's wants; it ought not, therefore, to set bounds to its resources. Unexpected invasions, long and ruinous wars, may demand all the possible abilities of the country. Shall not your government have power to call these abilities into action? The contingencies of society are not reducible to calculations. They cannot be fixed or bounded, even in imagination. Will you limit the means of your defence, when you cannot ascertain the force or extent of the invasion? Even in ordinary wars, a government is frequently obliged to call for *supplies*, to the temporary oppression of the people.

Sir, if we adopt the idea of *exclusive revenues*, we shall be obliged to fix some distinguished line, which neither government shall overpass. The inconvenience of this measure must appear evident on the slightest examination. The resources appropriated to one may diminish or fail, while those of the other may increase beyond the wants of government. One may be destitute of revenues, while the other shall possess an unnecessary abundance; and the Constitution will be an eternal barrier to a mutual intercourse and relief. In this case, will the individual state stand on so good a ground as if the objects of taxation were left free and open to the embrace of both the governments? Possibly, in the advancement of commerce, the imposts may increase to such a degree as to render direct taxes unnecessary. These resources, then, as the Constitution stands, may be occasionally relinquished to the states; but on the gentleman's idea of prescribing exclusive limits, and precluding all reciprocal communication, this would be entirely improper. The laws of the states must not touch the appropriated resources of the United States, whatever may be their wants. Would it not be of much more advantage to the states to have a concurrent jurisdiction, extending to all the sources of revenue, than to be confined to such a small resource, as, on calculation of the objects of the two governments, should appear to be their due proportion? Certainly you cannot hesitate on this question. The gentleman's plan would have a further ill effect; it would tend to dissolve the connection and correspondence of the two governments, to estrange them from each other, and to destroy that mutual dependence which forms the essence of union.

Sir, a number of arguments have been advanced by an honorable member from New York, which to every unclouded mind must carry conviction. He has stated that, in certain emergencies, it may be necessary to *borrow*; and that it is impossible to borrow, unless you have funds to pledge for the payment of your debts. Limiting the powers of government to certain resources, is rendering the fund precarious; and obliging the government to ask, instead of empowering them to command, is to destroy all confidence and credit. If the power of taxing is restricted, the consequence is, that, on the breaking out of a war, you must divert the funds, appropriated to the payment of debts, to answer immediate exigencies. Thus you violate your engagements, at the very time you increase the burden of them. Besides, sound policy condemns the practice of accumulating debts. A government, to act with energy, should have the possession of all its revenues to answer present purposes. The principle for which I contend is recognized in all its extent by our old constitution. Congress is authorized to raise troops, to call for supplies without limitation, and to borrow money to any amount. It is true they must use the form of recommendations and requisitions; but the states are bound by the solemn ties of honor, of justice, of religion, to comply without reserve.

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

I insist that it never can be the interest or desire of the national legislature to destroy the *state governments*. It can derive no advantage from such an event; but, on the contrary, would lose an indispensable support, a necessary aid in executing the laws, and conveying the influence of government to the doors of the people. The Union is dependent on the will of the state governments for its chief magistrate, and for its Senate. The blow aimed at the members must give a fatal wound to the head; and the destruction of the states must be at once a political suicide. Can the national government be guilty of this madness? What inducements, what temptations, can they have? Will they attach new honors to their station? Will they increase the national strength? Will they multiply the national resources? Will they make themselves more respectable in the view of foreign nations, or of their fellow-citizens, by robbing the states of their constitutional privileges? But imagine, for a moment, that a political frenzy should seize the government; suppose they should make the attempt. Certainly, sir, it would be forever impracticable. This has been sufficiently demonstrated by reason and experience. It has been proved that the members of republics have been, and ever will be, stronger than the head. Let us attend to one general historical example: in the ancient *feudal governments* of Europe, there were, in the first place, a monarch; subordinate to him, a body of nobles; and subject to these, the vassals, or the whole body of the people. The authority of the kings was limited, and that of the *barons* considerably independent. A great part of the early wars in Europe were contests between the king and his nobility. In these contests, the latter possessed many advantages derived from their influence, and the immediate command they had over the people; and they generally prevailed. The history of the feudal wars exhibits little more than a series of successful encroachments on the prerogatives of monarchy. Here, sir, is one great proof of the superiority which the members in limited governments possess over their head. As long as the barons enjoyed the confidence and attachment of the people, they had the strength of the country on their side, and were irresistible. I may be told that, in some instances, the barons were overcome; but how did this happen? Sir, they took advantage of the depression of the royal authority, and the establishment of their own power, to oppress and tyrannize over the vassals. As commerce enlarged, and as wealth and civilization increased, *the people* began to feel their own weight and consequence: they grew tired of their oppressions, united their strength with that of the prince, and threw off the yoke of *aristocracy*. These very instances prove what I contend for. They prove that in whatever direction the popular weight leans, the current of power will flow; wherever the popular attachments lie, there will rest the political superiority. Sir, can it be supposed that the state will become the oppressors of the people? Will they forfeit their affections? Will they combine to destroy the liberties and happiness of their fellow-citizens, for the sole purpose of involving themselves in ruin? God forbid! The idea, sir, is shocking. It outrages every feeling of humanity, and every dictate of common sense.

There are certain social principles in human nature, from which we may draw the most solid conclusion with respect to the conduct of individuals and of, communities. We love our families more than our neighbors; we love our neighbors more than our countrymen in general. The human affections, like the solar heat, lose their intensity as they depart from the centre, and become languid in proportion to the expansion of the circle in which they act. On these principles, the attachment of the individual will be first and forever secured by the state governments: they will be a mutual protection and support. Another source of influence, which has already been pointed out, is the various official connections in the states. Gentlemen endeavor to evade the force of this by saying that these officers will be insignificant. This is by no means true. The state officers will ever be important, because they are necessary and useful. Their powers are such as are extremely interesting among the people; such as affect their property, their liberty, and life. What is more important than the administration of justice and the execution of the civil and criminal laws? Can the state governments become insignificant while they have the power of raising money independently, and without control? If they are really useful, if they are calculated to promote the essential interests of the people, they must have their confidence and support. The states can never lose their powers till the whole people of America are robbed of their liberties. These must go together; they must support each other, or meet one common fate. On the gentleman's principle we may safely trust the state governments, though we have no means of resisting them; but we cannot confide in the national government, though we have an effectual constitutional guard against every encroachment. This is the essence of their argument, and it is false and fallacious beyond conception.

With regard to the *jurisdiction* of the two governments, I shall certainly admit that the Constitution ought to be so formed as not to prevent the states from providing for their own existence; and I maintain that it is so formed, and that their power of providing for themselves is sufficiently established. This is conceded by one gentleman, and in the next breath the concession is retracted. He says, Congress have but one exclusive right in taxation — that of duties on imports; certainly, then, their other powers are only concurrent. But, to take off the force of this obvious conclusion, he immediately says that the laws of the United States are supreme; and that where there is one supreme, there cannot be concurrent authority; and further, that where the laws of the Union are supreme, those of the states must be subordinate, because there cannot be two supremes. This is curious sophistry. That two supreme powers cannot act together, is false. They are inconsistent only when they are aimed at each other, or at one indivisible object. The laws of the United States are supreme, as to all their proper, constitutional objects: the laws of the states are supreme in the same way. These supreme laws may act on different objects without clashing, or they may operate on different parts of the same object, with perfect harmony. Suppose both governments should lay a tax of a penny on a certain article: had not each an independent and uncontrollable power to collect its own tax? The meaning of the maxim, there cannot be two supremes, is simply this — two powers cannot be supreme over each other. This meaning is entirely perverted by the gentleman. But it is said, disputes between collectors are to be referred to the federal courts. This is again wandering in the field of conjecture. But suppose the fact certain; is it not to be presumed that they will express the true meaning of the Constitution and the laws? Will they not be bound to consider the concurrent jurisdiction; to declare that both the taxes shall have equal operation; that both the powers, in that respect, are sovereign and coëxtensive? If they transgress their duty, we are to hope that they will be punished. Sir, we can reason from probabilities alone. When we leave common sense, and give ourselves up to conjecture, there can be no certainty, no security in our reasonings.

I imagine I have stated to the committee abundant reasons to prove the entire *safety of the state governments* and of the people. I would go into a more minute consideration of the nature of the concurrent jurisdiction, and the operation of the laws, in relation to revenue; but at present I feel too much indisposed to proceed. I shall, with the leave of the committee, improve another opportunity of expressing to them more fully my ideas on this point. I wish the committee to remember that the Constitution under examination is framed upon truly republican principles; and that, as it is expressly designed to provide for the common protection and the general welfare of the United States, it must be utterly repugnant to this Constitution to subvert the state governments, or oppress the people.

# SATURDAY, *June* 28, 1788. —

## The Hon. Mr. HAMILTON.

Mr. Chairman, in the course of these debates, it has been suggested that the state of New York has sustained peculiar misfortune from the mode of raising revenues by requisitions. I believe we shall now be able to prove that this state, in the course of the late revolution, suffered the extremes of distress on account of this delusive system. To establish these facts, I shall beg leave to introduce a series of official papers, and resolutions of this state, as evidence of the sentiments of the people during the most melancholy periods of the war. I shall request the secretary to read these papers, in the order in which I point them out.

## His excellency, Gov. CLINTON.

I presume the introduction of this kind of evidence is occasioned by a conversation I had with one of the gentlemen yesterday. It would have been fair to mention to me, at that time, the intention of bringing these matters forward. Some new lights might then have been thrown on the subject, relative to the particular circumstances which produced the resolutions alluded to. An opportunity would also have been given of showing what the sense of Congress and of this state was, after those circumstances were changed. I believe these resolutions were previous to the accession of all the states to the Confederation. I could wish that these matters might be set in a clear point of light.

## The Hon. Mr. DUANE.

I hope the honorable member will not suppose that I have dealt unfairly. It is true I had some conversation with him yesterday, which led me to a conclusion that it would be fair and proper that these papers should be produced. But independently of that conversation, sir, I should have thought it my duty to bring them forward, because I believe that the melancholy experience of our country ought to have more influence on our conduct, than all the speculations and elaborate reasonings of the ablest men. I trust that this evidence will come home; that it will be felt. I am convinced that our greatest misfortunes originated in the want of such a government as is now offered to us. I assure the gentleman that the Conversation I had with him yesterday was not the cause of bringing these papers into view. I declare that, if I know my own heart, I have no intention of acting uncandidly.

## Gov. CLINTON.

I do not mean to create any dispute respecting the subject of these resolutions. I did inform the gentleman that there were several papers which would throw light on this question. All I say is, it would have been fair to produce all of them together, that the committee might not be deceived by a partial statement. I observed that all these resolutions were at a period antecedent to the completion of the Union, when Congress had no power at all. The gentlemen are mistaken if they suppose I wish to prevent the reading of them.

## Mr. DUANE.

I believe we shall find that there are resolutions subsequent, as well as antecedent, to the completion of the Confederation. This we shall endeavor to show. I am clear, sir, that these exhibits will furnish more effectual arguments than all that can be said. But I shall not enlarge. The papers will speak for themselves.

## Mr. M. SMITH.

I shall not oppose the reading of any papers the gentlemen may think proper to produce. But we shall reserve to ourselves the privilege of giving what we think to be the true explanation of them.

## Mr. HAMILTON.

We shall make the same reservation. By the indisputable construction of these resolutions, we shall prove that this state was once on the verge of destruction, for want of an energetic government. To this point we shall confine ourselves.

## Mr. TREDWELL.

 It appears to me useless to read these papers. If I understand the matter, they are produced to prove a point which is not contested. It is on all hands acknowledged that the federal government is not adequate to the purpose of the Union.

The papers were then read by the secretary, in the following order: —

1st. An extract from Governor Clinton's speech to the legislature, September 7, 1780.

2d. Extract from the answer of the Senate, September 9, 1780.

3d. Resolve of the Assembly, October 10, 1780.

4th. Resolve of both houses, October 10, 1780, respecting the Hartford Convention.

5th. A letter from the legislature of New York to Congress, dated Albany, February 5, 1781, describing the distresses of the state.

6th. A message from the governor to the legislature, March 9, 1781, announcing the establishment of the Confederation.

7th. Resolve of the legislature, dated March 29, 1781, relative to the Hartford Convention.

8th. Resolve of the legislature, November 21, 1781, recommending a five per cent. impost.

9th. A resolution of 20th July, 1782, lamenting the want of powers in Congress, and pointing out the defect of the Confederation.

After these papers were read,

## Gov. CLINTON

rose, and observed, that there could be no doubt that the representations made in them were true, and that they clearly expressed the sentiments of the people at those periods. Our severe distresses, he said. naturally led us into an opinion that the Confederation was too weak. It appears to me, the design of producing these papers is something more than to show the sentiments of the state during the war; that it is to prove that there now exists an opposition to an energetic government. I declare. solemnly, that I am a friend to a strong and efficient government. But, sir, we may err in this extreme: we may erect a system that will destroy the liberties of the people. Sir, at the time some of these resolves were passed, there was a dangerous attempt to subvert our liberties, by creating a supreme dictator. There are many gentlemen present who know how strongly I opposed it. My opposition was at the very time we were surrounded with difficulties and danger. The people, when wearied with their distresses, will, in the moment of frenzy, be guilty of the most imprudent and desperate measures. Because a strong government was wanted during the late war, does it follow that we should now be obliged to accept of a dangerous one? I ever lamented the feebleness of the Confederation, for this reason, among others, that the experience of its weakness would one day drive the people into an adoption of a constitution dangerous to our liberties. I know the people are too apt to vibrate from one extreme to another. The effects of this disposition are what I wish to guard against. If the gentleman can show me that the proposed Constitution is a safe one, I will drop all opposition. The public resolves, which have been read to you, are only expressive of the desire that once prevailed to remove present difficulties. A general impost was clearly intended, but it was intended as a temporary measure. I appeal to every gentleman present, if I have not been uniformly in favor of granting an impost to Congress. I confess, the manner in which that body proposed to exercise the power, I could not agree to. I firmly believed, that, if it were granted in the form recommended, it would prove unproductive, and would also lead to the establishment of dangerous principles. I believed that granting the revenue, without giving the power of collection, or a control over our state officers, would be the most wise and prudent measure. These are and ever have been my sentiments. I declare that, with respect to the papers which have been read, or any which I have in my possession, I shall be ready to give the committee all the information in my power.

