DEBATES IN THE LEGISLATURE AND IN CONVENTION OF THE STATE OF SOUTH CAROLINA, ON THE ADOPTION OF THE FEDERAL CONSTITUTION.

HOUSE OF REPRESENTATIVES. IN THE LEGISLATURE,

# WEDNESDAY, *January* 16, 1788.

{253} Read the proposed Federal Constitution, after which the house resolved itself into a committee of the whole. Hon. THOMAS BEE in the chair.

## Hon. CHARLES PINCKNEY

(one of the delegates of the Federal Convention) rose in his place, and said that, although the principles and expediency of the measures proposed by the late Convention will come more properly into discussion before another body, yet, as their appointment originated with them, and the legislatures must be the instrument of submitting the plan to the opinion of the people, it became a duty in their delegates to state with conciseness the motives which induced it.

### AoC

It must be recollected that, upon the conclusion of the definitive treaty, great inconveniences were experienced, as resulting from the inefficacy of the Confederation. The one first and most sensibly felt was the destruction of our commerce, occasioned by the restrictions of other nations, whose policy it was not in the power of the general government to counteract. The loss of credit, the inability in our citizens to pay taxes, and languor of government, were, as they ever must be, the certain consequences of the decay of commerce. Frequent and unsuccessful attempts were made by Congress to obtain the necessary powers. The states, too, individually attempted, by navigation acts and other commercial provisions, to remedy the evil. These, instead of correcting, served but to increase it; their regulations interfered not only with each other, but, in almost every instance, with treaties existing under the authority of the Union. Hence arose the necessity of some general and permanent system, which should at once embrace all interests, and, by placing the states upon firm and united ground, enable them effectually to assert their commercial rights. Sensible that nothing but a concert of measures could effect this, Virginia proposed a meeting of commissioners at Annapolis, from the legislature of each state, who should be empowered to take into consideration the commerce of the Union; to consider how far a uniform system in their commercial regulations might be necessary to their common interest; and to report to the states such an act as, when unanimously ratified by them, would enable Congress effectually to provide for the same. In consequence of this, ten states appointed delegates. By accident, or otherwise, they did not attend, only five states being represented. The gentlemen present, not being a majority of the Union, did not conceive it advisable to proceed; but in an address to their constituents, which was also transmitted to the other legislatures, acquainted them with the circumstances of their meeting; that there appeared to them to be other and more material defects in the federal system than merely those of commercial powers. That these, upon examination, might be found greater than even the acts of their appointments implied, was at least so far probable, from the embarrassments which mark the present state of national affairs, foreign and domestic, as to merit, in their opinions, a deliberate and candid discussion in some mode which would unite the sentiments and councils of all the states. They therefore suggested the appointment of another convention, under more extensive powers, for the purpose of devising such further provisions as should appear to them necessary to render the federal government adequate to the exigencies of the Union.

Under this recommendation the late Convention assembled; for most of the appointments had been made before the recommendation of Congress was formed or known. He thought proper concisely to mention the manner of the Convention's assembling, merely to obviate an objection which all the opposers of the federal system had used, viz., that, at the time the Convention met, no opinion was entertained of their departing from the Confederation — that merely the grant of commercial powers, and the establishment of a federal revenue, were in agitation; whereas nothing can be more true, than that its promoters had for their object a firm national government. Those who had seriously contemplated the subject were fully convinced that a total change of system was necessary — that, however the repair of the Confederation might for a time avert the inconveniences of a dissolution, it was impossible a government of that sort could long unite this growing and extensive country. They also thought that the public mind was fully prepared for the change, and that no time could be more proper for introducing it than the present — that the total want of government, the destruction of commerce, of public credit, private confidence, and national character, were surely sufficiently alarming to awaken their constituents to a true sense of their situation.

Under these momentous impressions the Convention met, when the first question that naturally presented itself to the view of almost every member, although it was never formally brought forward, was the formation of a new, or the amendment of the existing system. Whatever might have been the opinions of a few speculative men, who either did, or pretended to, confide more in the virtue of the people than prudence warranted, Mr. Pinckney said he would venture to assert that the states were unanimous in preferring a change. They wisely considered that, though the Confederation might possess the great outlines of a general government, yet that it was, in fact, nothing more than a federal union; or, strictly speaking, a league founded in paternal and persuasive principles, with nothing permanent and coercive in its construction, where the members might, or might not, comply with their federal engagements, as they thought proper — that no power existed of raising supplies but by the requisitions or quotas on the states — that this defect had been almost fatally evinced by the experience of the states for the last six or eight years, in which not one of them had completely complied; but a few had even paid up their specie proportions; others very partially; and some, he had every reason to believe, had not to this day contributed a shilling to the common treasury since the Union was formed. He should not go into a detail Of the conduct of the states, or the unfortunate and embarrassing situation to which their inattention has reduced the Union; these have been so often and so strongly represented by Congress, that he was sure there could not be a member on the floor unacquainted with them. It was sufficient to remark that the Convention saw and felt the necessity of establishing a government upon different principles, which, instead of requiring the intervention of thirteen different legislatures between the demand and the compliance, should operate upon the people in the first instance.

He repeated, that the necessity of having a government which should at once operate upon the people, and not upon the states, was conceived to be indispensable by every delegation present; that, however they may have differed with respect to the quantum of power, no objection was made to the system itself. They considered it, however, highly necessary that, in the establishment of a constitution possessing extensive national authorities, a proper distribution of its powers should be attended to. Sensible of the danger of a single body, and that to such a council the states ought not to intrust important rights, they considered it their duty to divide the legislature into two branches, and, by a limited revisionary power, to mingle, in some degree, the executive in their proceedings — a provision that he was pleased to find meets with universal approbation. The degree of weight which each state was to have in the federal council became a question of much agitation. The larger states contended that no government could long exist whose principles were founded in injustice; that one of the most serious and unanswerable objections to the present system was the injustice of its tendency in allowing each state an equal vote, notwithstanding their striking disparity. The small ones replied, and perhaps with reason, that, as the states were the pillars upon which the general government must ever rest, their state governments must remain; that, however they may vary in point of territory or population, as political associations they were equal; that upon these terms they formally confederated, and that no inducement whatsoever should tempt them to unite upon others; that, if hey did, it would amount to nothing less than throwing the whole government of the Union into the hands of three or four of the largest states.

After much anxious discussion, — for, had the Convention separated without determining upon a plan, it would have been on this point, — a compromise was effected, by which it was determined that the first branch be so chosen as to represent in due proportion the people of the Union; that the Senate should be the representatives of the states, where each should have an equal weight. Though he was at first opposed to this compromise, yet he was far from thinking it an injudicious one. The different branches of the legislature being intended as checks upon each other, it appeared to him they would more effectually restrain their mutual intemperances under this mode of representation than they would have done if both houses had been so formed upon proportionable principles; for, let us theorize as much as we will, it will be impossible so far to divest the majority of the federal representatives of their state views and policy, as to induce them always to act upon truly national principles. Men do not easily wean themselves of those preferences and attachments which country and connections invariably create; and it must frequently have happened, had the larger states acquired that decided majority which a proportionable representation would have given them in both houses, that state views and policy would have influenced their deliberations. The ease with which they would, upon all occasions, have secured a majority in the legislature, might, in times less virtuous than the present, have operated as temptations to designing and ambitious men to sacrifice the public good to private views. This cannot be the case at present; the different mode of representation for the Senate will, as has already been observed, most effectually prevent it. The purpose of establishing different houses of legislation was to introduce the influence of different interests and principles; and he thought that we should derive, from this mode of separating the legislature into two branches, those benefits which a proper complication of principles is capable of producing, and which must, in his judgment, be greater than any evils that may arise from their temporary dissensions.