## Mr. DUANE.

As I am sensible the gentleman last on the floor was in the confidence of the commander-in-chief, I would wish to ask if he did not, at different times, receive communications from his excellency, expressive of this idea — that, if this state did not furnish supplies to the army, it must be disbanded.

## Gov. CLINTON.

It is true, sir, I have received such communications more than once. I have been sent for to attend councils of war, where the state of the army was laid before me; and it was melancholy indeed. I believe that, at one period, the exertions of this state, in impressing flour from the people, saved the army from dissolution.

## Mr. HAMILTON.

The honorable gentleman from Ulster has given a turn to the introduction of those papers which was never in our contemplation. He seems to insinuate that they were brought forward with a view of showing an inconsistency in the conduct of some gentleman; perhaps of himself. Sir, the exhibition of them had a very different object. It was to prove that this state once experienced hardships and distresses to an astonishing degree, for want of the assistance of the other states. It was to show the evils we suffered since, as well as before, the establishment of the Confederation, from being compelled to support the burden of the war; that requisitions have been unable to call forth the resources of the country; that requisitions have been the cause of a principal part of our calamities; that the system is defective and rotten, and ought forever to be banished from our government. It was necessary — with deference to the honorable gentleman — to bring forward these important proofs of our argument, without consulting the feelings of any man.

That the human passions should flow from one extreme to another, I allow, is natural. Hence the mad project of creating a *dictator*. But it is equally true that this project was never ripened into a deliberate and extensive design When I heard of it, it met my instant disapprobation. The honorable gentleman's opposition, too, is known and applauded. But why bring these things into remembrance? Why affect to compare this temporary effusion with the serious sentiments our fellow-citizens entertained of the national weaknesses? The gentleman has made a declaration of his wishes for a strong federal government. I hope this is the wish of all. But why has he not given us his ideas of the nature of this government, which is the object of his wishes? Why does he not describe it? We have proposed a system which we supposed would answer the purposes of strength and safety. The gentleman objects to it, without pointing out the grounds on which his objections are founded, or showing us a better form. These general surmises never lead to the discovery of truth. It is to be desired that the gentleman would explain particularly the errors in this system, and furnish us with their proper remedies. The committee remember that a grant of an impost to the United States, for twenty-five years, was requested by Congress. Though it was a very small addition of power to the federal government, it was opposed in this state, without any reasons being offered. The dissent of New York and Rhode Island frustrated a most important measure. The gentleman says he was for granting the impost; yet he acknowledges he could not agree to the mode recommended. But it is well known that Congress had declared that they could not receive the accession of the states upon any other plan than that proposed. In such cases, propositions for altering the plan amounted to a positive rejection. At this time, sir, we were told it was dangerous to grant powers to Congress; did this general argument indicate a disposition to grant the impost in any shape? I should myself have been averse to the granting of very extensive powers; but the impost was justly considered as the only means of supporting the Union. We did not then contemplate a fundamental change in government. From my sense of the gentlemen's integrity, I am bound to believe that they are attached to a strong, united government; and yet I find it difficult to draw this conclusion from their conduct or their reasonings.

### Supreme

Sir, with respect to the subject of revenue, which was debated yesterday, it was asserted that, in all matters of taxation, except in the article of imposts, the united and individual states had a concurrent jurisdiction; that the state governments had an independent authority to draw revenues from every source but one. The truth of these positions will appear on a slight investigation. I maintain that the word *supreme* imports no more than this — that the Constitution, and laws made in pursuance thereof, cannot be controlled or defeated by any other law. The acts of the United States, therefore, will be absolutely obligatory as to all the proper objects and powers of the general government. The states, as well as individuals, are bound by these laws; but the laws of Congress are restricted to a certain sphere, and when they depart from this sphere, they are no longer supreme or binding. In the same manner the states have certain independent powers, in which their laws are supreme; for example, in making and executing laws concerning the punishment of certain crimes, such as murder, theft, &c., the states cannot be controlled. With respect to certain other objects, the powers of the two governments are concurrent, and yet supreme. I instanced yesterday a tax on a specific article. Both might lay the tax; both might collect it without clashing or interference. If the individual should be unable to pay both, the first seizure would hold the property. Here the laws are not in the way of each other; they are independent and supreme.

The case is like that of two creditors: each has a distinct demand; the debtor is held equally for the payment of both. Their suits are independent; and if the debtor cannot pay both, he who takes the first step secures his debt. The individual is precisely in the same situation, whether he pays such a sum to one, or to two. No more will be required of him to supply the public wants, than he has ability to afford. That the states have an undoubted right to lay taxes in all cases in which they are not prohibited, is a position founded on the obvious and important principle in confederated governments, that whatever is not expressly given to the federal head is reserved to the members. The truth of this principle must strike every intelligent mind. In the first formation of government, by the association of individuals, every power of the community is delegated, because the government is to extend to every possible object; nothing is reserved but the unalienable rights of mankind: but, when a number of these societies unite for certain purposes, the rule is different, and from the plainest reason — they have already delegated their sovereignty and their powers to their several governments; and these cannot be recalled, and given to another, without an express act. I submit to the committee whether this reasoning is not conclusive. Unless, therefore, we find that the powers of taxation are exclusively granted, we must conclude that there remains a concurrent authority. Let us, then, inquire if the Constitution gives such exclusive powers to the general government. Sir, there is not a syllable in it that favors this idea; not a word importing an exclusive grant, except in the article of imposts. I am supported in my general position by this very exception. If the states are prohibited from laying duties on imports, the implication is clear. Now, what proportion will the duties on imports bear to the other ordinary resources of the country? We may now say one third; but this will not be the case long. As our manufactures increase, foreign importations must lessen. Here are two thirds, at least, of the resources of our country open to the state governments. Can it be imagined, then, that the states will lose their existence or importance for want of *revenues*? The propriety of Congress possessing an exclusive power over the impost appears from the necessity of their having a considerable portion of our resources, to pledge as a fund for the reduction of the debts of the United States. When you have given a power of taxation to the general government, none of the states individually will be holden for the discharge of the federal obligations: the burden will be on the Union.

The gentleman says that the operation of the taxes will exclude the states on this ground — that the demands of the community are always equal to its resources; that Congress will find a use for all the money the people can pay. This observation, if designed as a general rule, is, in every view, unjust. Does he suppose the general government will want all the money the people can furnish, and also that the state governments will want all the money the people can furnish? What contradiction is this! But if this maxim be true, how does the wealth of the country ever increase? How are the people enabled to accumulate fortunes? Do the burdens regularly augment as its inhabitants grow prosperous and happy? But if, indeed, all the resources are required for the protection of the people, it follows that the protecting power should have access to them. The only difficulty lies in the want of resources. If they are adequate, the operation will be easy; if they are not, taxation must be restrained. Will this be the fate of the state taxes alone? Certainly not. The people will say, No. What will be the conduct of the national rulers? The consideration will not be, that our imposing the tax will destroy the states, for this cannot be effected; but that it will distress the people, whom we represent, and whose protectors we are. It is unjust to suppose they will be altogether destitute of virtue and prudence: it is unfair to presume that the representatives of the people will be disposed to tyrannize in one government more than in another. If we are convinced that the national legislature will pursue a system of measures unfavorable to the interests of the people, we ought to have no general government at all. But if we unite, it will be for the accomplishment of great purposes: these demand great resources and great powers. There are certain extensive and uniform *objects of revenue* which the United States will improve, and to which, if possible, they will confine themselves. Those objects which are more limited, and in respect to which the circumstances of the states differ, will be reserved for their use: a great variety of articles will be in this last class of objects, to which only the state laws will properly apply. To ascertain this division of objects is the proper business of legislation: it would be absurd to fix it in the Constitution, both because it would be too extensive and intricate, and because alteration of circumstances must render a change of the division indispensable. Constitutions should consist only of general provisions: the reason is, that they must necessarily be permanent, and that they cannot calculate for the possible change of things. I know that the states must have their resources; but I contend that it would be improper to point them out particularly in the Constitution.

Sir, it has been said that a *poll tax* is a tyrannical tax; but the legislature of this state can lay it, whenever they please. Does, then, our Constitution authorize tyranny? I am as much opposed to capitation as any man. Yet who can deny that there may exist certain circumstances which will render this tax necessary? In the course of a war, it may be necessary to lay hold of every resource; and for a certain period, the people may submit to it. But on removal of the danger, or the return of peace, the general sense of the community would abolish it. The United Netherlands were obliged, on an emergency, to give up one twentieth of their property to the government. It has been said that it will be impossible to exercise this power of taxation: if it cannot be exercised, why be alarmed? But the gentlemen say that the difficulty of executing it with moderation will necessarily drive the government into despotic measures. Here, again, they are in the old track of jealousy and conjecture. Whenever the people feel the hand of despotism, they will not regard forms and parchments. But the gentlemen's premises are as false as their conclusion. No one reason can be offered why the exercise of the power should be impracticable. No one difficulty can be pointed out which will not apply to our state governments. Congress will have every means of knowledge that any legislature can have. From general observation, and from the revenue systems of the several states, they will derive information as to the most eligible modes of taxation. If a land tax is the object, cannot Congress procure as perfect a valuation as any other assembly? Can they not have all the necessary officers for assessment and collections? Where is the difficulty? Where is the evil? They never can oppress a particular state by an unequal imposition; because the Constitution has provided a fixed ratio, a uniform rule, by which this must be regulated. The system will be founded upon the most easy and equal principles — to draw as much as possible from direct taxation; to lay the principal burdens on the wealthy, &c. Even ambitious and unprincipled men will form their system so as to draw forth the resources of the country in the most favorable and gentle methods, because such will be ever the most productive. They never can hope for success by adopting those arbitrary modes which have been used in some of the states.

A gentleman yesterday passed many encomiums on the character and operations of the *state governments*. The question has not been, whether their laws have produced happy or unhappy effects. The character of our confederation is the subject of our controversy. But the gentleman concludes too hastily. In many of the states, government has not had a salutary operation. Not only Rhode Island, but several others, have been guilty of indiscretions and misconduct — of acts which have produced misfortunes and dishonor. I grant that the government of New York has operated well, and I ascribe it to the influence of those excellent principles in which the proposed Constitution and our own are so congenial. We are sensible that private credit is much lower in some states than it is in ours. What is the cause of this? Why is it, at the present period, so low, even in this state? Why is the value of our land depreciated? It is said that there is a scarcity of money in the community. I do not believe this scarcity to be so great as is represented. It may not appear; it may be retained by its holders; but nothing more than stability and confidence in the government is requisite to draw it into circulation. It is acknowledged that the general government has not answered its purposes. Why? We attribute it to the defects of the revenue system. But the gentlemen say, the requisitions have not been obeyed, because the states were impoverished. This is a kind of reasoning that astonishes me. The records of this state — the records of Congress — prove that, during the war, New York had the best reason to complain of the non-compliance of the other states. I appeal to the gentleman. Have the states who have suffered least contributed most? No, sir; the fact is directly the reverse. This consideration is sufficient entirely to refute the gentleman's reasoning. Requisitions will ever be attended with the same effects. This depends on principles of human nature that are as infallible as any mathematical calculations. States will contribute or not, according to their circumstances and interests. They will all be inclined to throw off their burdens of government upon their neighbors. These positions have been so fully illustrated and proved in former stages of this debate, that nothing need be added. Unanswerable experience — stubborn facts — have supported and fixed them.

Sir, to what situation is our Congress now reduced! It is notorious that with the utmost difficulty they maintain their ordinary officers, and support the mere form of a federal government. How do we stand with respect to foreign nations? It is a fact that should strike us with shame, that we are obliged to borrow money in order to pay the interest of our debts. It is a fact that these debts are every day accumulating by compound interest. This, sir, will one day endanger the peace of our country, and expose us to vicissitudes the most alarming. Such is the character of requisitions — such the melancholy, dangerous condition to which they have reduced us! Now, sir, after this full and fair experiment, with what countenance do gentlemen come forward to recommend the ruinous principle, and make it the basis of a new government? Why do they affect to cherish this political demon, and present it once more to our embraces? The gentleman observed, that we cannot, even in a single state, collect the whole of a tax; some counties will necessarily be deficient. In the same manner, says he, some states will he delinquent. If this reasoning were just, I should expect to see the states pay, like the counties, in proportion to their ability, which is not the fact.

### Taxation

I shall proceed now more particularly to the proposition before the committee. This clearly admits that the *unlimited power of taxation*, which I have been contending for, is proper. It declares that, after the states have refused to comply with the requisitions, the general government may enforce its demands. While the gentlemen's proposition and principle admit this, in its fullest latitude, the whole course of the states is against it. The mode they point out would involve many inconveniences against which they would wish to guard. Suppose the gentleman's scheme should be adopted; would not all the resources of the country be equally in the power of Congress? The states can have but one opportunity of refusal. After having passed through the empty ceremony of a requisition, the general government can enforce all its demands, without limitation or resistance. The states will either comply, or they will not. If they comply, they are bound to collect the whole of the tax from the citizens. The people must pay it. What, then, will be the disadvantage of its being levied and collected by Congress, in the first instance? It has been proved, as far as probabilities can go, that the federal government will, in general, take the laws of the several states as its rule, and pursue those measures to which the people are most accustomed. But if the states do not comply, what is the consequence? If the power of a compulsion be a misfortune to the state, they must now suffer it without opposition or complaint. I shall show, too, that they must feel it in an aggravated degree. It may frequently happen that, though the states formally comply with the requisitions, the avails will not be fully realized by Congress: the states may be dilatory in the collection and payment, and may form excuses for not paying the whole. There may also be partial compliances, which will subject the Union to inconveniences. Congress, therefore, in laying the tax, will calculate for these losses and inconveniences. They will make allowances for the delays and delinquencies of the states, and apportion their burdens accordingly. They will be induced to demand more than their actual wants.