The judicial he conceived to be at once the most important and intricate part of the system. That a supreme federal jurisdiction was indispensable, cannot be denied. It is equally true that, in order to insure the administration of justice, it was necessary to give it all the powers, original as well as appellate, the Constitution has enumerated; without it we could not expect a due observance of treaties — that the state judiciary would confine themselves within their proper sphere, or that general sense of justice pervade the Union which this part of the Constitution is intended to introduce and protect — that much, however, would depend upon the wisdom of the legislatures who are to organize it — that, from the extensiveness of its powers, it may be easily seen that, under a wise management, this department might be made the keystone of the arch, the means of connecting and binding the whole together, of preserving uniformity in all the judicial proceedings of the Union — that, in republics, much more (in time of peace) would always depend upon the energy and integrity of the judicial than on any other part of the government — that, to insure these, extensive authorities were necessary; particularly so were they in a tribunal constituted as this is, whose duty it would be not only to decide all national questions which should arise within the Union, but to control and keep the state judicials within their proper limits whenever they shall attempt to interfere with its power.

And the executive, he said, though not constructed upon those firm and permanent principles which he confessed would have been pleasing to him, is still as much so as the present temper and genius of the people will admit. Though many objections had been made to this part of the system, he was always at a loss to account for them. That there can be nothing dangerous in its powers, even if he was disposed to take undue advantages, must be easily discerned from reviewing them. He is commander-in-chief of the land and naval forces of the Union, but he can neither raise nor support forces by his own authority. He has a revisionary power in the making of laws; but if two thirds of both houses afterwards agree notwithstanding his negative, the law passes. He cannot appoint to an office without the Senate Concurs; nor can he enter into treaties, or, in short, take a single step in his government, without their advice. He is, also, to remain in office but four years. He might ask, then, From whence are the dangers of the executive to proceed? It maybe said, From a combination of the executive and the Senate, they might form a baneful aristocracy.

### delegated

He had been opposed to connecting the executive and {259} the Senate in the discharge of those duties, because their union, in his opinion, destroyed that responsibility which the Constitution should, in this respect, have been careful to establish; but he had no apprehensions of an aristocracy, For his part, he confessed that he ever treated all fears of aristocracies or despotisms, in the federal head, as the most childish chimeras that could be conceived. In a Union extensive as this is, composed of so many state governments, and inhabited by a people characterized, as our citizens are, by an impatience under any act which even looks like an infringement of their rights, an invasion of them by the federal head appeared to him the most remote of all our public dangers. So far from supposing a change of this sort at all probable, he confessed his apprehensions were of a different kind: he rather feared that it was impossible, while the state systems continue — and continue they must — to construct any government upon republican principles sufficiently energetic to extend its influence through all its parts. Near the federal seat, its influence may have complete effect; but he much doubted its efficacy in the more remote districts. The state governments will too naturally slide into an opposition against the general one, and be easily induced to consider themselves as rivals. They will, after a time, resist the collection of a revenue; and if the general government is obliged to concede, in the smallest degree, on this point, they will of course neglect their duties, and despise its authority: a great degree of weight and energy is necessary to enforce it; nor is any thing to be apprehended from them. All power being immediately derived from the people, and the state governments being the basis of the general one, it will easily be in their power to interfere, and to prevent its injuring or invading their rights. Though at first he considered some declaration on the subject of trial by jury in civil causes, and the freedom of the press, necessary, and still thinks it would have been as well to have had it inserted, yet he fully acquiesced in the reasoning which was used to show that the insertion of them was not essential. The distinction which has been taken between the nature of a federal and state government appeared to be conclusive — that in the former, no powers could be executed, or but such as were expressly delegated; that in indefinite power was given to the government, except on {260} points that were by express compact reserved to the people.

### militia

On the subject of juries, in civil cases, the Convention were anxious to make some declaration; but when they reflected that all courts of admiralty and appeals, being governed in their propriety by the civil law and the laws of nations, never had, or ought to have, juries, they found it impossible to make any precise declaration upon the subject; they therefore left it as it was, trusting that the good sense of their constituents would never induce them to suppose that it could be the interest or intention of the general government to abuse one of the most invaluable privileges a free country can boast; in the loss of which, themselves, their fortunes and connections, must be so materially involved, and to the deprivation of which, except in the cases alluded to, the people of this country would never submit. When we reflect that the exigencies of the government require that a general government upon other principles than the present should be established, — when we contemplate the difference between a federal union and a government operating upon the people, and not upon the states, — we must at once see the necessity of giving to it the power of direct taxation. Without this, it must be impossible for them to raise such supplies as are necessary to discharge the debts, or support the expenses, of the Union — to provide against the common dangers, or afford that protection to its members which they have a right to expect from the federal head. But here he begged leave to observe that, so far from apprehending danger from the exercise of this power, few or no inconveniences are to be expected. He had not a doubt that, except in time of war, or pressing necessity, a sufficient sum would always be raised, by impost, to defray the general expenses. As to the power of raising troops, it was unnecessary to remark upon it further than merely to say, that this is a power the government at present possesses and exercises; a power so essential, that he should very much doubt the good sense or information of the man that should conceive it improper. It is guarded by a declaration that no grants for this purpose shall be longer than two years at a time. For his own part, notwithstanding all that had been said upon this popular topic, he could not conceive that either the dignity of a government could be maintained, its safety insured, or its laws administered, without a body of regular forces to aid the magistrate in the execution of his duty. All government is a kind of restraint. We may be told, a free government imposes no restraint upon the private wills of individuals which does not conduce in a greater degree to the public happiness; but all government is restraint, and founded in force. We are the first nation who have ever held a contrary opinion, or even attempted to maintain one without it. The experiment has been made, and he trusted there would hereafter be few men weak enough to suppose that some regular force ought not to be kept up, or that the militia ever can be depended upon as the support or protection of the Union.

Upon the whole, he could not but join those in opinion who have asserted that this is the best government that has ever yet been offered to the world, and that, instead of being alarmed at its consequences, we should be astonishingly pleased that one so perfect could have been formed from such discordant and unpromising materials. In a system founded upon republican principles, where the powers of government are properly distributed, and each confined to a separate body of magistracy, a greater degree of force and energy will always be found necessary than even in a monarchy. This arises from the national spirit of union being stronger in monarchies than in republics: it is said to be naturally strong in monarchies, because, in the absence both of manners and principles, the compelling power of the sovereign collects and draws every thing to a point; and thereby, in all common situations, effectually supplies their place. But in free countries it is naturally weak, unless supported by public spirit; for as, in most cases, a full spirit of national union will require that the separate and partial views of private interest be on every occasion sacrificed to the general welfare, so, when this principle prevails not, (and it will only prevail in moments of enthusiasm,) the national union must ever be destroyed by selfish views and private interest. He said that, with respect to the Union, this can only be remedied by a strong government, which, while it collects its powers to a point, will prevent that spirit of disunion from which the most serious consequences are to be apprehended. He begged leave, for a moment, to examine what effect this spirit of disunion must have upon us, as we may be affected by a foreign enemy. It weakens the consistency of all public measures, so that no extensive scheme of thought can be carried into action, if its accomplishment demand any long continuance of time. It weakens not only the consistency, but the vigor and expedition, of all public measures; so that, while a divided people are contending about the means of security or defence, a united enemy may surprise and invade them. These are the apparent consequences of disunion. Mr. Pinckney confessed, however, that, after all that had been said upon the subject, our Constitution was in some measure but an experiment; nor was it possible yet to form a just conclusion as to its practicability.

It had been an opinion long established, that a republican form of government suited only the affairs of a small state; which opinion is founded in the consideration, that unless the people in every district of the empire be admitted to a share in the national representation, the government is not to them as a republic; that in a democratic constitution, the mechanism is too complicated, the motions too slow, for the operations of a great empire, whose defence and government require execution and despatch in proportion to the magnitude, extent, and variety of its concerns. There was, no doubt, weight in these reasons; but much of the objection, he thought, would be done away by the continuance of a federal republic, which, distributing the country into districts, or states, of a commodious extent, and leaving to each state its internal legislation, reserves unto a superintending government the adjustment of their general claims, the complete direction of the common force and treasure of the empire. To what limits such a republic might extend, or how far it is capable of uniting the liberty of a small commonwealth with the safety of a peaceful empire; or whether, among coördinate powers, dissensions and jealousies would not arise, which, for want of a common superior, might proceed to fatal extremities, — are questions upon which he did not recollect the example of any nation to authorize us to decide, because the experiment has never been yet fairly made. We are now about to make it upon an extensive scale, and under circumstances so promising, that he considered it the fairest experiment that had been ever made in favor of human nature. He concluded with expressing a thorough conviction that the firm establishment of the present system is {263} better calculated to answer the great ends of public happiness than any that has yet been devised.

A long debate arose on reading the Constitution in paragraphs; but, on a division, there appeared to be a majority against it.

## Hon. ROBERT BARNWELL

hoped gentlemen would confine themselves to the principles of this Constitution. An honorable member had already given much valuable information as reasons that operated in the Convention, so that they were now able to lay before their constituents the necessity of bringing forward this Constitution.

## Judge PENDLETON

read a paragraph in the Constitution, which says "the Senate shall have the sole power of impeachment." In the British government, and all governments where power is given to make treaties of peace, or declare war, there had been found necessity to annex responsibility. In England, particularly, ministers that advised illegal measures were liable to impeachment, for advising the king. Now, if justice called for punishment of treachery in the Senate, on account of giving bad advice, before what tribunal could they be arraigned? Not surely before their house; that was absurd to suppose. Nor could the President be impeached for making treaties, he acting only under advice of the Senate, without a power of negativing.

## Maj. PIERCE BUTLER

### war

(one of the delegates of the Federal Convention) was one of a committee that drew up this clause, and would endeavor to recollect those reasons by which they were guided. It was at first proposed to vest the sole power of making peace or war in the Senate; but this was objected to as inimical to the genius of a republic, by destroying the necessary balance they were anxious to preserve. Some gentlemen were inclined to give this power to the President; but it was objected to, as throwing into his hands the influence of a monarch, having an opportunity of involving his country in a war whenever he wished to promote her destruction. The House of Representatives was then named; but an insurmountable objection was made to this proposition — which was, that negotiations always required the greatest secrecy, which could not be expected in a large body. The honorable gentleman then gave a clear, concise opinion on the propriety of the proposed Constitution.

## Gen. CHARLES COTESWORTH PINCKNEY

### war & treaty

(one of the delegates of the Federal Convention) observed, that the honorable judge, from his great penetration, had hit upon one of those difficult points which for a long time occasioned much debate in the Convention. Indeed, this subject appeared to be of so much magnitude, that a committee consisting of one member from each state was appointed to consider and report upon it. His honorable friend (Major Butler) was on the committee for this state. Some members were for vesting the power for making treaties in the legislature; but the secrecy and despatch which are so frequently necessary in negotiations evinced the impropriety of vesting it there. The same reason showed the impropriety of placing it solely in the House of Representatives. A few members were desirous that the President alone might possess this power, and contended that it might safely be lodged with him, as he was to be responsible for his conduct, and therefore **would not dare to make a treaty repugnant to the interest of his country**; and from his situation he was more interested in making a good treaty than any other man in the United States. This doctrine General Pinckney said he could not acquiesce in. Kings, he admitted, were in general more interested in the welfare of their country than any other individual in it, because the prosperity of the country tended to increase the lustre of the crown, and a king never could receive a sufficient compensation for the sale of his kingdoms; for he could not enjoy in any other country so advantageous a situation as he permanently possessed in his own. Hence kings are less liable to foreign bribery and corruption than any other set of men, because no bribe that could be given them could compensate the loss they must necessarily sustain for injuring their dominions; indeed, he did not at present recollect any instance of a king who had received a bribe from a foreign power, except Charles II., who sold Dunkirk to Louis XIV. But the situation of a President would be very different from that of a king: he might withdraw himself from the United States, so that the states could receive no advantage from his responsibility; his office is not to be permanent, but temporary; and he might receive a bribe which would enable him to live in greater splendor in another country than his own; and when out of office, he was no more interested in the prosperity of his country than any other patriotic citizen; and in framing {265} a treaty, he might perhaps show an improper partiality for the state to which he particularly belonged. The different propositions made on this subject, the general observed, occasioned much debate. At last it was agreed. to give the President a power of proposing treaties, as he was the ostensible head of the Union, and to vest the Senate (where each state had an equal voice) with the power of agreeing or disagreeing to the terms proposed. This, in some measure, took away their responsibility, but not totally; for, though the Senate were to be judges on impeachments, and the members of it would not probably condemn a measure they had agreed to confirm, yet; as they were not a permanent body, they might be tried hereafter by other senators, and condemned, if they deserved it. On the whole, a large majority of the Convention thought this power would be more safely lodged where they had finally vested it, than any where else. It was a power that must necessarily be lodged somewhere: political caution and republican jealousy rendered it improper for us to vest it in the President alone; the nature of negotiation, and the frequent recess of the House of Representatives, rendered that body an improper depository of this prerogative. The President and Senate joined were, therefore, after much deliberation, deemed the most eligible corps in whom we could with safety vest the diplomatic authority of the Union.

## Hon. RAWLINS LOWNDES

could not consider the representation of two thirds in the Senate as equal to the old Confederation, which required nine states. By this new Constitution, a quorum in the Senate might consist only of fourteen; two thirds of which were ten. Now, was this any thing like a check equal to the present? Was it consistent with prudence to vest so much power in the hands of so small a body of men, who might supersede every existing law in the Union? Here he read the 2d clause in the 6th article of the Constitution, viz.: "This Constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby — any thing in the Constitution or laws of any state to the contrary notwithstanding." Now, in the history of the known world, was there an instance of the {266} rulers of a republic being allowed to go so far? Even the most arbitrary kings possessed nothing like it. The tyrannical Henry VIII. had power given him by Parliament to issue proclamations that should have the same force as laws of the land; but this unconstitutional privilege had been justly reprobated and exploded. The king of France, though a despotic prince, (he meant no reflection on that prince; his opinion was very well known,) yet could not enforce his edicts until they had been registered in Parliament. In England, the ministers proceed with caution in making treaties: far from being considered as legal without parliamentary sanction, the preamble always stated that his majesty would endeavor to get it ratified by his Parliament. He observed, that the clause entirely did the instalment law; away for, when this Constitution came to be established, the treaty of peace might be pleaded against the relief which that law afforded. The honorable gentleman commented on the extensive powers given to the President, who was not, he believed, likely ever to be chosen from South Carolina or Georgia.

## Gen. CHARLES COTESWORTH PINCKNEY

rose to obviate some of the objections made by the honorable gentleman who sat down, and whose arguments, he thought, were calculated *ad captandum*, and did not coincide with that ingenuous, fair mode of reasoning he in general made use of. The treaty could not be construed to militate against our taws now in existence; and while we did not make, by law, any distinction between our citizens and foreigners, foreigners would be content. The treaty had been enrolled in the prothonotary's office by the express order of the judges. It had been adjudged, in a variety of cases, to be part of the law of the land, and had been admitted to be so Whenever it was pleaded. If this had not been the case, and any individual state possessed a right to disregard a treaty made by Congress, no nation would have entered into a treaty with us.

The comparison made between kings and our President was not a proper one. Kings are, in general, hereditary, in whose appointment the people have no voice; whereas, in the election of our President, the people have a voice, and the state of South Carolina hath a thirteenth share in his appointment. In the election of senators, South Carolina has an equal vote with any other state; so has Georgia; and if we {267} have a man as fit for the office of President in this state as in others, he did not think the being a southern man could be an objection. More than one president of Congress had been taken from this state. If we should not be represented in the Senate, it would be our own fault; the mode of voting in that body *per capita*, and not by states, as formerly, would be a strong inducement to us to keep up a full representation: the alteration was approved by every one of the Convention who had been a member of Congress. He then mentioned several instances of difficulties which he had been informed had occurred in Congress in determining questions of vast importance to the Union, on account of the members voting as states, and not individually. He did not think the Southern States would be remiss in keeping a full representation. Experience proved that the Eastern and the Southern States were most punctual in attendance. He Understood that it was the Middle ones that principally neglected this duty.