In these circumstances, the requisitions will be made upon calculations in some measure arbitrary. Upon the constitutional plan, the only inquiry will be, How much is actually wanted? and how much can the object bear, or the people pay? On the gentleman's scheme, it will be, What will be the probable deficiencies of the states? for we must increase our demands in proportion, whatever the public wants may be, or whatever may be the abilities of the people. Now, suppose the requisition is totally rejected; it must be levied upon the citizens without reserve. This will be like inflicting a penalty upon the states. It will place them in the light of criminals. Will they suffer this? Will Congress presume so far? If the states solemnly declare they will not comply, does not this imply a determination not to permit the exercise of the coercive power? The gentlemen cannot escape the dilemma into which their own reasoning leads them. If the states comply, the people must be taxed; if they do not comply, the people must equally be taxed. The burden, in either case, will be the same — the difficulty of collecting the same. Sir, if these operations are merely harmless and indifferent, why play the ridiculous farce? If they are inconvenient, why subject us to their evils? It is infinitely more eligible to lay a tax originally, which will have uniform effects throughout the Union, which will operate equally and silently. The United States will then be able to ascertain their resources, and to act with vigor and decision. All hostility between the governments will be prevented. The people will contribute regularly and gradually for the support of government; and all odious, retrospective inquiries will be precluded.

But the ill effects of the gentleman's plan do not terminate here. Our own state will suffer peculiar disadvantages from the measure. One provision in the amendment is, that no direct taxes shall be laid till after the *impost and excise* shall be found insufficient for the public exigencies; and that no excise shall be laid on articles of the growth or manufacture of the United States. Sir, the favorable maritime situation of this state, and our large and valuable tracts of unsettled land, will ever lead us to commerce and agriculture as our proper objects. Unconfined, and tempted by the prospect of easy subsistence and independence, our citizens, as the country populates, will retreat back, and cultivate the western parts of our state. Our population, though extensive, will never be crowded; and consequently we shall remain an importing and agricultural state. Now, what will be the operation of the proposed plan? The general government, restrained by the Constitution from a free application to other resources, will push imposts to an extreme. Will excessive impositions on our commerce be favorable to the policy of this state? Will they not directly oppose our interests? Similar will be the operation of the other clause of the amendment, relative to excise. Our neighbors, not possessed of our advantages for commerce and agriculture, will become manufacturers: their property will, in a great measure, be vested in the commodities of their own productions; but a small proportion will be in trade or in lands. Thus, on the gentleman's scheme, they will be almost free from burdens, while we shall be loaded with them. Does not the partiality of this strike every one? Can gentlemen, who are laboring for the interest of their state, seriously bring forward such propositions? It is the interest of New York that those articles should be taxed, in the production of which the other states exceed us. If we are not a manufacturing people, excises on manufactures will ever be for our advantage. This position is indisputable. Sir, I agree that it is not good policy to lay excises to any considerable amount, while our manufactures are in their infancy; but are they always to be so? In some of the states, they already begin to make considerable progress. In Connecticut, such encouragement is given as will soon distinguish that state. Even at the present period, there is one article from which a revenue may very properly be drawn: I speak of ardent spirits. New England manufactures more than a hundred gallons to our one; consequently, an excise on spirits at the still-head would nuke those states contribute in a vastly greater proportion than ourselves. In every view, excises on domestic manufactures would benefit New York. But the gentlemen would defeat the advantages of our situation, by drawing upon us all the burdens of government. The nature of our union requires that we should give up our state impost. The amendment would forfeit every other advantage. This part of the Constitution should not be touched. The excises were designed as a recompense to the importing states for relinquishing their imposts. Why, then, should we reject the benefits conferred upon us? Why should we run blindly against our own interest?

Sir, I shall no further enlarge on this argument: my exertions have already exhausted me. I have persevered from an anxious desire to give the committee the most complete conception of this subject. I fear, however, that I have not been so successful as to bestow upon it that full and clear light of which it is susceptible. I shall conclude with a few remarks by way of apology. I am apprehensive, sir, that, in the warmth of my feelings, I may have uttered expressions which were too vehement. If such has been my language, it was from the habit of using strong phrases to express my ideas; and, above all, from the interesting nature of the subject. I have ever condemned those cold, unfeeling hearts, which no object can animate. I condemn those indifferent mortals, who either never form opinions, or never make them known. I confess, sir, that on no subject has my breast been filled with stronger emotions, or more anxious concern. If any thing has escaped me, which may be construed into a personal reflection, I beg the gentlemen, once for all, to be assured that I have no design to wound the feelings of any one who is opposed to me.

While I am making these observations, I cannot but take notice of some expressions which have fallen in the course of the debate. It has been said that ingenious men may say ingenious things, and that those who are interested in raising the few upon the ruins of the many, may give to every cause an appearance of justice. I know not whether these insinuations allude to the characters of any who are present, or to any of the reasonings in this house. I presume that the gentlemen would not ungenerously impute such motives to those who diner from themselves. I declare I know not any set of men who are to derive peculiar advantages from this Constitution. Were any permanent honors or emoluments to be secured to the families of those who have been active in this cause, there might be some grounds for suspicion. But what reasonable man, for the precarious enjoyment of rank and power, would establish a system which would reduce his nearest friends and his posterity to slavery and ruin? If the gentlemen reckon me amongst the obnoxious few, if they imagine that I contemplate with ambitious eye the immediate honors of the government, yet let them consider that I have my friends, my family; my children, to whom ties of nature and of habit have attached me. If, to-day, I am among the favored few, my children, to-morrow, may be among the oppressed; these dear pledges of my patriotism may, at a future day, be suffering the severe distresses to which my ambition has reduced them. The changes in the human condition are uncertain and frequent: many, on whom Fortune has bestowed her favors, may trace their family to a more unprosperous station; and many, who are now in obscurity, may look back upon the affluence and exalted rank of their ancestors. But I will no longer trespass on your indulgence. I have troubled the committee with these observations, to show that it cannot be the wish of any reasonable man to establish a government unfriendly to the liberties of the people. Gentlemen ought not, then, to presume that the advocates of this Constitution are influenced by ambitious views. The suspicion, sir, is unjust; the charge is uncharitable.

## The Hon. Mr. LANSING.

This clause, Mr. Chairman, is, by every one, considered as one of the most important in the Constitution. The subject has been treated in a very diffusive manner. Among all the ingenious remarks that have been made, some are little more than repetitions; others are not very applicable or interesting. I shall beg leave to pass a few strictures on the paragraph; and, in my reply, shall confine myself to the arguments which have been advanced. The committee have been informed that it embraces a great variety of objects, and that it gives the general government a power to lay all kinds of *taxes*; that it confers a right of laying excises on all articles of American manufacture, of exacting an impost, in which the state governments cannot interfere, and of laying direct taxes without restriction. These powers reach every possible source of revenue. They will involve a variety of litigations, which can come only under the cognizance of the judiciary of the United States. Hence it must appear that these powers will affect, in an unlimited manner, the property of the citizens; that they will subject them, in a great degree, to the laws of the Union, and give an extensive jurisdiction to the federal courts. The objects of the amendment are, to prevent excises from being laid on the manufactures of the United States, and to provide that direct taxes shall not be imposed till requisitions have been made and proved fruitless.

All the reasoning of the gentlemen goes to prove that government ought to possess all the resources of a country. But so far as it respects government in general, it does not apply to this question. Giving the principle its full force, it does not prove that our federal government ought to have all the resources; because this government is but a part of a system, the whole of which should possess the means of support. It has been advanced repeatedly by the gentleman, that the powers of the United States should, like their objects, be national and general. It appears to him proper, therefore, that the nature of their resources should be correspondent. Sir, it has been declared that we can no longer place confidence in requisitions. A great deal of argument has been spent on this point. The gentlemen constantly consider the old mode of requisitions, and that proposed, in the same view. But not one of us has ever contended for requisitions in the form prescribed in the existing Confederation: hence the reasoning about the in-efficacy of the ancient mode has no application to the one recommended; which rests on different principles, and has a sanction of which the other is totally destitute. In the one instance, it is necessary to execute the requisitions of Congress on the states collectively. There is no way of doing this but by coercing a whole community, which cannot be effected. But the amendment proposes to carry the laws of Congress to the doors of individuals. This circumstance will produce an entire change in the operation of requisitions, and will give them an efficiency which otherwise they could not have. In this view, it will appear that the gentleman's principles respecting the character and effects of requisitions can have no application in this dispute. Much pains has been taken to show that requisitions have not answered the public exigencies. All this has been fully admitted in former stages of the debate. It was said by a gentleman yesterday, that though considerable sums of money had been paid by the people, it was by way of bounties to the soldiers which was a coercion on individuals. If, then, this coercion had its effect, certainly its operation, upon the proposed plan. will be much more forcible. It has been said that, in sudden emergencies, all the resources of the country might be required; and that the supreme head ought to possess the power of providing for the public wants, in every degree. It is an undoubted fact, that, in all government, it is extremely difficult, on the spur of the occasion, to raise money by taxes. Nor is it necessary. In a commercial country, persons will always be found to advance money to the government, and to wait the regular operation of the revenue laws. It depends on the security of the taxes, and the certainty of being refunded. This amendment does not diminish the security or render the fund precarious. The certainty of repayment is as well established as if the government could levy the taxes originally on individuals.

Sir, have the states ever shown a disposition not to comply with the requisitions? We shall find that, in almost every instance, they have, so far forth as the passing a law of compliance, been carried into execution. To what, then, are the delinquencies to be attributed? They must be to the impoverished state of the country. If the state governments have been unable to compel the people to obey their laws, will Congress be able to coerce them? Will the federal taxes be better paid? But, sir, no reasonable man will be apprehensive of the non-compliance of the states, under the operation of the proposed plan. The right of enforcing the requisitions will furnish the strongest motive for the performance of the federal duty. With this powerful inducement, there is hardly a possibility of failure. It has been asked, Why give the individual states the preference? Why not suffer the general government to apply to the people in the first instance, without the formality of a requisition? This question has been repeatedly asked, and as often answered. It is because the state legislatures are more nearly connected with the people, and more acquainted with their situation and wants. They better know when to enforce or relax their laws; to embrace objects or relinquish them, according to change of circumstances: they have but a few varying interests to comprehend in general provisions. Congress do not possess these advantages; they cannot have so complete an acquaintance with the people; their laws, being necessarily uniform, cannot be calculated for the great diversity of objects which present themselves to government. It is possible that the men delegated may have interests different from those of the people. It is observed that we have had experience of different kinds of taxes, which have been executed by different officers, — for instance, county and state taxes, — and that there has been no clashing or interference. But, sir, in these cases, if any dispute arises, the parties appeal to a common tribunal; but if collectors are appointed by different governments, and authorized by different laws, the federal officer will appeal to a federal court; his adversary will appeal to the state court. Will not this create contests respecting jurisdiction? But the Constitution declares that the laws of the United States shall be supreme. There is no doubt, therefore, that they must prevail in every controversy; and every thing which has a tendency to obstruct the force of the general government must give way.

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

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

[Mr. Hamilton here interrupted Mr. Lansing, and contradicted, in the most positive terms, the charge of inconsistency included in the preceding observations. This produced a warm personal altercation between those gentlemen, which engrossed the remainder of the day.]

# MONDAY, *June* 30, 1788. —

The personal dispute between Mr. Hamilton and Mr. Lansing was again brought forward, and occupied the attention of the committee for a considerable part of this day; on the termination of which, the debate upon Mr. Williams's motion was resumed, and continued by Mr. Williams, Mr. Smith, Mr. Jay, Mr. Jones, &c.

In the course of this debate,

## Mr. SMITH

made the following remarks, in answer to Mr. Hamilton; that, though the gentleman's maxim was true, that the means should be adequate to the end, yet it did not, by any means, apply to a complex system like ours, in which all the objects of government were not to be answered by the national head, and which, therefore, ought not to possess all the means. In another view, he said, the rule would not apply. It was not true that the power which was charged with the common defence should have all the revenues. In the government of Great Britain, the power to whom the common defence was committed did not possess the means of providing for it. The king had the whole power of war: but the Parliament only could furnish the money for conducting it. Still the government, taken all together, possessed all the powers and all the means. He thought it ought to be on such a footing here. The general government was one part of the system, the state governments another. Now, it was true, he said, that the system, taking all its parts together, ought to have unlimited powers. It was not the design of the amendment to prevent this: it was only to divide the powers between the parts, in proportion to their several objects.

# TUESDAY, *July* 1, 1788. —

## Mr. SMITH

observed, that he supposed the *states* would have a *right to lay taxes*, if there was no power in the general government to control them. He acknowledged that the counties in this state had a right to collect taxes; but it was only a legislative, not a constitutional right. It was dependent and controllable. This example, he said, was a true one; and the comparison the gentleman had made was just; but it certainly operated against him. Whether, then, the general government would have a right to control the states in taxation, was a question which depended upon the construction of the Constitution. Men eminent in law had given different opinions on this point. The difference of opinion furnished, to his mind, a reason why the matter should be constitutionally explained. No such important point should be left to doubt and construction. The clause should be so formed as to render the business of legislation as simple and plain as possible. It was not to be expected that the members of the federal legislature would generally be versed in those subtilties which distinguish the profession of the law. They would not be disposed to make nice distinctions with respect to jurisdiction. He said that, from general reasoning, it must be inferred that, if the objects of the general government were without limitation, there could be no bounds set to their powers; that they had a right to seek those objects by all necessary laws, and by controlling every subordinate power. The means should be adequate to the end: the less should give way to the greater. General principles, therefore. clearly led to the conclusion, that the general government must have the most complete control over every power which could create the least obstacle to its operations.

Mr. Smith then went into an examination of the particular provisions of the Constitution, and compared them together, to prove that his remarks were not conclusions from general principles alone, but warranted by the language of the Constitution. He conceived, therefore, that the national government would have powers, on this plan, not only to lay all species of taxes, but to control and set aside every thing which should impede the collection of them. They would have power to abrogate the laws of the states, and to prevent the operation of their taxes; and all courts, before whom any disputes on these points should come, whether federal or not, would be bound by oath to give judgment according to the laws of the Union. An honorable gentleman from New York, he said, had dwelt with great attention on the idea that the state governments were necessary and useful to the general system, and that this would secure their existence. Granting that they would be very convenient in the system, yet, if the gentleman's position were true, that the two governments would be rivals, we had no need to go any further than the common feelings and passions of human nature, to prove that they must be hostile, and that one or the other must be finally subverted. If they were mutually necessary to each other, how could they be rivals? For, in this case, lessening the power of the states would be only diminishing the advantages of the general government. Another source, from which the gentleman would derive security to the states, was the superior number of the state representatives. Mr. Smith apprehended, however, that this very circumstance would be an argument for abolishing them The people would be very apt to compare their small importance and powers with the great expense of their support He then went into an examination of another source of security which the gentleman had pointed out, — that is, the great number of officers dependent on the states, — and compared them with those of the United States, and concluded with observing, that he (Mr. Smith) was one who had opposed the impost: he was also opposed to the Constitution in its present form. He said, he had opposed the impost, because it gave too much power to a single body, organized as the old Congress was; and he objected to this Constitution, because it gave too much power to the general government, however it might be organized. In both, he said, he stood on the same ground, and his conduct had been uniform and consistent.

## The Hon. Mr. DUANE

addressed the committee in a long and elaborate speech. He commenced with an explanation of the motives which induced him to bring forward the *public papers*, which have been lately read; declared that he had, in that matter, been actuated by no personal designs, no possible disposition to censure the conduct or wound the feelings of any man; that his sole object was, to furnish the committee with the most convincing evidence as to the merits of the Constitution. He then went into a particular examination of the exhibits, painted the situation of the country at the period in which they were written, and illustrated and enforced their testimony. In the course of this investigation, he introduced and commented upon General Washington's circular letter, and concluded, that all this evidence afforded complete proof that requisitions had ever had an unhappy and fatal operation, that they would never answer the purposes of government, and that the principle ought to be forever discarded from our system. He then proceeded to enforce, by a variety of considerations, the argument respecting the propriety of the general government's being unrestricted in the exercise of those powers which were requisite for the common defence; spoke of the necessity, that might in future exist, of maintaining large armies and navies;

said that he, even in his old age, hoped yet to see the United States able, as well by sea as by land, to resent any injuries that might be offered them. It might very soon appear how necessary a powerful military might be. Occasions the most pressing were not even now wanting. The British, to this day, in defiance of the treaty of peace, held possession of our northern posts. This was the highest insult to our sovereignty. He hoped that these daring invasions would rouse the indignation of the United States. He had heard it surmised that the general government would probably never oblige the British to quit these posts; but whenever, said he, I find the Union guilty of such pusillanimity, I shall regret that I ever drew my breath in this country.

Mr. Duane then animadverted upon the reasoning of his opponents respecting the causes of the delinquencies of the states, and compared the exertions of the states with their different situations and circumstances, in order to prove that the deficiencies could not have arisen from poverty or distress. He declared that all which had been advanced by opposition in this head was totally unsupported by facts. The gentleman next proceeded to discuss the question of concurrent jurisdiction, and the particular advantages New York would derive from excises on our manufactures; spoke of the difficulties and embarrassments which would result from the proposed amendment, and concluded with a comparison of the new to the old system, and some general encomiums on the excellences of the former.

## The Hon. Mr. JAY

rose, and said he would confine himself to a few remarks, as the question had been pretty fully debated. He began with a description of the general characteristics of a government proper for the United States. It had, he said, been justly laid down, that a government which was to accomplish national purposes should command the national resources. Here a question had been raised. Would it be proper that the state governments should limit the powers of the general government, relative to its supplies? Would it be right or politic that the sovereign power of a nation should depend for support on the mere will of the several members of that nation? that the interest of a part should take place of that of the whole, or that the partial views of one of the members should interfere with and defeat the views of all? He said that, after the most mature reflection, he could see no possible impropriety in the general government having access to all the resources of the country. With respect to *direct taxes*, it appeared to him that the proposed amendment would involve great difficulties. Suppose a state should refuse to comply; would not the same motives, the same reasons, which produced the non-compliance, induce such state to resist the imposing and collecting of the tax? Would not a number of states, in similar circumstances, be. apt to unite to give their resistance weight? They could not all be forced. These ideas of the impracticability and the danger of the measure, he said, had been already fully illustrated, and they had made a deep impression on his mind. He apprehended that ambitious men might be found, in such emergencies, ready to take advantage of turbulent times, and put themselves at the head of such an association. After dwelling some time on this point, he proceeded to take notice of the objection relative to the want of that particular information in members of Congress, which, it had been said, would alone render them capable of imposing taxes with prudence and justice. The objection had some weight; but it ought to be considered that direct taxes were of two kinds, general and specific. With respect to the latter, the objection could not apply. The national government would, without doubt, usually embrace those objects which were uniform throughout the states; such as all specific articles of luxury. No particular minute knowledge could be necessary for this. For example, what difficulty or partiality would there be in the operation of a tax of twenty shillings on all coaches? The objection, then, could only apply to the laying of general taxes upon all property. But the difficulty on this score, he said, might be easily remedied. The legislatures of the several states would furnish their delegates with the systems of revenue, and give them the most particular information with regard to the modes of taxation most agreeable to the people. From the comparison of these, Congress would be able to form a general system, as perfect as the nature of things would admit. He appealed to the good sense and candor of the gentlemen, if this would not, in all probability, take place. After some considerations on the subject of concurrent jurisdiction, he said, he was convinced that it was sufficiently secured and established in the Constitution. But as gentlemen were of a different opinion on this point, it would be very easy, he said, to insert in the adoption of the system an explanation of this clause. Mr. Jay concluded by suggesting a difficulty on the subject of excise, which has not been attended to. He asked by what rule we should know an article of American from one of foreign manufacture: how could American nails, American porter, and hundreds of other articles, be distinguished from those of foreign production? He thought the proposed measure would create embarrassments, and the various abuses that would follow might be easily conceived.

## The Hon. Mr. SMITH,

after some introductory, cursory remarks, took notice of an honorable gentleman's wishes respecting a *navy*. He thought it would be wild and ridiculous to attempt a project of that kind for a considerable length of time, even if the treasury were full of money. He thought it was our duty to calculate for the present period, and not attempt to provide for the contingencies of two or three centuries to come. In time, events might take place which no human wisdom could foresee, and which might totally defeat and render useless these provisions. He insisted that the present state of the country alone ought to be. considered. In three or four hundred years, its population might amount to a hundred millions: at this period, two or three great empires might be established, totally different from our own.

Mr. Smith then made some remarks upon the circular letter of the late commander-in-chief, which Mr. Duane had produced. He asked whence the American army came: how were they raised and maintained, if the complaints in this letter were well founded? how had the country been defended, and our cause supported, through so long a war, if requisitions had been so totally fruitless? He observed that one of the gentlemen had contemplated associations among the states for the purpose of resisting Congress. This was an imaginary evil. The opposers of the Constitution, he said, had been frequently charged with being governed by chimerical apprehensions, and of being too much in extremes. He asked if these suggestions were not perfectly in the same style. We had had no evidence of a disposition to combine for such purposes: we had no ground to fear they ever would. But if they were, at any time, inclined to form a league against the Union, in order to resist an oppressive tax, would they not do it, when the tax was imposed without a requisition? Would not the same danger exist, though requisitions were unknown? He thought no power ought to be given which could not be exercised. The gentleman had himself spoken of the difficulties attending general, direct taxes, and had presumed that the general government would take the state systems, and form from them the best general plan they could. But this would but partially remedy the evil. How much better would it be to give the systems of the different states their full force, by leaving to them the execution of the tax, and the power of levying it on the people!

## The Hon. Chancellor LIVINGSTON.

When this subject came under discussion on Friday, Mr. Chairman, I did myself the honor to express my sentiments to the committee. I considered the amendment as it would affect the general government, and was favored with the support of my honorable colleague, who went more largely and ably into the argument, and added weight to the ideas I had suggested.

I shall now confine myself to a few cursory and general observations on the reasonings of our opponents. I do not think it my duty to attempt to reconcile the gentlemen with each other. They advance opposite principles, and they argue differently. As they do not appear to have any fixed maxims in their politics, it is not to be wondered at that they talk at random, and run into inconsistencies. The gentleman from Duchess went into a defence of the state governments: he painted their good qualities in very warm colors; described their stability, their wisdom, their justice, their affection for the people. This was undoubtedly proper; for it was necessary to his argument. On the contrary, another gentleman took up the matter in a different point of view. He said the government of New York, which had been acknowledged one of the best, was quite imperfect. But this was all right, for it answered his purpose. A gentleman from New York had remarked a great resemblance between the government of this state and the new Constitution. To condemn the former, therefore, was giving a death-blow at the proposed system. But, sir, though we may pardon the gentlemen for differing from each other, yet it is difficult to excuse their differing from themselves. As these inconsistencies are too delicate to dwell on, I shall mention but a few. Their amendment declares that Congress shall lay direct taxes, and the whole drift of their argument is against it. In their reasoning, direct taxes are odious and useless things; in their amendment, they are necessary and proper. Thus their arguments and their motion are at variance. But this is not the only contradiction. The gentlemen say that Congress will be avaricious, and will want every farthing of the people's property. One from Washington tells you that taxation will shut out the light of heaven, and will pick your pockets. With these melancholy ideas no wonder he mourns for the fair damsel of American liberty, harassed with oppressive laws, shut up in a dismal dungeon, robbed of the light of heaven, and, by a beautiful anti-climax, robbed of the money in her pocket. Yet, says the gentleman, though Congress will do all this. they cannot do it. You are told that the collection of the tax is impracticable. Is, then, this great mischief to arise from an impracticable thing? It is the reasoning among all reasoners, that from nothing nothing comes; and yet this nothing is to destroy the state governments, and swallow up the state revenue: the tax which cannot realize a farthing is to rob the citizens of all their property. This is fine reasoning. To what shall I compare it? Shall I liken it to children in the market-place, or shall I liken it to children making bubbles with a pipe? Shall I not rather compare it to two boys upon a balanced board? One goes up, the other down; and so they go up and down, down and up, till the sport is over, and the board is left exactly on the balance in which they found it. But let us see if we cannot, from all this rubbish, pick out something which may look like reasoning. I confess I am embarrassed by their mode of arguing. They tell us that the *state governments* will be destroyed, because they will have no powers left them. This is new. Is the power over property nothing? Is the power over life and death no power? Let me ask what powers this Constitution would take from the states. Have the state governments the power of war and peace, of raising troops, and making treaties? The power of regulating commerce we possess; but the gentlemen admit that we improperly possess it. What, then, is taken away? Have not the states the right of *raising money*, and *regulating the militia*? And yet these objects could never have employed your legislatures four or five months in the year. What, then, have they been about? — making laws to regulate the height of fences and the repairing of roads? If this be true, take the power out of their hands. They have been unworthy servants; they have not deserved your confidence. Admit that the power of raising money should be taken from them; does it follow that the people will lose all confidence in their representatives? There are but two objects for which money must be raised — the support of the general government and those of the states; and they have an equal right to levy and collect their taxes. But if, as the amendment proposes, they should be obliged to grant all that Congress should call for, — if they are to be compelled to comply with the requisitions without limitation, — they would be, on the gentleman's principles, in a pitiable situation indeed! The mode alone would be in their discretion. Is this the mighty matter about which we differ? Contend about modes! I am sorry to say, sir, that a rigid adherence to modes, in this state, has been the cause of great injustice to individuals, and has hurt the confidence of the people. It has led this state, on one occasion, to raise the expectations of public creditors, and to sink them again, by an unwarrantable breach of faith. Sir, if the power of regulating the militia, of raising money, of making and executing all the civil and criminal laws, — laws which affect the life, liberty, and property of individuals, — can insure or deserve the confidence and respect of the people, I think the gentleman's argument falls to the ground.

Much has been said, sir, about the sword and the purse. These words convey very confused ideas on the gentleman's application of them. The honorable member from New York has fully explained their meaning, as applied to the British government. His reasoning was so conclusive that it seems to have carried conviction to every mind. The gentleman from Duchess, to elude it, has made use of a singular shift. Says he, the general government and state governments form one government. Let us see how this matter stands. The states of Pennsylvania and New York form two distinct governments; but New York, Pennsylvania, and the general government, together form one government. The United States and New York make another government; the United States and Connecticut another, and so on. To the gentleman's optics these things may be clear; but to me they are utter darkness. We have thirteen distinct governments, and yet they are not thirteen governments, but one government. It requires the ingenuity of St. Athanasius to understand this political mystery. Were the gentleman a minister of the gospel, I might have *faith*; but I confess my reason is much too weak for it. Sir, we are attempting to build one government out of thirteen; preserving, however, the states, as parts of the system, for local purposes, and to give it support and beauty. The truth is, the states, and the United States, have distinct objects. They are both supreme. As to national objects, the latter is supreme; as to internal and domestic objects, the former. I can easily conceive of two joint tenures, and of joint jurisdictions without control. If I wanted an example, I might instance the mine, Mr. Chairman, in which you and others have a joint property and concurrent jurisdiction. But why should the states hold the purse? How are they to use it? They have not to pay the civil list, to maintain the army or navy. What will they do with it? What is the sword, which the gentlemen talk of? How is Congress to defend us without a sword? You will also keep that. How shall it be handled? Shall we all take hold of it? I never knew, till now, the design of a curious image I have seen at the head of one of our newspapers. I am now convinced that the idea was prophetic in the printer. It was a figure of thirteen hands, in an awkward position, grasping a perpendicular sword. As the arms which supported it were on every side, I could see no way of moving it, but by drawing it through, with the hazard of dangerously cutting the fingers. For my own part, I should be for crying, "hands off!" But this sword of the gentlemen's is a visionary sword — a mere empty pageant; and yet they would never trust it out of the state scabbard, lest it should wound somebody. They wish for checks against what can do no harm. They contend for a phantom. Gentlemen should consider their arguments before they come here. Sir, our reasoning on this ground is conclusive. If it be necessary to trust our defence to the Union, it is necessary that we should trust it with the sword to defend us, and the purse to give the sword effect. I have heard not a shadow of an argument to shake the truth of this. But the gentlemen will talk — it is expected. It is necessary that they should support, in this house, the opinions they have propagated out of doors, but which perhaps they had themselves too hastily formed.