## Hon. JOHN RUTLEDGE

(one of the delegates of the Federal Convention) thought the gentleman mistaken both as to law and fact; for every treaty was law paramount, and must operate. [Read part of the 9th article of Confederation.] In England, treaties are not necessarily ratified, as was proved when the British Parliament took up the last treaty of peace. A vote of disapprobation dispossessed Lord Shelburne, the minister, of his place; the Commons only addressed the king for having concluded a peace; yet this treaty is binding in our courts and in England. In that country, American citizens can recover debts due to them under the treaty; and in this, but for the treaty, what violences would have taken place! What security had violent tories, stealers of horses, and a number of lawless men, but a law that we passed for recognizing the treaty? There might have been some offenders punished; but if they had obtained a writ of *habeas corpus*, no doubt they would have been relieved. There was an obvious difference between treaties of peace and those of commerce, because commercial treaties frequently clashed with the laws upon that subject; so that it was necessary to be ratified in Parliament. As a proof that our present Articles of Confederation were paramount, it was there expressed that France should enjoy certain privileges. Now, supposing any law had passed taking those privileges away, would not the treaty be a sufficient bar to any local or municipal laws? What sort of power is that which leaves individuals in full power to reject or approve? Suppose a treaty was unexpectedly concluded between two nations at war; could individual subjects ravage and plunder under letters of marque and reprisal? Certainly not. The treaty concluded, even secretly, would be a sufficient bar to the establishment. Pray, what solid reasons could be urged to support gentlemen's fears that our new governors would wish to promote measures injurious to their native land? Was it not more reasonable that, if every state in the Union had a negative voice, a single state might be tampered with, and defeat every good intention? Adverting to the objection relative to the instalment law being done away, he asked, supposing a person gave security conformable to that law, whether, judging from precedent, the judges would permit any further proceedings contrary to it. He scouted the idea that only ten members would ever be left to manage the business of the Senate; yet, even if so, our delegates might be part of that ten, and consequently our interest secured. He described difficulties experienced in Congress in 1781 and 1782. In those times business of vast importance stood still because nine states could not be kept together. Having said that the laws would stand exactly as they did before, the chancellor asked whether gentlemen seriously could suppose that a President, who has a character at stake, would be such a foot and knave as to join with ten others to tear up liberty by the roots, when a full Senate were competent to impeach him.

## Hon. RALPH IZARD

gave a clear account of the manner in which edicts are registered in France, which, however, were legal without that ceremony. Even the kings of England had power to make treaties of peace or war. In the congress held at Utrecht, two treaties were agreed upon, one relative to peace, the other of commerce; the latter was not ratified, being found to clash with some laws in existence; yet the king's right to make it was never disputed.

## Mr. SPEAKER (Hon. John Julius Pringle)

said, that in general he paid great deference to the opinions of the gentleman, (Mr. Lowndes,) because they flowed from good natural sense, matured by much reflection and experience. On this occasion, he entirely disagreed with him. The gentleman appeared extremely alarmed by a phantom of his own creation — a phantom, like every other, without body or, substance, and which will vanish as soon as touched. If the objections which we may have to other parts of the Constitution be no better founded than to this article, the Constitution will pass through the medium of this house, like gold through the crucible, the purer, and with much greater lustre. His objections will only serve to confirm the sentiments of those who favor it. All the gentleman's objections may be comprised in the following compass: By the article, the President, with ten senators, if only ten attend, may make treaties to bind all the states — that the treaties have the force of, and indeed are paramount to, the laws of the land — therefore, the President and Senate have a legislative power; and then he gives scope to a great deal of declamation on the vast danger of their having such legislative powers and particularly that they might have a treaty which might thus repeal the instalment law. This is a greater power, he says, than the king of France has; the king of Great Britain has his ratified by Parliament — the treaties of the French king must be registered. But he conceived the gentleman was mistaken as to those treaties made by these monarchs. The king of France registers his edicts on some occasions, to facilitate the execution, but not his treaties. The king of Great Britain's treaties are discussed by Parliament, not for ratification, but to discover whether the ministers deserve censure or approbation. The making of treaties is justly a part of their prerogative: it properly belongs to the executive part of government, because they must be conducted with despatch and secrecy not to be expected in larger assemblies. No such dangers as the gentleman apprehends can ensue from vesting it with the President and Senate. Although the treaties they make may have the force of laws when made, they have not, therefore, legislative power. It would be dangerous, indeed, to trust them with the power of making laws to affect the rights of individuals; for this might tend to the oppression of individuals, who could not obtain redress. All the evils would, in that case, flow from blending the legislative, executive, and judicial powers; This would violate the soundest principles of policy and government. It is not with regard to the power of making treaties as of legislation in general. The treaties will affect all the individuals equally of all the states. If the President and Senate make such as violate the fundamental laws, and subvert the Constitution, or tend to the destruction of the happiness and liberty of the states, the evils, equally oppressing all, will be removed as soon as felt, as those who are oppressed have the power and means of redress. Such treaties, not being made with good faith, and on the broad basis of reciprocal interest and convenience, but by treachery and a betraying of trust, and by exceeding the powers with which the makers were intrusted, ought to be annulled. No nations would keep treaties thus made. Indeed, it is too much the practice for them to make mutual interest and convenience the rule of observation, or period of duration. As for the danger of repealing the instalment law, the gentleman has forgot that one article ordains that there shall be no retrospective law. The President and Senate will, therefore, hardly ever make a treaty that would be of this kind. After other arguments to obviate the objections of the honorable gentleman, Mr. Speaker concluded with saying, that it was not necessary for him to urge what further occurred to him, as he saw several of the honorable members of the Convention preparing, whose duty it more particularly was, and who were more able to confute the honorable gentleman in opposition.

## Dr. DAVID RAMSAY

asked if the gentleman meant us ever to have any treaties at all. If not superior to local laws, who will trust them? Would not the question naturally he, "Did you mean, when you made treaties, to fulfil them?" Establish once such a doctrine, and where will you find ambassadors? If gentlemen had been in the situation of receiving similar information with himself, they would have heard letters read from our ambassadors abroad, in which loud complaints were made that America had become faithless and dishonest. Was it not full time that such conduct as this should be amended?

## Gen. CHARLES COTESWORTH PINCKNEY

rose to mention some instances he had omitted of the treaty with Great Britain being considered in our courts as part of the law of the land. The judge who held the court at Ninety-six discharged upwards of one hundred recognizances of persons committed for different crimes, which fell within the meaning of this treaty. A man named Love, accused of {271} murder, was liberated. It is true, the people, enraged at the enormity of his conduct, hanged him soon after; but of this the judicial power knew nothing until after its perpetration. Another murderer was allowed to plead the treaty of peace in bar, that had conducted General Pickens's brother, into the hands of the Indians, who soon after put him to death.

## Hon. RAWLINS LOWNDES

desired gentlemen to consider that his antagonists were mostly gentlemen of the law, who were capable of giving ingenious explanations to such points as they wished to have adopted, He explained his opinion relative to treaties to be, that no treaty concluded contrary to the express laws of the land could be valid. The king of England, when he concluded one, did not think himself warranted to go further than to promise that he would endeavor to induce his Parliament to sanction it. The security of a republic is jealousy; for its ruin may be expected from unsuspecting security. Let us not, therefore, receive this proffered system with implicit confidence, as carrying with it the stamp of superior perfection; rather let us compare what we already possess with what we are offered for it. We are now Under the government of a most excellent constitution, one that had stood the test of time, and carried us through difficulties generally supposed to be insurmountable; one that had raised us high in the eyes of all nations, and given to us the enviable blessings of liberty and independence; a constitution sent like a blessing from Heaven; yet we are impatient to change it for another, that vested power in a few men to pull down that fabric, which we had raised at the expense of our blood. Charters ought to be considered as sacred things. In England, an air erupt was made to alter the charter of the East India Company; but they invoked heaven and earth in their cause; moved lords, nay, even the king, in their behalf, and thus averted the ruin with which they were threatened.

It has been said that this new government was to be considered as an experiment. He really was afraid it would prove a fatal one to our peace and happiness. An experiment! What, risk the loss of political existence on experiment! No, sir; if we are to make experiments, rather let them be such as may do good, but which cannot possibly do any injury to us or our posterity. So far from having any expectation of success from such experiments, he sincerely {272} believed that, when this new Constitution should be adopted, the sun,of the Southern States would set, never to rise again.