Sir, one word with respect to excise. When I addressed the committee on Friday last, I observed, that the amendment would operate with great inconvenience; that, at a future period, this would be a manufacturing country; and then there would be many proper objects of excise. But the gentleman, in answer to this, says we ought not to look forward to a future period. What, then, must be this government of a day? It is the third time we have been making a government, and God grant it may be the last.

# WEDNESDAY, *July* 2, 1788. —

## Mr. G. LIVINGSTON.

Sir, I perfectly agree, with every gentleman that has spoken on this clause, that it is most important; and I likewise agree with those of the honorable members who think that, if this section is not amended, there will not the shadow of liberty be left to the states, as states. The honorable member from New York, (Mr. Hamilton,) on Saturday, went largely into the jurisdiction of the section as it stands; asserted that the government was truly republican — good and safe; that it would never be the interest of the general government to dissolve the states; that there was a concurrent jurisdiction, independent as to every thing but imports that the states had a supreme, uncontrolled, and uncontrollable power, in common with the general government, to every branch of revenue, except as to imposts, post-office, and the restraint with respect to exports; that, with respect to any productive source of revenue left, whichever (the general government or particular state) applied first would obtain it. As to the safety in the general government, considered as a complete republican government, several honorable members. as well as my worthy colleague, have fully considered, and in my humble opinion clearly shown, that it cannot be fully depended on as safe, on the score of representation. Therefore I conceive the state governments are necessary as the barrier between the people's liberties and any invasion which may be attempted on them by the general government. The honorable gentleman from New York has given us a new kind of power, or rather endeavored to show that power can be equally exercised in a way I believe never before thought of; that. is, two bodies, which have, or at least may have, separate and indeed contrary interests, to have at the same time uncontrollable power to derive support from, and have complete direction of, the same branch of revenue.

It seems, sir, to be agreed that state governments are necessary. The state governments will undoubtedly endeavor to support themselves. It also seems to be agreed that the general government will want all the money they can raise: it is in my mind as true (if they possibly can) that they will raise all they want. Now, sir, what will be the consequence, the probable consequence, in this taxing, collecting squabble? I think, sir, we may conclude, with great certainty, that the people will, between them, be pretty well taxed. An honorable member from New York, (chancellor,) on Friday last, endeavored to prove, and yesterday again tauntingly mentioned it, that, because taxes are annually collected in our counties, for state and county purposes, by the same collector, authorized by the same legislature, appointed by the same assessors, and to support the same government, — that, therefore, the same sources of revenue may safely be applied to, without any danger of clashing interference, for different purposes and by different powers — nay, by powers between whom, it seems to be agreed, there will be a struggle for supremacy; and one of the gentlemen (Mr. Hamilton) declares his apprehensions to be that, in the issue, the state governments will get the victory, and totally supplant the general government. Others, I believe with great probability of truth, think the states will cut but a scurvy figure in the unequal contest. This, sir, however, seems certain, that a contention there must be between them. Is this wise, Mr. Chairman, — now, when we are deliberating on a form of government which we suppose will affect our posterity to many ages, — to adopt a system in which we see, clearly see, the seeds of feud, contest, jealousy, and confusion? Further, sir, it is agreed that the support of the general government is of the utmost importance on the great scale; it is contended by some, as before mentioned, that, if both powers — the supreme, coexisting, coequal powers — should tax the same objects, the state taxes would be best paid. What, sir, would be the consequence? Why, the others would be badly paid, or not paid at all. What, then, is to become of your government? In this case, it must be annihilated indeed. Will this do? This bantling, sir, ought to be better provided for. For my part, I like it too well — if a little amended — to agree to a provision which is manifestly not sufficient for its support; for, if the gentleman's arguments have weight in them, (and that I would not wish to contest,) this government must fail; the states will be too many for it. My opinion is, sir, that a line be drawn. Certain and sufficient resources ought to be left solely to the states, as states, which the amendment does. And as the general government has some particular ones altogether at its command, so also ought there to be a right of requisition for what the specific funds may be deficient in. Sir, this requisition will have, in my opinion, directly a contrary effect to what some gentlemen suppose. It will serve to impress both the general government, as well as the particular state governments, with this important idea — that they conjointly are the guardians of the rights of the whole American family, different parts of the administration of the concerns of which being intrusted to them respectively. In the one case, Congress, as the head, will take care of the general concerns of the whole: in the other, the particular legislatures, as the stewards of the people, will attend to the more minute affairs Thus, sir, I wish to see the whole transacted in amity and peace, and no other contest than what may arise in the strife which may best answer the general end proposed, — to wit, peace, happiness, and safety.

Further, sir. It has been frequently remarked, from one side of the house, that most of the amendments proposed go on the supposition that corruption may possibly creep into the general government, and seem to discard the idea, as totally improbable. Of what kind of beings, sir, is the general government to be composed? If of men, I think it probable, at least, they may be corrupt. Indeed, if it were not for the depravity of human nature, we should stand in no need of human government at all.

Sir, I should not have added, but I am led to do it, — thus publicly to hold up my testimony to the world against the illiberal treatment we met with yesterday, and that from a quarter I little expected. Had I not been present, I should hardly have believed it possible that the honorable member from New York, who harangued the committee yesterday with such a torrent of illiberality, was the same man who, at the opening of the debates of this Convention, could wish that we should investigate with candor.

Will men, sir, by being called children, be convinced there is no reason in their arguments, or that there is strength in those of their opponents? I confess, sir, in the case before us, they will see strength in the gentleman's argument, (if what was said might be called an argument;) it was strong; and (to use one of the member's own similes) it consisted wholly of *brass*, without any mixture of clay; and by a luxuriancy of fancy which that member is famous for, and I suppose for the sake of variety, he has taken it from the feet and toes, where, on another occasion, he had emphatically placed it, and now has displayed it wholly in front.

The honorable member, sir, wrought himself up into such a strain of ridicule, that, after exhausting his admirable talents in this sublime and gentlemanlike science on his opponents, he finds another subject to display them on, in the emblem of liberty, the pillar and cap, which the friend and assertor of the rights of his fellow-citizens, John Holt, late printer of the New York Journal, in perilous times dared to use, as expressive of his own whiggish sentiments; who must be hauled from his grave for the purpose — but whose memory, maugre all the invectives which disdain may wish to throw upon it, will be dear to this country as long as the friends of liberty will dare to show their heads in it. Indeed, sir, this is not the first time that this emblem of liberty has been endeavored to be held up in a ridiculous point of light. And let me tell you, Mr. Chairman, it has the same effect on me now it had the first time. It roused every spark of whiggish resentment about my heart. In or about the year 1776, this cap of liberty was the subject of the tory wit of Vardel, or some of his associates about King's College, (as was supposed.) The member, who now exactly follows their track, (if they were the authors of it,) at that time found it not to his purpose openly to avow the sentiment.

But, sir, from the light in which he appears to hold the wavering conduct of *up, up, up* — and *down, down, down* — and *round, round, round*, — we are led to suppose, that his real sentiments are not subject to vary, but have been uniform throughout. I will leave the gentleman himself to reflect, what are the consequences which will naturally follow from these premises. If he does not like them, I cannot help it; he must be more careful, in future, in laying down propositions from which such consequences will follow.

I repeat, sir, that the member, in the first place, endeavors to ridicule the gentlemen opposed to him in sentiment. That was not enough; he must next attack the memory of the distinguished emblem of that good old whig, Mr. Holt. But, sir, as he laughed at a worthy member for making what he termed an anti-climax, he appears to be determined to make his own complete; and, for want of a third part more to his purpose, he finishes by an indirect though fashionable attempt to ridicule the sacred gospel itself, and the faith necessary for a sinner to partake of the benefits contained in it.

Before I sit down, sir, I must lament the occasion of the remarks I have last made. When gentlemen will, for the sake of displaying their own parts, or perhaps for worse purposes, depart from the line of propriety, then they are fair game. I cannot suppose, however, that it is disagreeable to the member himself, as he appears to delight to dabble in dirty water.

## Mr. WILLIAMS.

Mr. Chairman, although I think the speech of an honorable gentleman from New York totally undeserving of notice, with regard to argument, yet, as he has taken upon himself to misstate some of my sentiments, and attribute improper motives to me, I shall make a very short reply. He observed, that I said the state government was imperfect, because it answered my purpose. With equal justice I might retort that the honorable gentleman has been frequently talking of the defects of the articles of the Confederation, because it answered his purpose. But, sir, I said no more of the state Constitution than I can say with propriety of every thing else — that nothing is perfect. Even the honorable gentleman's wit and fancy cannot lay claim to perfection, or he would not have introduced the vulgar idea of children's tottering with boards. The gentleman observed, that I alleged that the Congress would rob the people of the light of heaven, and pick their pockets. This egregious misstatement I cannot account for. I have heard that a great philosopher endeavored to prove that ridicule was the test of truth; but, with the honorable gentleman, misrepresentation is the test of ridicule.

I think, sir, that no prudent people will trust power with their rulers, that cannot be exercised without injuring them. This I suppose to be the case with poll taxes. But the honorable gentleman hath not attempted to overthrow either the arguments of the honorable gentlemen who have spoken in favor of the amendment I had the honor to propose, or my own. He hath indeed attacked us with wit and fancy. If, however, we supposed him a formidable adversary, upon these considerations, and attempted to combat him with the same weapons, would it not be as ridiculous as it was for Don Quixote to fight with a windmill, upon the mad supposition that it was a giant? The gentleman had also observed, that every member of the committee was convinced, by the arguments of an honorable gentleman from New York, of the propriety of this paragraph, except the honorable gentleman from Duchess. Now, sir, how the honorable gentleman came to discover this, I cannot say: this I can say, for myself, that I am not convinced. The gentleman must, indeed, possess some wonderful faculties, if he can penetrate into the operations of the mind; he must, sir, possess the second sight in a surprising degree. Sir, I should, however, be very uncandid, if I attributed the gentleman's satirical remarks to a malevolent disposition: I do not, sir. I impute them to his politeness, which is the art of pleasing. Now, sir, every person must acknowledge that the honorable gentleman gave a great deal of pleasure yesterday, if laughter is a sign of pleasure; consequently, he was very polite. Sir, I shall not enter seriously into the subject until I hear serious answers to what I have offered to the committee. Sir, to conclude, the honorable gentleman, in my eye, from New York, may substitute his fanciful notions in the room of arguments; he may, sir, by his ridiculous — I mean ridiculing — powers, excite laughter and occasion smiles; but, trust me, sir, they will, instead of having the desired effect — instead of frightening — be considered with contempt.

## The Hon. Mr. SMITH.

Mr. Chairman, the honorable gentleman who spoke yesterday animadverted, in a very ludicrous manner, upon my arguments, and endeavored to place them in a ridiculous point of view. Perhaps it was necessary that the Convention should be diverted with something fanciful, and that they should be relieved from the tediousness of a dull debate by a few flashes of merriment. I suppose it was for this purpose that the gentleman was induced to make so handsome a display of his comic talents, to the no small entertainment of the ladies and gentlemen without the bar. It is well known that, in theatrical exhibitions, the farce succeeds the tragedy. Now, as another honorable gentleman (Mr. Duane) had, hut the day before, called to our minds, in a most dismal picture, the tragic scenes of war, devastation, and bloodshed, it was entirely proper that our feelings should be relieved from the shocking impression by a light and musical play. I think the gentleman has acquitted himself admirably. However, his attack seems to have thrown him off his guard, and to have exposed him to his own weapons. The gentleman might well have turned his strictures upon bis own contradictions; for, at one time, he argues that a federal republic is impracticable; at another, he argues that the proposed government is a federal republic. At one time, he says the old Confederation has no power at all, at another, he says it has nearly as many as the one proposed. He seems to be an enemy to creeds; and yet, with respect to concurrent juris diction, he presents us with his creed, which we are bound to believe. Let us hear it. "I believe that the general government is supreme, and that the state governments arc supreme; and yet they are not two supremes, but one supreme; and this cannot be doubted." He says there is a concurrent jurisdiction in your mine, Mr. Chairman, and yet you do not concur; for the gentleman himself claims the soil, and there seems to be a difference between you. But, as the honorable gentleman considers his harangue as containing some reasoning, I shall take notice of a few remarks.

The gentleman has said that the committee seemed to be convinced by the arguments of an honorable member from New York. I suppose it was only a fancy of the moment that struck him, of which he can probably give no better account than the rest of us. I can only say for myself, that, the more I hear and reflect, the more convinced I am of the necessity of amendment. Whether the committee have received conviction can easily be settled by a vote.

The gentleman from Washington has said that even the state of New York was not a perfect form. In the course of my argument, I observed that the state legislatures were competent to good government, and that it was not proper to exchange governments at so great a risk. Where is the mighty contradiction? I said that the state governments were proper depositories of power, and were the proper guardians of the people. I did not say that any government was perfect, nor did I ascribe any extraordinary qualities to the states. The gentleman endeavors to fix another contradiction upon me. He charges me with saying that direct taxes are dangerous and yet impracticable. This is an egregious misrepresentation. My declaration was, that general direct taxes would be extremely difficult in the apportionment and collection, and that this difficulty would push the general government into despotic measures. The gentleman also ridicules our idea of the states losing their powers. He says this Constitution adds little or no power to the Union, and consequently takes little or nothing from the states. If this be true, what are the advocates of the system contending about? It is the reasoning among all reasoners, that nothing to something adds nothing. If the new plan does not contain any new powers, why advocate it? If it does, whence are they taken? The honorable member cannot understand our argument about the sword and the purse, and asks, Why should the states hold them? I say, the state governments ought to hold the purse, to keep people's hands out of it. With respect to the sword, I say you must handle it, through your general government; but the states must have some agency, or the people will not be willing to put their hands to it. It is observed that we must talk a great deal, and that it is necessary to support here what we have said out of doors. Sir, I conceive that we ought to talk of this subject every where. Several gentlemen have observed that it is necessary these powers should be vested in Congress, that they may have funds to pledge for the payment of debts. This argument has not the least weight in my mind. The government ought not to have it in their power to borrow with too great facility. The funds which we agree to lodge with Congress will be sufficient for as much as they ought to borrow.

I submit to the candor of the committee, whether any evidence of the strength of a cause is afforded, when gentlemen, instead of reasoning fairly, assert roundly, and use all the powers of ridicule and rhetoric to abuse their adversaries. Any argument may be placed in a ridiculous light, by taking only detached parts. I wish, Mr. Chairman, that ridicule may be avoided. It can only irritate the passions, and has no tendency to convince the judgment.

## The CHANCELLOR

said, he was very unfortunate in provoking so many able antagonists. They had given a turn to his arguments and expressions which he did not expect. He was, however, happy that he could say, with Sir John Falstaff, that if he had no. wit himself, he had been the occasion of wit in others; and therefore he supposed that the ladies, this day, had been as well entertained as yesterday. He went on to explain what the gentleman had imputed to him as contradictions. He had charged him with saying that a federal government could not exist, and yet that he had contended for one. This was false; he had maintained that a single league of states could not long exist, and had proved it by examples. This was fair reasoning, and he had not said any thing to contradict it. He then went through a review of his arguments, to prove that he had been misrepresented, and that he had been consistent throughout. But, said the chancellor, what most deeply wounds me is, that my worthy kinsman across the table, regardless of our common ancestry, and the tender ties of blood, should join his dagger with the rest, and compel me to exclaim, in the dying words of Caesar, "And thou, too, Brutus!" The gentleman alleges, first, that I have treated the holy gospel with disdain. This is a serious charge. I deny it. If I have used a phrase disagreeable to him, I certainly have expressed nothing disrespectful of the Scriptures. If I have used a few words, there are gentlemen who have quoted, not only verses, but chapters. He tells you I have insulted the good Mr. Holt: I declare, I did not know the newspaper I referred to was his. He then tells you that my sentiments are illiberal, and that I insinuate that the worthy printer did not act on sound principles of whiggism. If this were true, my insinuations would indeed be both illiberal and false. Sir, if gentlemen will come forward with absurd arguments, imagine erroneous premises, and draw false conclusions, shall they not be exposed? and if their contradictions render them ridiculous, is it my fault? Are not the absurdities of public speakers ridiculed in all countries? Why not expose false reasoning? Why not pluck from Sophistry the delusive veil by which she imposes on the people? If I am guilty of absurdities, let them be detected and displayed If the fool's cap fits me, clap it on: I will wear it, and all shall laugh. Sir, the very day after I made my first speech to this committee, I was attacked with great severity, and with unusual weapons. A dreadful and terrible beast, with great iron claws and ghastly look, was made to grin horribly in my face. I appeal to this committee, sir, whether gentlemen have not said plainly, that the powers of Congress would be dangerous, and yet impracticable. If they will speak such nonsense, they must he exposed. Their other arguments are equally ridiculous; they reason in confusion. They form a government, to consist of thirteen governments; one controls thirteen, and thirteen control one. With regard to the sword and the purse, I could have no conception of Congress keeping a sword, and the states using it; of Congress using a purse, and the states keeping it; of Congress having power, and the states exercising it. I could not reconcile these things to my reason. Sir, when any argument, on such a subject as this, strikes me as being absurd and ridiculous, I cannot conceal my emotions; I think it my duty to expose it boldly; and I shall continue to do this, without any apprehensions from those virulent attacks which have been aimed at me from every quarter.

## Mr. TREDWELL.

Sir, little accustomed to speak in public, and always inclined, in such an assembly as this, to be a hearer rather than a speaker, on a less important occasion than the present I should have contented myself with a silent vote; but when I consider the nature of this dispute, that it is a contest, not between little states and great states, (as we have been told,) between little folks and great folks, between patriotism and ambition, between freedom and power; not so much between the navigating and non-navigating states, as between navigating and non-navigating individuals, (for not one of the amendments we contend for has the least reference to the clashing interests of states;) when I consider, likewise, that a people jealous of their liberties, and strongly attached to freedom, have reposed so entire a confidence in this assembly, that upon our determination depends their future enjoyment of those invaluable rights and privileges, which they have so lately and so gallantly defended at every risk and expense, both of life and property, — it appears to me so interesting and important, that I cannot be totally silent on the occasion, lest lisping babes should be taught to curse my name, as a betrayer of their freedom and happiness.

The gentleman who first opened this debate did (with an emphasis which I believe convinced every one present of the propriety of the advice) urge the necessity of proceeding, in our deliberations on this important subject, coolly and dispassionately. With how much candor this advice was given, appears from the subsequent parts of a long speech, and from several subsequent speeches almost totally addressed to our fears. The people of New Jersey and Connecticut are so exceedingly exasperated against us, that, totally regardless of their own preservation, they will take the two rivers of Connecticut and Delaware by their extremities, and, by dragging them over our country, will, by a sweeping deluge, wash us all into the Hudson, leaving neither house nor inhabitant behind them. But if this event should not happen, doubtless the Vermontese, with the British and tories our natural enemies, would, by bringing down upon us the great Lake Ontario, sweep hills and mountains, houses and inhabitants, in one deluge, into the Atlantic. These, indeed, would be terrible calamities; but terrible as they are, they are not to be compared with the horrors and desolation of tyranny. The arbitrary courts of Philip in the Netherlands, in which life and property were daily confiscated without a jury, occasioned as much misery and a more rapid depopulation of the province, before the people took up arms in their own defence, than all the armies of that haughty monarch were able to effect afterwards; and it is doubtful, in my mind, whether governments, by abusing their powers, have not occasioned as much misery and distress, and nearly as great devastations of the human species, as all the wars which have happened since Milton's battle of the angels to the present day. The end or design of government is, or ought to be, the safety, peace, and welfare of the governed. Unwise, therefore, and absurd in the highest degree, would be the conduct of that people, who, in forming a government, should give to their rulers power to destroy them and their property, and thereby defeat the very purpose of their institutions; or, in other words, should give unlimited power to their rulers, and not retain in their own hands the means of their own preservation. The first governments in the world were parental, the powers of which were restrained by the laws of nature; and doubtless the early succeeding governments were formed on the same plan, which, we may suppose, answered tolerably well in the first ages of the world, while the moral sense was strong, and the laws of nature well understood, there being then no lawyers to explain them away. But in after times, when kings became great, and courts crowded, it was discovered that governments should have a right to tyrannize, and a power to oppress; and at the present day, when the *juris periti* are become so skilful in their profession, and quibbling is reduced to a science, it is become extremely difficult to form a constitution which will secure liberty and happiness to the people, or laws under which property is safe. Hence, in modern times, the design of the people, in forming an original constitution of government, is not so much to give powers to their rulers, as to guard against the abuse of them; but, in a federal one, it is different.

### Martial Law

Sir, I introduce these observations to combat certain principles which have been daily and confidently advanced by the favorers of the present Constitution, and which appear to me totally indefensible. The first and grand leading, or rather misleading, principle in this debate, and on which the advocates for this system of unrestricted powers must chiefly depend for its support, is that, in forming a constitution, whatever powers are not expressly granted or given the government, are reserved to the people, or that rulers cannot exercise any powers but those expressly given to them by the Constitution. Let me ask the gentlemen who advanced this principle, whether the commission of a Roman dictator, which was in these few words — to take care that the state received no harm — does not come up fully to their ideas of an energetic government; or whether an invitation from the people to one or more to come and rule over them, would not clothe the rulers with sufficient powers. If so, the principle they advance is a false one. Besides, the absurdity of this principle will evidently appear, when we consider the great variety of objects to which the powers of the government must necessarily extend, and that an express enumeration of them all would probably fill as many volumes as Pool's Synopsis of the Critics. But we may reason with sufficient certainty on the subject, from the sense of all the public bodies in the United States, who had occasion to form new constitutions. They have uniformly acted upon a direct and contrary principle, not only in forming the state constitutions and the old Confederation, but also in forming this very Constitution, for we do not find in every state constitution express resolutions made in favor of the people; and it is clear that the late Convention at Philadelphia, whatever might have been the sentiments of some of its members, did not adopt the principle, for they have made certain reservations and restrictions, which, upon that principle, would have been totally useless and unnecessary; and can it be supposed that that wise body, whose only apology for the great ambiguity of many parts of that performance, and the total omission of some things which many esteem essential to the security of liberty, was a great desire of brevity, should so far sacrifice that great and important object, as to insert a number of provisions which they esteemed totally useless? Why is it said that the privilege of the writ of *habeas corpus* shall not be suspended, unless, in cases of rebellion or invasion, the public safety may require it? What clause in the Constitution, except this very clause itself, gives the general government a power to deprive us of that great privilege, so sacredly secured to us by our state constitutions? Why is it provided that no bill of attainder shall be passed, or that no title of nobility shall be granted? Are there any clauses in the Constitution extending the powers of the general government to these objects? Some gentlemen say that these, though not necessary, were inserted for greater caution. I could have wished, sir, that a greater caution had been used to secure to us the freedom of election, a sufficient and responsible representation, the freedom of the press, and the trial by jury both in civil and criminal cases.

These, sir, are the rocks on which the Constitution should have rested; no other foundation can any man lay, which will secure the sacred temple of freedom against the power of the great, the undermining arts of ambition, and the blasts of profane scoffers — for such there will be in every age — who will tell us that all religion is in vain; that is, that our political creeds, which have been handed down to us by our forefathers as sacredly as our Bibles, and for which more of them have suffered martyrdom than for the creed of the apostles, are all nonsense; who will tell us that paper constitutions are mere paper, and that parchment is but parchment, that jealousy of our rulers is a sin, &c. I could have wished also that sufficient caution had been used to secure to us our religious liberties, and to have prevented the general government from tyrannizing over our consciences by a religious establishment — a tyranny of all others most dreadful, and which will assuredly be exercised whenever it shall be thought necessary for the promotion and support of their political measures. It is ardently to be wished, sir, that these and other invaluable rights of freemen had been as cautiously secured as some of the paltry local interests of some of the individual states. But it appears to me, that, in forming this Constitution, we have run into the same error which the lawyers and Pharisees of old were charged with; that is, while we have secured the tithes of mint, anise, and cumin, we have neglected the weightier matters of the law, judgment, mercy, and faith. Have we not neglected to secure to ourselves the weighty matters of judgment or justice, by empowering the general government to establish one supreme, and as many inferior, courts as they please, whose proceedings they have a right to fix and regulate as they shall think fit, so that we are ignorant whether they shall be according to the common, civil, the Jewish, or Turkish law? What better provisions have we made for mercy, when a many for ignorantly passing a counterfeit continental note, or bill of credit, is liable to be dragged to a distant county, two or three hundred miles from home, deprived of the support and assistance of friends, to be tried by a strange jury, ignorant of his character, ignorant of the character of the witnesses, unable to contradict any false testimony brought against him by their own knowledge of facts, and with whom the prisoner being unacquainted, he must be deprived totally of the benefit of his challenge? and besides all that, he may be exposed to lose his life, merely for want of property to carry his witnesses to such a distance; and after all this solemn farce and mockery of a trial by jury, if they should acquit him, it will require more ingenuity than I am master of, to show that he does not hold his life at the will and pleasure of the Supreme Court, to which an appeal lies, and consequently depend on the tender mercies, perhaps, of the wicked, (for judges may be wicked;) and what those tender mercies are, I need not tell you. You may read them in the history of the Star Chamber Court in England, and in the courts of Philip, and in your Bible.

This brings me to the third and last weighty matter mentioned in the text — to wit, faith. The word *faith* may, with great propriety, be applied to the articles of our political creed, which, it is absolutely necessary, should be kept pure and uncorrupted, if we mean to preserve the liberties of our country and the inestimable blessings of a free government. And, sir, I cannot but be seriously alarmed on this head, as has frequently been the case during the present discussion, — gentlemen of the first rank and abilities openly opposing some of the most essential principles of freedom, and endeavoring, by the most ingenious sophistry, and the still more powerful weapons of ridicule, to shake or corrupt oar faith therein. Have we not been told that, if government is but properly organized, and the powers were suitably distributed among the several members, it is unnecessary to provide any other security against the abuse of its power? that power thus distributed needs no restriction? Is this a whig principle? Does not every constitution on the continent contradict this position? Why are we told that all restrictions of power are found to be inconvenient? that we ought to put unlimited confidence in our rulers. that it is not our duty to be jealous of men in power. Have we not had an idea thrown out of establishing an aristocracy in our own country, — a government than which none is more dreadful and oppressive?

What the design of the preacher on this occasion is, I will not attempt to determine; far be it from me to judge men's hearts: but thus much I can say, from the best authority, they are deceitful above all things, and desperately wicked. But whatever be the design of the preachers, the tendency of their doctrines is clear; they tend to corrupt our political faith, to take us off our guard, and lull to sleep that jealousy which, we are told by all writers, — and it is proved by all experience, — is essentially necessary for the preservation of freedom. But notwithstanding the strongest assertions that there are no wolves in our country, if we see their footsteps in every public path, we should be very credulous and unwise to trust our flocks abroad, and to believe that those who advised us to do it were very anxious for their preservation.

In this Constitution, sir, we have departed widely from the principles and political faith of '76, when the spirit of liberty ran high, and danger put a curb on ambition. Here we find no security for the rights of individuals, no security for the existence of our state governments; here is no bill of rights, no proper restriction of power; our lives, our property, and our consciences, are left wholly at the mercy of the legislature, and the powers of the judiciary may be extended to any degree short of almighty. Sir, in this Constitution we have not only neglected, — we have done worse, — we have openly violated, our faith, — that is, our public faith.

The seventh article, which is in these words, "The ratifications of the Conventions of nine states shall be sufficient for the establishment of this Constitution between the states so ratifying the same," is so flagrant a violation of the public faith of these states, so solemnly pledged to each other in the Confederation, as makes me tremble to reflect upon; for, however lightly some may think of *paper* and *parchment* constitutions, they are recorded, sir, in that high court of appeals, the Judge of which will do right, and I am confident that no such violation of public faith ever did, or ever will, go unpunished.