### slaves

To prove this, he observed, that six of the Eastern States formed a majority in the House of Representatives. In the enumeration he passed Rhode Island, and included Pennsylvania. Now, was it consonant with reason, with wisdom, with policy, to suppose, in a legislature where a majority of persons Sat whose interests were greatly different from ours, that we had the smallest chance of receiving adequate advantages? Certainly not. He believed the gentlemen that went from this state, to represent us in Convention, possessed as much integrity, and stood as high in point of character, as any gentlemen that could have been selected; and he also believed that they had done every thing in their power to procure for us a proportionate share in this new government; but the very little they had gained proved what we may expect in future — that the interest of the Northern States would so predominate as to divest us of any pretensions to the title of a republic. In the first place, what cause was there for jealousy of our importing negroes? Why confine us to twenty years, or rather why limit us at all? For his part, he thought this trade could be justified on the principles of religion, humanity, and justice; for certainly to translate a set of human beings from a bad country to a better, was fulfilling every part of these principles. But they don't like our slaves, because they have none themselves, and therefore want to exclude us from this great advantage. Why should the Southern States allow of this, without the consent of nine states?

## Judge PENDLETON

observed, that only three states, Georgia, South Carolina, and North Carolina, allowed the importation of negroes. Virginia had a clause in her Constitution for this purpose, and Maryland, he believed, even before the war, prohibited them.

## Mr. LOWNDES

### slaves

continued — that we had a law prohibiting the importation of negroes for three years, a law he greatly approved of; but there was no reason offered why the Southern States might not find it necessary to alter their conduct, and open their ports. Without negroes, this state one of the most contemptible in the Union; and he an expression that fell from General Pinckney on a former debate, that whilst there remained one acre of swamp-land in South Carolina, he should raise his voice against restricting the importation of negroes Even in granting the importation for twenty years, care had been taken to make us pay for this indulgence, each negro being liable, on importation, to pay a duty not exceeding ten dollars; and, in addition to this, they were liable to a capitation tax. Negroes were our wealth, our only natural resource; vet behold how our kind friends in the north were determined soon to tie up our hands, and drain us of what we had! The Eastern States drew their means of subsistence, in a great measure, from their shipping; and, on that head, they had been particularly careful not to allow of any burdens: they were not to pay tonnage or duties; no, not even the form of clearing out: all ports were free and open to them! Why, then, call this a reciprocal bargain, which took all from one party, to bestow it on the other!

## Major BUTLER

observed, that they were to pay five percent. impost.

## Mr. LOWNDES

This, proved, must fall upon the consumer. They are to be the carriers; and, we being the consumers, therefore all expenses would fall upon us. A great number of gentlemen were captivated with this new Constitution, because those who were in debt would be compelled to pay; others pleased themselves with the reflection that no more confiscation laws would be passed; but those were small advantages, in proportion to the evils that might be apprehended from the laws that might be passed by Congress, whenever there was a majority of representatives from the Eastern States, who were governed by prejudices and ideas extremely different from ours. He was afraid, in the present instance, that so much partiality prevailed for this new Constitution, that opposition from him would be fruitless: however. he felt so much the importance of the subject, that he hoped the house would indulge him in a few word as to take a view, comparatively, of the old constitution and the new one, in point of modesty. Congress, laboring under many difficulties, asked to regulate commerce for twenty-one years, when the power reverted into the hands of those who originally gave it; but this infallible new Constitution eased us of any more trouble, for it was to regulate commerce ad infinitum; and thus called upon us to pledge ourselves and posterity, forever, in support of their measures; so when our to the confined local legislature had dwindled down powers of a corporation, we should be liable to taxes and excise; not, perhaps, payable in paper, but in specie. However, thy need not be uneasy, since everything would be managed in future by great men; and great men, every body knew, were incapable of acting under mistake or prejudice: they were infallible; so that if, at any future period, we should smart under laws which bore hard upon us, and think proper to remonstrate, the answer would probably be, "Go: you are totally incapable of managing for yourselves. Go: mind your private affairs; trouble not yourselves with public concerns — 'Mind your business.'" The latter expression was already the motto of some coppers in circulation, and he thought it would soon be the style of language held out towards the Southern States. The honorable member apologized for going into the merits of this new Constitution, when it was ultimately to be decided on by another tribunal; but understanding that be differed in opinion with his constituents, who were opposed to electing any person as a member of the Convention that did not approve of the proposed plan of government, he should not therefore have an opportunity of expressing those sentiments which occurred to him on considering the plan for a new federal government. But if it was sanctioned by the people, it would have his hearty concurrence and support. He was very much, originally, against a declaration of independency; he also opposed the instalment law; but when they received the approbation of the people, it became his duty, as a good citizen, to promote their due observance.

## Hon. E. RUTLEDGE

was astonished to hear the honorable gentleman pass such eulogium on the old Confederation, and prefer it, as he had done, to the one before the house. For his part, he thought that Confederation so very weak, so very inadequate to the purposes of the Union, that, unless it was materially altered, the sun of American independence would indeed soon set — never to rise again. What could be effected for America under that highly-extolled constitution? Could it obtain security for our commerce in any part of the world? Could it force obedience to any one law of the Union? Could it obtain one shilling of money for the discharge of the most honorable obligations? The honorable gentleman knew it could not. Was there a single power in Europe that would lend us a guinea on the faith of that Confederation? or could we borrow one on the public faith of our own citizens? The people of America had seen these things; they had felt the consequences of this feeble government, if that deserved the name of government which had no power to enforce laws founded on solemn compact; and it was under the influence of those feelings that, with almost one voice, they had called for a different government. But the honorable gentleman had said that this government had carried us gloriously through the last war. Mr. Rutledge denied the assertion. It was true we had passed gloriously through the war while the Confederation was in existence; but that success was not to be attributed to the Confederation; it was to be attributed to the firm and unconquerable spirit of the people, who were determined, at the hazard of every consequence, to oppose a submission to British government; it was to be attributed to the armaments of an ally, and the pecuniary assistance of our friends: these were the wings on which we were carried so triumphantly through the war; and not this wretched Confederation, which is unable, by universal acknowledgment, to obtain a discharge of any part of our debts in the hour of the most perfect domestic tranquillity. What benefits, then, are to be expected from such a constitution in the day of danger? Without a ship, without a soldier, without a shilling in the federal treasury, and without a nervous government to obtain one, we hold the property that we now enjoy at the courtesy of other powers. Was this such a tenure as was suitable to the inclinations of our constituents? It certainly was not. They had called upon us to change their situation, and we should betray their interest, and our own honor, if we neglected it. But the gentleman has said that there were points in this new confederation which would endanger the rights of the people — that the President and ten senators may make treaties, and that the balance between the states was not sufficiently preserved — that he is for limiting the powers of Congress, so that they shall not be able to do any harm; for, if they have the power to do any harm, they may. To this Mr. Rutledge observed, that the greatest part of the honorable gentleman's objection was founded on an opinion that the choice of the people would fall on the most worthless and the most negligent part of the community; {276} but if it was to be admitted, it would go to the withholding of all power from all public bodies. The gentleman would have done well to have defined the kind of power that could do no harm. The very idea of power included a possibility of doing harm; and if the gentleman would show the power that could do no harm, he would at once discover it to be a power which could do no good. To argue against the use of a thing from the abuse of it, had long since been exploded by all sensible people. It was true that the President, with the concurrence of two thirds of the Senate, might make treaties; and it was possible that ten senators *might* constitute the two thirds, but it was just within the reach of possibility, and a possibility from whence no danger could be apprehended. If the President or the senators abused their trust, they were liable to impeachment and punishment; and the fewer that were concerned in the abuse of the trust, the more certain would be the punishment. In the formation of this article, the delegates had done their duty fully; they had provided that two thirds of the Senate should concur in the making of treaties. If the states should be negligent in sending their senators, it would be their own fault, and the injury would be theirs, not the framers of the Constitution; but it they were not negligent, they would have more than their share. Is it not astonishing that the gentleman who is so strenuous an advocate for the powers of the people, should distrust the people the moment that power is given to them, and should found his objections to this article in the corruption of the representatives of the people, and in the negligence of the people themselves? If such objections as these have any weight, they tend to the destruction of all confidence — the withholding of all power — the annihilation of all government. Mr. Rutledge insisted that we had our full share in the House of Representatives, and that the gentleman's fears of the northern interest prevailing at all times were ill-founded. The Constitution had provided for a census of the people, and the number of representatives was to be directed by the number of the people in the several states; this clause was highly favorable to the southern interest.

### slaves

Several of the Northern States were already full of people; it was otherwise with us; the migrations to the south were immense, and we should, in the course of a few years, rise high in our representation, whilst other states would keep their present position. Gentlemen should carry their views into futurity, and not confine themselves to the narrow limits of a day, when contemplating a subject of such vast importance. The gentleman had complained of the inequality of the taxes between the Northern and Southern States; that ten dollars a head was imposed on the importation of negroes; and that those negroes were afterwards taxed. To this it was answered, that the ten dollars per head was an equivalent to the five per cent. on imported articles; and as to their being afterwards taxed, the advantage is on our side, or, at least, not against us.

In the Northern States the labor is performed by white people, in the Southern by black. All the free people (and there are few others) in the Northern States are to be taxed by the new Constitution; whereas only the free people, and two fifths of the slaves, in the Southern States, are to be rated, in the apportioning of taxes. But the principal objection is, that no duties are laid on shipping; that, in fact, the carrying trade was to be vested, in a great measure, in the Americans; that the ship-building business was principally carried on in the Northern States. When this subject is duly considered, the Southern States should be the last to object to it. Mr. Rutledge then went into a consideration of the subject; after which the house adjourned.

# THURSDAY, *January* 17, 1788.

## Gen. CHARLES COTESWORTH PINCKNEY

### treaties

observed, that the honorable gentleman (Mr. Lowndes) who opposed the new Constitution had asserted that treaties made under the old Confederation were not deemed paramount to the laws of the land, and that treaties made by the king of Great Britain required the ratification of Parliament to render them valid. The honorable gentleman is surely mistaken in his assertion. His honorable friend (Chancellor Rutledge) had clearly shown that, by the 6th, 9th, and 13th Articles of the old Confederation, Congress have a power to make treaties, and each state is pledged to observe them; and it appears, from the debates of the English Parliament, that the House of Commons did not ratify, but actually censure, the peace made by the king of Great Britain with America; yet the very members who censured it acknowledged it was binding on the nation. [Here the general read extracts from the parliamentary debates of the 17th and 21st of February, 1784.] Indeed, the doctrine that the king of Great Britain may make a treaty with a foreign state, which shall irrevocably bind his subjects, is asserted by the best writers on the laws and constitution of England — particularly by Judge Blackstone, who, in the first book of his Commentaries, (ch. 7, p. 257,) declares "that it is the king's prerogative to make treaties, leagues, and alliances, with foreign states and princes, and that no other power in the kingdom can legally delay, resist, or annul them." If treaties entered into by Congress are not to be held in the same sacred light in America, what foreign nation will have any confidence in us? Shall we not be stigmatized as a faithless, unworthy people, if each member of the Union may, with impunity, violate the engagements entered into by the federal government? Who will confide in us? Who will treat with us if our practice should be conformable to this doctrine? Have we not been deceiving all nations, by holding forth to the world, in the 9th Article of the old Confederation, that Congress may make treaties, if we, at the same time, entertain this improper tenet, that each state may violate them? I contend that the article in the new Constitution, which says that treaties shall be paramount to the laws of the land, is only declaratory of what treaties were, in fact, under the old compact. They were as much the law of the land under that Confederation, as they are under this Constitution; and we shall be unworthy to be ranked among civilized nations if we do not consider treaties in this view. Vattel, one of the best writers on the law of nations, says, "There would be no more security, no longer any commerce between mankind, did they not believe themselves obliged to preserve their faith, and to keep their word. Nations, and their conductors, ought, then, to keep their promises and their treaties inviolable. This great truth is acknowledged by all nations. Nothing adds so great a glory to a prince, and the nation he governs, as the reputation of an inviolable fidelity to his engagements. By this, and their bravery, the Swiss have rendered themselves respectable throughout Europe. This national greatness of soul is the source of immortal glory; upon it is founded the confidence of nations, and it thus becomes a certain instrument of power and splendor." Surely this doctrine is right; it speaks to the heart; it impresses itself on the feelings of mankind, and convinces us that the tranquillity, happiness, and prosperity, of he human race, depend on inviolably preserving the faith of treaties.

### Treaties

Burlamaqui, another writer of great reputation on political law, says "that treaties are obligatory on the subjects of the powers who enter into treaties; they are obligatory as conventions between the contracting powers; but they have the force of law with respect to their subjects." These are his very words: "*Ils ont force de loi a l'égard des sujets, considérés comme tels*; and it is very manifest," continues he, "that two sovereigns, who enter into a treaty, impose, by such treaty, an obligation on their subjects to conform to it, and in no manner to contravene it." It is remarkable that the words made use of by Burlamaqui establish the doctrine, recognized by the Constitution, that treaties shall be considered as the law of the land; and happy will it be for America if they shall he always so considered: we shall then avoid the disputes, the tumults, the frequent wars, we must inevitably be engaged in, if we violate treaties. By our treaty with France, we declare she shall have all the privileges, in matters of commerce, with the most favored nation. Suppose a particular state should think proper to grant a particular privilege to Holland, which she refuses to France; would not this be a violation of the treaty with France? It certainly would; and we in this state would be answerable for the consequences attending such violation by another state; for we do not enter into treaties as separate states, but as united states; and all the members of the Union are answerable for the breach of a treaty by any one of them. South Carolina, therefore, considering its situation, and the valuable produce it has to export, is particularly interested in maintaining the sacredness of treaties, and the good faith with which they should he observed by every member of the Union. But the honorable gentleman complains that the power of making treaties is vested in the President and Senate, and thinks it is not placed so safely with them as with the Congress under the old Confederation. Let us examine this objection. By the old Confederation; each state had an equal vote in Congress, and no treaty could be made without the assent of the delegates from nines status. By the present Constitution, each state sends two members to the Senate, Who vote *per capita*; and the President has power, with advice and consent of the Senate, to make treaties, provided two thirds of the Senate present concur. This inconvenience attended the old method: it was frequently difficult to obtain a representation from nine states; and if only nine States were present, they must all concur in making a treaty. A single member would frequently prevent the business from being concluded; and if he absented himself, Congress had no power to compel his attendance. This actually happened when a treaty of importance was about to be concluded with the Indians; and several states, being satisfied, at particular junctures, that the nine states present would not concur in sentiments on the subject of a treaty, were indifferent whether their members attended or not. But now that the senators vote individually, and not by States, each state will be anxious to keep a full representation in the Senate; and the Senate has now power to compel the attendance of its own members. We shall thus have no delay, and business will be conducted in a fuller representation of the states than it hitherto has been. All the members of the Convention, who had served in Congress, were so sensible of the advantage attending this mode of voting, that the measure was adopted unanimously. For my own part, I think it infinitely preferable to the old method. So much for the manner of voting.

### treaties

Now let us consider whether the power of making treaties is not as securely placed as it was before. It was formerly vested in Congress, who were a body constituted by the legislatures of the different states in equal proportions. At present, it is vested in a President, who is chosen by the people of America, and in a Senate, whose members are chosen by the state legislatures, each legislature choosing two members. Surely there is greater security in vesting this power as the present Constitution has vested it, than in any other body. Would the gentleman vest it in the President alone? If he would, his assertion that the power we have granted was as dangerous as the power vested by Parliament in the proclamations of Henry VIII., might have been, perhaps, warranted. Would he vest it in the House of Representatives? Can secrecy be expected in sixty-five members? The idea is absurd. Besides, their sessions will probably last only two or three months in the year; therefore, on that account, they would be a very unfit body for negotiation; whereas the Senate, from the smallness of its numbers, from the equality of power which each state has in it, from the length of time for which its members are elected, from the long sessions they may have without any great inconveniency to themselves or constituents, joined with the president, who is the federal head of the United States, form together a body in whom can be best and most safely vested the diplomatic power of the Union.