### Exclusive Legislation

The plan of the *federal city*, sir, departs from every principle of freedom, as far as the distance of the two polar stars from each other; for, subjecting the inhabitants of that district to the exclusive legislation of Congress, in whose appointment they have no share or vote, is laying a foundation on which may be erected as complete a tyranny as can be found in the Eastern world. Nor do I see how this evil can possibly be prevented, without razing the foundation of this happy place, where men are to live, without labor, upon the fruit of the labors of others; this political hive, where all the drones in the society are to be collected to feed on the honey of the land. How dangerous this city may be, and what its operation on the general liberties of this country, time alone must discover; but I pray God, it may not prove to this western world what the city of Rome, enjoying a similar constitution, did to the eastern.

There is another clause in this Constitution, which, though there is no prospect of getting it amended, I think ought not to be passed over in silence, lest such a silence should be construed into a tacit approbation of it. I mean the clause which restricts the general government from putting a stop, for a number of years, to a commerce which is a stain to the commerce of any civilized nation, and has already blackened half the plains of America with a race of wretches made so by our cruel policy and avarice, and which appears to me to be already repugnant to every principle of humanity, morality, religion, and good policy. There are other objections to this Constitution, which are weighty and unanswerable; but they have been so clearly stated, and so fully debated, in the course of this discussion, that it would be an unjustifiable intrusion on the patience of the house to repeat them. I shall therefore content myself with a few observations on the general plan and tendency. We are told that this is a federal government. I think, sir, there is as much propriety in the name, as in that which its advocates assume, and no more; it is, in my idea, as complete a consolidation as the government of this state, in which legislative powers, to a certain extent, are exercised by the several towns and corporations. The sole difference between a state government under this Constitution, and a corporation under a state government, is, that a state being more extensive than a town, its powers are likewise proportionably extended, but neither of them enjoys the least share of sovereignty; for, let me ask, what is a state government? What sovereignty, what power is left to it, when the control of every source of revenue, and the total command of the militia, are given to the general government? That power which can command both the property and the persons of the community, is the sovereign, and the sole sovereign. The idea of two distinct sovereigns in the same country, separately *possessed* of sovereign and supreme power, in the same matters at the same time, is as supreme an absurdity, as that two distinct separate circles can be bounded exactly by the same circumference. This, sir, is demonstration; and from it I draw one corollary, which, I think, clearly follows, although it is in favor of the Constitution, to wit — that at least that clause in which Congress guaranties to the several states a republican *form* of government, speaks honestly; that is, that no more is intended by it than is expressed; and I think it is clear that, whilst the mere form is secured, the substance — to wit, the whole power and sovereignty of our state governments, and with them the liberties of the country — is swallowed up by the general government; for it is well worth observing, that, while our state governments are held up to us as the great and sufficient security of our rights and privileges, it is carefully provided that they shall be disarmed of all power, and made totally dependent on the bounty of Congress for their support, and consequently for their existence, — so that we have scarce a single right secured under either.

Is this, sir, a government for freemen? Are we thus to be duped out of our liberties? I hope, sir, our affairs have not yet arrived to that long-wished-for pitch of confusion. that we are under the necessity of accepting such a system of government as this.

I cannot, sir, express my feelings on a late occasion, when I consider with what unspeakable indignation the spirit of a Montgomery, a Herkimer, a Paris, &c., must have fired at the insults offered to their memories on this floor, and that not by a stranger, but by a brother, when their names, which will ever be dear to freemen, were profanely called upon as an inducement for us to surrender up those rights and privileges, in the defence of which they so gallantly fought, and so gloriously died. We are called upon at this time (I think it is an early day) to make an unconditional surrender of those rights which ought to be dearer to us than our lives.

But I hope, sir, that the memory of these patriot heroes will teach us a duty on this occasion. If we follow their example, we are sure not to err. We ought, sir, to consider — and it is a most solemn consideration — that we may now give away, by a vote, what it may cost the dying groans of thousands to recover; that we may now surrender, with a little ink, what it may cost seas of blood to regain; the dagger of Ambition is now pointed at the fair bosom of Liberty, and, to deepen and complete the tragedy, we, her sons, are called upon to give the fatal thrust. Shall we not recoil at such a deed, and all cry out with one voice, "Hands off!" What distraction has seized us? Is she not our mother, and if the frenzy of any should persist in the parricidal attempt, shall we not instantly interpose, and receive the fatal point into our own bosom? A moment's hesitation would ever prove us to be bastards, not sons. The liberties of the country are a deposit, a trust, in the hands of individuals; they are an entailed estate, which the possessors have no right to dispose of; they belong to our children, and to them we are bound to transmit them as a representative body. The trust becomes tenfold more sacred in our hands, especially as it was committed to us with the fullest confidence in our sentiments, integrity, and firmness. If we should betray that trust on this occasion, I fear (think there is reason to fear) that it will teach a lesson dangerous to liberty — to wit, that no confidence is to be placed in men.

But why, sir, must we be guilty of this breach of trust? Why surrender up the dear-bought liberties of our country? Because we are told, in very positive terms, that nothing short of this will satisfy, or can be accepted by, our future rulers? Is it possible that we can be at a loss for an answer to such declarations as these? Can we not, ought we not to speak like freemen on this occasion, (this perhaps may be the last time when we shall dare to do it,) and declare, in as positive terms, that we cannot, we will not, give up our liberties; that, if we cannot be admitted into the Union as freemen, we will not come in as slaves? This I fully believe to be the language of my constituents; this is the language of my conscience; and, though I may not dare longer to make it the language of my tongue, yet I trust it will ever he the language of my heart. If we act with coolness, firmness, and decision, on this occasion, I have the fullest confidence that the God who has so lately delivered us out of the paw of the lion and the bear, will also deliver us from this Goliath, this uncircumcised Philistine. This government is founded in sin, and reared up in iniquity; the foundations are laid in a most sinful breach of public trust, and the top-stone is a most iniquitous breach of public faith; and I fear, if it goes into operation, we shall be justly punished with the total extinction of our civil liberties. We are invited, in this instance, to become partakers in other men's sins; if we do, we must likewise be content to take our share in the punishment.

We are told, sir, that a government is like a mad horse, which, notwithstanding all the curb you can put upon him, will sometimes run away with his rider. The idea is undoubtedly a just one. Would he not, therefore, justly be deemed a mad man, and deserve to have his neck broken, who should trust himself on this horse without any bridle at all? We are threatened, sir, if we do not come into the Union, with the resentment of our neighboring states. I do not apprehend we have much to fear from this quarter, for our neighbors must have the good sense to discover that not one of our objections is founded on motives of particular state interest. They must see likewise, from the debates, that every selfish idea that has been thrown out has come from those who very improperly call themselves the *federal* side of the house. A union with our sister states I as ardently desire as any man, and that upon the most generous principles; but a union under such a system as this, I think, is not a desirable thing. The design of a union is safety, but a union upon the proposed plan is certain destruction to liberty. In one sense, indeed, it may bring us to a state of safety, for it may reduce us to such a condition that we may be very sure that nothing worse can happen, to us, and consequently we shall have nothing to fear.

This, sir, is a dreadful kind of safety; but I confess it is the only kind of safety I can see in this union. There are no advantages that can possibly arise from a union which can compensate for the loss of freedom, nor can any evils be apprehended from a disunion which are as much to be dreaded as tyranny.

The committee then proceeded through sections 8, 9, and 10, of this article, and the whole of the next, with little or no debate. As the secretary read the paragraphs, amendments were moved, in the order and form hereafter recited.

1. To the paragraph respecting the *borrowing of money*, Mr. LANSING proposed the following amendment: —
2. "*Provided*, That no money be borrowed on the credit of the United States, without the assent of two thirds of the members of both houses present."
3. To the clause respecting the establishment of *post-offices*, &c., Mr. JONES moved the following amendment: —
4. "*Resolved*, as the opinion of the committee, that the power of Congress to establish post-offices and post-roads is not to be construed to extend to the laying out, making, altering, or repairing highways, in any state, without the consent of the legislature of such state."
5. To the clause respecting the raising and supporting *armies*, Mr. LANSING proposed the following: —
6. "*Provided*, That no standing army, or regular troops, shall be raised, or kept up, in time of peace, without the consent of two thirds of the members of both houses present."
7. Respecting the organization and arming the *militia*, &c., —
8. "*Provided*, That the militia of any state shall not be marched out of such state without the consent of the executive thereof, nor be continued in service out of the stale, without the consent of the legislature thereof, for a longer term than six weeks; and *provided*, that the power to organize, arm, and discipline the militia, shall not be construed to extend further than to prescribe the mode of arming and disciplining the same."

## Moved by Mr. SMITH.

1. Respecting the power to make all *laws necessary* for the carrying the Constitution into execution, —
2. "*Provided*, That no power shall be exercised by Congress, but such as is expressly given by this Constitution; and all others, not expressly given, shall be reserved to the respective states, to be by them exercised." Moved by Mr. LANSING.
3. To the clause respecting the power of *regulating commerce*, —
4. "*Resolved*, as the opinion of this committee, that nothing in the said Constitution contained shall be construed to authorize Congress to grant monopolies, or erect any company with exclusive advantages of commerce."

## Moved by Mr. M. SMITH.

1. Relative to the right of *declaring war*, —
2. "*Resolved*, as the opinion of this committee, that the Congress ought not to have the power or right to declare war, without the concurrence of two thirds of the members of each house."

## Moved by Mr. TREDWELL.

1. Sec. 9. Respecting the privilege of *habeas corpus, —*
2. "*Provided*, That, whenever the privilege of *habeas corpus* shall he suspended, such suspension shall in no case exceed the term of six months, or until the next meeting of the Congress."

## Moved by Mr. LANSING.

1. Respecting *ex post facto* laws, —
2. "*Provided*, That the meaning of *ex post facto* laws shall not be construed to prevent calling public defaulters to account, but shall extend only to crimes."

## Moved by Mr. TREDWELL.

1. Respecting the *ratio* in which *taxes* shall be laid, —
2. "*Resolved*, as the opinion of this committee, that no capitation tax ought ever to be laid."

## Moved by Mr. TREDWELL,

1. Clause relative to the publication of the *receipts* and *expenditures*, —
2. "*Provided*, That. the words *from time to time* shall be so construed, as that the receipts and expenditures of public money shall be published at least once in every year, and be transmitted to the executives of the several states, to be laid before the legislatures thereof."

## Moved by Mr. TREDWELL.

Clause relating to the granting *titles of nobility*, — "*Resolved*, as the opinion of this committee, that the Congress shall at no time consent that any person, holding any office of profit or trust in or under the United States, shall accept of any title of nobility from any king, prince, or foreign state."

## Moved by Mr. M. SMITH.

1. FRIDAY, *July* 4, 1788. — Committee proceeded to article 2. Sec. 1. Clause respecting the *office of President*, —
2. "*Resolved*, as the opinion of this committee, that the President of the United States should hold his office during the term of seven years, and that he should not be eligible a second time."

## Moved by Mr. SMITH,

1. Sec. 2. Clause 1, respecting the *powers of the President*, —
2. "*Resolved*, as the opinion of this committee, that the President of the United States should never command the army, militia, or navy of the United States, in person, without the consent of the Congress; and that he should not have the power to grant pardons for treason, without the consent of the Congress; but that, in cases where persons are convicted of treason, he should have authority to grant reprieves, until their cases can be laid before the Congress."

## Moved by Mr. G. LIVINGSTON.

# SATURDAY, *July* 5, 1788. —

Sec. 2. Clause 2. Amendment

## moved by Mr. M. SMITH: —

1. "*Resolved*, as the opinion of this committee, that the Congress should appoint, in such manner as they may think proper, a council to advise the President in the appointment of officers; that the said council should continue in office for four years; that they should keep a record of their proceedings, and sign the same, and always be responsible for their advice, and impeachable for malconduct in office; that the counsellors should have a reasonable allowance for their services, fixed by a standing law; and that no man should be elected a counsellor who shall not have attained to the age of thirty-five years, and who is not either a natural-born citizen, or has not become a citizen before the 4th day of July, 1776."

Clause 3.

## Motion by Mr. M. SMITH: —

1. "*Provided*, That all commissions, writs, and processes, shall run in the name of the people of the United States, and be tested in the name of the President of the United States, or the person holding his place for the time being, or the first judge of the court out of which the same shall issue."
2. The committee then took up the 3d article. Mr. JONES proposed the following amendments, which he explained in a speech of some length, and was followed by Mr. SMITH; but no debate ensued: —
3. "*Resolved*, as the opinion of this committee, that nothing in the Constitution now under consideration contained shall be construed so as to authorize the Congress to constitute, ordain, or establish, any tribunals, or inferior courts, with any other than appellate jurisdiction, except such as may be necessary for trial of causes of admiralty and maritime jurisdiction, and for the trial of piracies and felonies committed on the high seas; and in all other cases to which the judicial power of the United States extends, and in which the Supreme Court of the United States has no original jurisdiction, the cause shall be heard, tried, and determined in some of the state courts, with the right of appeal to the Supreme Court of the United States, or other proper tribunal, to be established for the purpose by the Congress, with such exceptions, and under such regulations, as the Congress shall make."
4. As the secretary went on with this article, Mr. JONES submitted the following amendments: —
5. Resolve 1. "*Resolved*, as the opinion of this committee, that all appeals from any courts in this state, proceeding according to the course of the common law, are to be by writ of error, and not otherwise."
6. Res. 2. "*Resolved*, as the opinion of this committee, that no judge of the Supreme Court of the United States shall, during his continuance in office, hold any other office under the United States, or any of them."
7. Res. 3. "*Resolved*, as the opinion of this committee, that the judicial power of the United States, as to controversies between citizens of the same state, claiming lands under grants of different states, extends only to controversies relating to such lands as shall be claimed by two or more persons, under grants of different states."
8. Res. 4. "*Resolved*, as the opinion of this committee, that nothing in the Constitution now under consideration contained, is to be construed to authorize any suit to be brought against any state, in any manner what ever."
9. Res. 5. "*Resolved*, as the opinion of this committee, that the judicial power of the United States, in cases in which a state shall be a party, is not to be construed to extend to criminal prosecutions."
10. Res. 6. "*Resolved*, as the opinion of this committee, that the judicial power of the United States, as to controversies between citizens of different states, is not to be construed to extend to any controversy relating to any real estate not claimed under grants of different states."
11. Res. 7. "*Resolved*, as the opinion of this committee, that the judicial power of the United States, as to controversies between citizens of the same state, claiming lands under grants of different states, extends only to controversies relating to such lands as shall be claimed by two or more persons, under grants of different states."
12. Res. 8. "*Resolved*, as the opinion of this committee, that the person aggrieved by any judgment, sentence, or decree of the Supreme Court of the United States, with such exceptions, and under such regulations, as the Congress shall make concerning the same, ought, upon application, to have a commission, to be issued by the President of the United States, to such learned men as he shall nominate, and by and with the advice and consent of the Senate, appoint, not less than seven, authorizing such commissioners, or any seven or more of them, to correct the errors in such judgment, or to review such sentence and decree, as the case may be, and to do justice to the parties in the premises."
13. Res. 9. "*Resolved*, as the opinion of this committee, that the jurisdiction of the Supreme Court of the United States, or of any other court to be instituted by the Congress, ought not, in any case, to be increased, enlarged, or extended, by any fiction, collusion, or mere suggestion."

# MONDAY, *July* 7, 1788. —

The secretary continued reading the 4th and 5th articles without interruption. To the 2d clause of article 6th, Mr. LANSING proposed the following amendments: —

1. "*Resolved*, as the opinion of this committee, that no treaty ought to operate so as to alter the constitution of any state; nor ought any commercial treaty to operate so as to abrogate any law of the United States."
2. To the 3d clause of article 6th, Mr. M. SMITH moved the following addition: —
3. "*Resolved*, as the opinion of this committee, that all the officers of the United States ought to be bound, by oath or affirmation, not to infringe the constitutions or rights of the respective states."
4. After the Constitution had been gone through, Mr. M. SMITH moved for the following amendment to clause 17, of sec. 8, art. 1: —

### Exclusive Legislation

1. "*Resolved*, as the opinion of this committee, that the right of the Congress to exercise exclusive legislation over such district, not exceeding ten miles square, as may, by cession of particular states, and the acceptance of Congress, become the seat of the government of the United States, shall not be so exercised as to exempt the inhabitants of such district from paying the same taxes, duties, imposts, and excises, as shall be imposed on the other inhabitants of the state where such district may be, nor shall it be so exercised as to prevent the laws of the state, and all process under those laws, from extending to such district, in all cases of crimes committed without the district, or in cases of contracts made between persons residing within such district and persons residing without it. Nor shall it be so exercised, as to authorize any inhabitant of the said district to bring any suit in any court, which may be established by the Congress within the same, against any citizen or person not an inhabitant of the said district. And it is understood that the stipulations in this Constitution, respecting all essential rights, shall extend as well to this district as to the United States in general. *Resolved*, further, as the opinion of this committee, that the right of exclusive legislation, with respect to such places as may be purchased for the erection of forts, magazines, arsenals, and dock-yards, and other needful buildings, shall not be construed to authorize the Congress to make any law to prevent the laws of the states in which they may lie, from extending to such places in all civil and criminal matters, except as to such persons as shall be in the service of the United States, nor to them with respect to crimes committed without such places."

## Mr. LANSING

then read, and presented to the committee, a *bill of rights* to be prefixed to the Constitution.

# TUESDAY, *July* 8, 1788. —

Convention met, and adjourned without doing business.

# WEDNESDAY, *July* 9, 1788. —

Convention met, and adjourned.

# THURSDAY, *July* 10, 1788, —

### Mr. LANSING

submitted a plan of amendments, on a new arrangement, and with material alterations. They are divided into three — 1st, explanatory; 2d, conditional; 3d, recommendatory.

## FRIDAY, *July* 11, 1788. —

## Mr. JAY moved

 the following resolutions: —

"*Resolved*, as the opinion of this committee, that the Constitution under consideration ought to be *ratified* by this Convention.

"*Resolved*, further, as the opinion of this committee, that such parts of the said Constitution as may be thought doubtful ought to be explained, and that whatever amendment may be deemed useful, or expedient, ought to be recommended."

Mr. JAY was supported by Mr. Chancellor Livingston and Mr. Chief Justice Morris, and opposed by Mr. Melancton Smith. The debates on this motion continued till Tuesday, the 15th of July; when

### Mr. SMITH moved,

as an amendment, to add to the first resolution proposed by Mr. JAY, so that the same, when amended, should read as follows: —

"*Resolved*, as the opinion of this committee, that the Constitution under consideration ought to be ratified by this Convention: *upon condition, nevertheless*, That until a convention shall be called and convened for proposing amendments to the said Constitution, the militia of this state will not be continued in service out of this state for a longer term than six weeks, without the consent of the legislature thereof: That the Congress will not make or alter any regulation in this state respecting the times, places, and manner of holding elections for senators or representatives, unless the legislature of this state should neglect or refuse to make laws or regulations for the purpose, or from any circumstance be incapable of making the same; and that, in those cases, such power will only be exercised until the legislature of this state shall make provision in the premises: That no excise will be imposed on any article of the growth, production, or manufacture of the United States, or any of them, within this state, ardent spirits excepted: And that Congress shall not lay direct taxes within this state, but when the moneys arising from the impost and excise shall be insufficient for the public exigencies; nor then, until Congress shall first have made a requisition upon this state, to assess, levy, and pay the amount of such requisition, made agreeably to the census fixed in the said Constitution, in such way and manner as the legislature of this state judge best; but in such case, if the state shall neglect or refuse to pay its proportion pursuant to such requisition, then the Congress may assess and levy this state's proportion, together with interest at the rate of six per centum, per annum, from the time at which the same was required to be paid."

## WEDNESDAY, *July* 16, 1788. —

## The Honorable Judge HOBART

brought forward a motion for *adjournment*. On this motion large debates took place, in which Mr. Hobart, Mr. Duane, Mr. Lansing, Mr. Jay, the Chancellor, Mr. Hamilton, and Mr. Bay, were engaged. The motion was rejected.

### Mr. DUANE

then brought forward a plan of *ratification*, with certain explanations, and with a list of amendments to be recommended. This was rejected.

### Mr. SMITH'S

proposition was then resumed, and debated till

## SATURDAY, *July* 19, 1788;

## when Mr. LANSING moved

to postpone the several propositions before the house, in order to take into consideration a draft of a conditional ratification, with a *bill of rights* prefixed, and amendments subjoined. Debates arose on the motion, and it was carried The committee then proceeded to consider separately the amendments proposed in this plan of ratification.

## WEDNESDAY, *July* 23, 1788. —

Mr. JONES moved, that the words *on condition*, in the form of the ratification, should be obliterated, and that the words *in full confidence* should be substituted — which was carried.

|  |
| --- |
| ***For the Affirmative*.** |
| Mr. Jay, | Mr. J. Smith, | Mr. P. Livingston, |
| Mr. R. Morris, | Mr. Jones, | Mr. Hatfield, |
| Mr. Hobart, | Mr. Schenck, | Mr. Van Cortland, |
| Mr. Hamilton, | Mr. Lawrence, | Mr. Crane, |
| Mr. Robt. R. Livingston, | Mr. Carman, | Mr. Sarls, |
| Mr. Roosevelt, | Mr. Lefferts, | Mr. Platt, |
| Mr. Duane, | Mr. Vandervoort, | Mr. M. Smith, |
| Mr. Harrison, | Mr. Bancker, | Mr. Gilbert Livingston |
| Mr. Low, | Mr. Ryerss, | Mr. DeWitt, |
| Mr. Scudder, | Mr. L. Morris, | Mr. Williams. |
| Mr. Havens, |   |   |
| ***For the Negative*.** |
| Mr. R. Yates, | Mr. Wynkoop, | Mr. Winn, |
| Mr. Lansing, | Mr. Haring, | Mr. Veeder, |
| Mr. I. Thompson, | Mr. Woodhull, | Mr. Staring, |
| Mr. Ten Eyck, | Mr. Wisner, | Mr. Parker, |
| Mr. Tredwell, | Mr. Wood, | Mr. Baker, |
| Mr. PRESIDENT, | Mr. Swartwout, | Mr. Hopkins, |
| Mr. Cantine, | Mr. Akins, | Mr. Van Ness, |
| Mr. Schoonmaker, | Mr. Harper, | Mr. Bay, |
| Mr. Clark. | Mr. C. Yates, | Mr. Adgate. |
| Mr. J. Clinton, | Mr. Frey, |   |

The committee continued the consideration of the amendments till Thursday; when

## Mr. LANSING moved

to adopt a resolution, that there should be reserved to the state of New York a right to withdraw herself *from the Union* after a certain number of years, unless the amendments proposed should previously be submitted to a general convention.

This motion was negatived.

The committee proceeded in the consideration of the amendments till

## FRIDAY, *July* 25, 1788;

when, the whole being gone through and amended, the question was put, whether the committee did agree to the same, which was carried in the affirmative.

The committee then rose, and reported.

The report of the committee being considered, the President put the question, whether the Convention did agree to the said report, which was carried in the affirmative.

The Convention then resolved, unanimously, that a *circular letter* be prepared to be laid before the different legislatures of the United States, recommending a general Convention.

## SATURDAY, *July* 26,1788. —

The Convention having met, the bill of rights, and form of the ratification of the Constitution, with the amendments, were read, when the *question* being put, whether the same should pass, as agreed to and ratified by the Convention, it was carried in the affirmative, as follows: —

|  |
| --- |
| ***For the Affirmative*.** |
| Mr. Jay, | Mr. J. Smith, | Mr. P. Livingston, |
| Mr. Hobert, | Mr. Jones, | Mr. Hatfield, |
| Mr. Hamilton, | Mr. Schenck, | Mr. Van Cortland, |
| Mr. Robt. R. Livingston | Mr. Lawrence, | Mr. Crane, |
| Mr. Roosevelt, | Mr. Carman, | Mr. Sarls, |
| Mr. Duane, | Mr. Lefferts, | Mr. Woodhull, |
| Mr. Harrison, | Mr. Vandervoort, | Mr. Platt, |
| Mr. Low, | Mr. Bancker, | Mr. M. Smith, |
| Mr. Scudder, | Mr. Ryerss, | Mr. G. Livingston, |
| Mr. Havens, | Mr. L. Morris, | Mr. DeWitt. |
| ***For the Negative*.** |
| Mr. R. Yates, | Mr. Wynkoop, | Mr. Veeder, |
| Mr. Lansing, | Mr. Haring, | Mr. Staring, |
| Mr. Outhoudt, | Mr. Wisner, | Mr. Parker, |
| Mr. J. Thompson, | Mr. Wood, | Mr. Williams, |
| Mr. Tredwell, | Mr. Swartwout, | Mr. Baker, |
| Mr. Cantine, | Mr. Akins, | Mr. Hopkins, |
| Mr. Schoonmaker, | Mr. Harper, | Mr. Van Ness, |
| Mr. Clark, | Mr. Frey, | Mr. Bay, |
| Mr. J. Clinton, | Mr. Winn, | Mr. Adgate. |

Convention adjourned without day.

# THE CIRCULAR LETTER,

*from the Convention of the State of New York to the governors of the several states in the Union*.

POUGHKEEPSIE, *July* 28,1788

SIR:

We, the members of the Convention of this state, have deliberately and maturely considered the Constitution proposed for the United States. Several articles in it appear so exceptionable to a majority of us, that nothing but the fullest confidence of obtaining a revision of them by a general convention, and an invincible reluctance to separating from our sister states, could have prevailed upon a sufficient number to ratify it, without stipulating for previous amendments. We all unite in opinion, that such a revision will be necessary to recommend it to the approbation and support of a numerous body of our constituents.

We observe that amendments have been proposed, and are anxiously desired, by several of the states, as well as by this; and we think it of great importance that effectual measures be immediately taken for calling a convention, to meet at a period not far remote; for we are convinced that the apprehensions and discontents, which those articles occasion, cannot he removed or allayed, unless an act to provide for it be among the first that shall be passed by the new Congress.

As it is essential that an application for the purpose should be made to them by two thirds of the states, we earnestly exhort and request the legislature of your state to take the earliest opportunity of making it. We are persuaded that a similar one will be made by our legislature, at their next session; and we ardently wish and desire that the other states may concur in adopting and promoting the measure.

It cannot be necessary to observe, that no government, however constructed, can operate well, unless it possesses the confidence and goodwill of the body of the people; and as we desire nothing more than that the amendments proposed by this or other states be submitted to the consideration and decision of a general convention, we flatter ourselves that motives of mutual affection and conciliation will conspire with the obvious dictates of sound policy to induce even such of the states as may be content with every article in the Constitution to gratify the reasonable desires of that numerous class of American citizens who are anxious to obtain amendments of some of them.

Our amendments will manifest that none of them originated in local views, as they are such as, if acceded to, must equally affect every state in the Union. Our attachment to our sister states, and the confidence we repose in them, cannot be more forcibly demonstrated than by acceding to a government which many of us think very imperfect, and devolving the power of determining whether that government shall be rendered perpetual in its present form, or altered agreeably to our wishes, and a minority of the states with whom we unite.

We request the favor of your excellency to lay this letter before the legislature of your state; and we are persuaded that your regard for our national harmony and good government will induce you to promote a measure which we are unanimous in thinking very conducive to those interesting objects.

We have the honor to be, with the highest respect, your excellency's most obedient servants.

By the unanimous order of the Convention,

GEORGE CLINTON,

*President*.

1. Now Tennessee.

2. By the British Parliamentary Reform Act, 9th June, 1833, 56 rotten boroughs have been disfranchised; 30 others cut down to a single member; 19 *new* boroughs of one member each, and 62 *new* county members, *added*. Total number of members, 655.

3. Alluding to the adoption of the Constitution by New Hampshire.