### rouge Island

General Pinckney then observed, that the honorable gentleman had not conducted his arguments with his usual candor. He had made use of many which were not well founded, and were only thrown out *ad captandum*. Why say, upon this occasion, that every thing would, in future, be managed by great men, and that great men could do no wrong? Under the new Constitution, the abuse of power was more effectually checked than under the old one. A proper body, immediately taken from the people, and returnable to the people every second year, are to impeach those who behave amiss, or betray their public trust; another body, taken from the state legislatures, are to try them. No man, however great, is exempt from impeachment and trial. If the representatives of the people think he ought to be impeached and tried, the President cannot pardon him; and this great man himself, whom the honorable gentleman pretends to be so much afraid of, as well as the Vice-President, and all civil officers of the United States, are to be removed from office on impeachment and conviction of treason, bribery, or other high crimes and misdemeanors. Then why make use of arguments to occasion improper jealousies and ill-founded fears? Why is the invidious distinction of "great men" to be reiterated in the ears of the members? Is there any thing in the Constitution which prevents the President and senators from being taken from the poor as well as the rich? Is there any pecuniary qualification necessary to the holding of any office under the new Constitution? There is not. Merit and virtue, and federal principles, are the qualifications which will prefer a poor man to office, before a rich man who is destitute of them. The gentleman has made a warm panegyric on the old Confederation. Can he possibly be serious, and does he really think it can secure us tranquillity at home, or respect abroad? Ask the citizens of Massachusetts if the Confederation protected them during the insurrection of Shays. Ask the crews of our vessels captured by the Algerines if respect for our government hath softened the rigors of their captivity. Inquire of our delegates to Congress if all the despatches from your public ministers; are not filled with lamentations of the imbecility of Congress; and whether foreign nations do not declare they can have no confidence in our government, because it has not power to enforce obedience to treaties, Go through each state in the Union, and be convinced that a disregard for law hath taken the place of order, and that Congress is so slighted by all of them that not one hath complied with her requisitions. Every state in the Union, except Rhode Island, was so thoroughly convinced that our government was inadequate to our situation, that all, except her, sent members to the Convention at Philadelphia. General Pinckney said, it had been alleged that, when there, they exceeded their powers. He thought not. They had a right, he apprehended, to propose any thing which they imagined would strengthen the Union, and be for the advantage of our country; but they did not pretend to a right to determine finally upon any thing. The present Constitution is but a proposition which the people may reject; but he conjured them to reflect seriously before they did reject it, as he did not think our state would obtain better terms by another convention, and the anarchy which would, in all probability, be the consequence of rejecting this Constitution, would encourage some daring despot to seize upon the government, and effectually deprive us of our liberties.

Every member who attended the Convention was, from the beginning, sensible of the necessity of giving greater powers: to the federal government. This was the very purpose for which they were convened. The delegations of Jersey and Delaware were, at first, averse to this organization; but they afterwards acquiesced in it; and the conduct of their delegates has been so very agreeable to the people of these states, that their respective conventions have unanimously adopted the Constitution. As we have found it necessary to give very extensive powers to the federal government both over the persons and estates of the citizens, we thought it right to draw one branch of the legislature immediately from the people, and that both wealth and numbers should be considered in the representation.

### Slavery

We were at a loss, for some time, for a rule to ascertain the proportionate wealth of the states. At last we thought that the productive labor of the inhabitants was the best rule for ascertaining their wealth. In conformity to this rule, joined to a spirit of concession, we determined that representatives should be apportioned among the several states, by adding to the whole number of free persons three fifths of the slaves. We thus obtained a representation for our property; and I confess I did not expect that we had conceded too much to the Eastern States, when they allowed us a representation for a species of property which they have not among them.

The numbers in the different states, according to the most accurate accounts we could obtain, were —

* In New Hampshire, ............................................. 102,000
* Massachusetts, ............................................. 360,000
* Rhode Island, ............................................... 58,000
* Connecticut ................................................ 202,000
* New York, .................................................. 233,000
* New Jersey, ................................................ 138,000
* Pennsylvania, .............................................. 360,000
* Delaware, ................................................... 37,000
* Maryland, (including three fifths of 80,000 negroes,) ...... 218,000
* Virginia, (including three fifths of 280,000 negroes,) ..... 420,000
* N. Carolina, (including three fifths of 60,000 negroes,) ... 200,000
* S. Carolina, (including three fifths of 80,000 negroes,) ... 150,000
* Georgia, (including three fifths of 20,000 negroes,) ........ 90,000

The first House of Representatives will consist of sixty-five members. South Carolina will send five of them. Each state has the same representation in the Senate that she has at present; so that South Carolina will have, under the new Constitution, a thirteenth share in the government, which is the proportion she has under the old Confederation: and when it is considered that the Eastern States are full of men, and that we must necessarily increase rapidly to the southward and south-westward, he did not think that the Southern States will have an inadequate share in the representation. The honorable gentleman alleges that the Southern States are weak. I sincerely agree with him. We are so weak that by ourselves we could not form a union strong enough for the purpose of effectually protecting each other. Without union with the other states, South Carolina must soon fall. Is there any one among us so much a Quixote as to suppose that this state could long maintain her independence if she stood alone, or was only connected with the Southern States? I scarcely believe there is. Let an invading power send a naval force into the Chesapeake to keep Virginia in alarm, and attack South Carolina with such a naval and military force as Sir Henry Clinton brought here in 1780; and though they might not soon conquer us, they would certainly do us an infinite deal of mischief; and if they Considerably increased their numbers, we should probably fall. As, from the nature of our climate and the fewness of our inhabitants, we are undoubtedly weak, should we not endeavor to form a close union with the Eastern States, who are strong? And ought we not to endeavor to increase that species of strength which will render them of most service to us both in peace and war? — I mean their navy. We certainly ought; and by doing this we render it their particular interest to afford us every assistance in their power, as every wound that we receive will eventually affect them. Reflect, for a moment, on the situation of the Eastern States; their country full of inhabitants, and so impracticable to an invading enemy by their numberless stone walls, and a variety of other circumstances, that they can be under no apprehension of danger from an attack. They can enjoy their independence without our assistance. If our government is to be founded on equal compact, what inducement can they possibly have to be united with us, if we do not grant them some privileges with regard to their shipping? Or, supposing they were to unite with us without having these privileges, can we flatter ourselves that such union would be lasting, or that they would afford us effectual assistance when invaded? Interest and policy both concurred in prevailing upon us to submit the regulation of commerce to the general government. But I will also add, justice and humanity require it likewise. For who have been the greatest sufferers in the Union, by our obtaining our independence? I answer, the Eastern States. They have lost every thing but their country and their freedom. It is notorious that some ports to the eastward, which used to fit out one hundred and fifty sail of vessels, do not now fit out thirty; that their trade of ship-building, which used to be very considerable, is now annihilated; that their fisheries are trifling, and their mariners in want of bread. Surely we are called upon by every tie of justice, friendship, and humanity, to relieve their distresses; and as, by their exertions, they have assisted us in establishing our freedom, we should let them, in some measure, partake of our prosperity. The general then said he Would make a few observations on the objections which the gentleman had thrown out on the restrictions that might be laid on the African trade after the year 1808. On this point your delegates had to contend with the religious and political prejudices of the Eastern and Middle States, and with the interested and inconsistent opinion of Virginia, who was warmly opposed to our importing more slaves. I am of the same opinion now as I was two years ago, when I used the expressions the gentleman has quoted — that, while there remained one acre of swam-land uncleared of South Carolina, I would raise my voice against restricting the importation of negroes. I am as thoroughly convinced as that gentleman is, that the nature of our climate, and the flat, swampy situation of our country, obliges us to cultivate our lands with negroes, and that without them South Carolina would soon be a desert waste.

### slaves

You have so frequently heard my sentiments on this subject, that I need not now repeat them. It was alleged, by some of the members who opposed an unlimited importation, that slaves increased the weakness of any state who admitted them; that they were a dangerous species of property, which an invading enemy could easily turn against ourselves and the neighboring states; and that, as we were allowed a representation for them in the House of Representatives, our influence in government would he increased in proportion as we were less able to defend ourselves. "Show some period," said the members from the Eastern States, "when it may be in ont power to put a stop, if we please, to the importation of this weakness, and we will endeavor, for your convenience, to restrain the religious and political prejudices of our people on this subject." The Middle States and Virginia made us no such proposition; they were for an immediate and total prohibition. We endeavored to obviate the objections that were made in the best manner we could, and assigned reasons for our insisting on the importation, which there is no occasion to repeat, as they must occur to every gentleman in the house: a committee of the states was appointed in order to accommodate this matter, and, after a great deal of difficulty, it was settled on the footing recited in the Constitution.

By this settlement we have secured an unlimited importation of negroes for twenty years. Nor is it declared that the importation shall be then stopped; it may be continued. We have a security that the general government can never emancipate them, for no such authority is granted; and it is admitted, on all hands, **that the general government has no powers but what are expressly granted by the Constitution, and that all rights not expressed were reserved by the several states.** We have obtained a right to recover our slaves in whatever part of America they may take refuge, which is a right we had not before. In short, considering all circumstances, we have made the best terms for the security of this species of property it was in our power to make. We Would have made better if we could; but, on the whole, I do not think them bad.

## Dr. DAVID RAMSAY

thought our delegates had made a most excellent bargain for us, by transferring an immense sum of Continental debt, which we were pledged to pay, upon the Eastern States, some of whom (Connecticut, for instance) could not expect to receive any material advantage from us. He considered the old Confederation as dissolved.

## Hon. JACOB READ

looked on the boasted efficiency of Congress to be farcical, and instanced two cases in proof of his opinion. One was, that, when the treaty should have been ratified, a sufficient number of members could not be collected in Congress for that purpose; so that it was necessary to despatch a frigate, at the expense of four thousand dollars, with particular directions for Mr. Adams to use his endeavors to gain time. His application proved successful; otherwise, very disagreeable consequences must have ensued. The other case was, a party of Indians came to Princeton for the purpose of entering into an amicable treaty with Congress; before it could be concluded, a member went to Philadelphia to be married, and his secession had nearly involved the western country in all the miseries of war. Mr. Read urged a concurrence, with those states that were in favor of the new Constitution.

## Hon. CHARLES PINCKNEY

observed, that the honorable gentleman was singular in his opposition to the new Constitution, and equally singular in his profuse praise of the old one. He described, with much good sense, the impracticability of annexing responsibility to the office of President in a republican form of government; the only remedy against despotism being to form a party against those who were obnoxious, and turn them out. He observed that the President's powers did not permit him to declare war.

## Hon. RAWLINS LOWNDES

declared himself almost willing to give up his post, finding he was opposed by such a phalanx of able antagonists, any one of them possessing sufficient abilities to contend with him; but as a number of respectable members, men of good sense, though not in the habit of speaking in public, had requested that he would state his sentiments, for the purpose of gaining information on such points as seemed to require it, — rather in compliance, therefore; with their wishes, than any inclination on his party, he should make a few further observations on the subject. Much had been said, from different parts of the house, against the old Confederation — that it was such a futile, inefficient, impolitic government as to render us the objects of ridicule and contempt in the eyes of other nations. He could not agree to this, because there did not appear any evidence of the fact, and because the names of those gentlemen who had signed the old Confederation were eminent for patriotism, virtue, and wisdom, — as much so as any set of men that could be found in America, — and their prudence and wisdom particularly appeared in the care which they had taken sacredly to guaranty the sovereignty of each state. The treaty of peace expressly agreed to acknowledge us as free, sovereign, and independent states, which privileges we lived at present in the exercise of. But this new Constitution at once swept those privileges away being sovereign over all; so that this state would dwindle into a mere skeleton of what it was; its legislative powers would be pared down to little more than those now vested in the corporation; and he should value the honor of a seat in the legislature in no higher estimation than a seat in the city council. Adverting to the powers given to the President, he considered them as enormous, particularly in being allowed to interfere in the election of members in the House of Representatives; astonishing that we had not this reserved to us, when the senators were to be chosen from that body: — thinks it might be so managed that the different legislatures should be limited to the passing a few laws for regulating ferries and roads.

The honorable gentleman went into an investigation of the weight of our representation in the proposed government, which he thought would be merely virtual, similar to what we were allowed in England, whilst under the British government. We were then told that we were represented in Parliament; and this would, in the event, prove just such another. The mode of choosing senators was exceedingly exceptionable. It had been the practice formerly to choose the Senate or council for this state from that house, which practice proved so inconvenient and oppressive, that, when we framed our present Constitution, great care was taken to vest the power of electing the Senate originally with the people, as the best plan for securing their rights and privileges. He wished to know in what manner it was proposed to elect the five representatives. Was it to be done in this city? or would some districts return one member, and others none at all?

Still greater difficulties would be found in the choice of a President, because he must have a majority of ninety-one votes in his favor. For the first President there was one man to whom all America looked up, (General Washington,) and for whom he most heartily would vote; but after that gentleman's administration ceased, where could they point out another so highly respected as to concentre a majority of ninety-one persons in his favor? and if no gentleman should be fully returned, then the government must stand still. He went over much of the ground which he had trod the preceding day, relative to the Eastern States having been so guarded in what they had conceded to gain the regulation of our commerce, which threw into their hands the carrying treacle, and, put it in their power to lay us under payment of whatever freightage they thought proper to impose. It was their interest to do so, and no person could doubt but they would promote it by every means in their power. He wished our delegates had sufficiently attended to this point in the Convention — had been more. attentive to this object, and taken care to have it expressed, in this Constitution, that all our ports were open to all nations; instead of putting us in the power of a set of men who may fritter away the value of our produce to a little or nothing, by compelling a payment of exorbitant freightage. Neither did he believe it was in the power of the Eastern States to furnish a sufficient number of ships to carry our produce. It was, indeed, a general way of talking, that the Eastern States had a great number of seamen, a vast number of ships; but where were they? Why did they not come here now, when ships are greatly wanted? He should always wish to give them a preference, and so, no doubt, would many other gentlemen; and yet very few ships come here from the Eastern States. Another exceptionable point was, that we were to give up the power of taxing ourselves. During our connection with Great Britain, she left us the power of raising money in any way most convenient: a certain sum was only required to defray the public wants, but no mode of collecting it ever prescribed. In this new Constitution, every thing is transferred, not so much power being left us as Lord North offered to guaranty to us in his conciliatory plan. Look at the articles of union ratified between England and Scotland. How cautiously had the latter taken care of her interest in reserving all the forms of law — her representation in Parliament — the right of taxation the management of her revenue — and all her local and municipal interests! Why take from us the right of paying our delegates, and pay them from the federal treasury? He remembered formerly what a flame was raised in Massachusetts, on account of Great Britain assuming the payment of salaries to judges and other state officers; and that this conduct was considered as originating in a design to destroy the independence of their government. Our local expenses had been nearly defrayed by our impost duty; but now that this was given away, and thrown into a general fund, for the use of all the states indiscriminately, we should be obliged to augment our taxes to carry on our local government, notwithstanding we were to pay a poll tax for our negroes. Paper money, too, was another article of restraint, and a popular point with many; but what evils had we ever experienced by issuing a little paper money to relieve ourselves from any exigency that pressed us? We had now a circulating medium which every body took. We used formerly to issue paper bills every year, and recall them every five, with great convenience and advantage. Had not paper money carried us triumphantly through the war, exricated us from difficulties generally supposed to be insurmountable, and fully established us in our independence? {290} and now every thing is so changed that an entire stop must be put to any more paper emissions, however great our distress may be. It was true, no article of the Constitution declared there should not be jury trials in civil cases; yet this must be implied, because it stated that all crimes, except in cases of impeachment, shall be tried by a jury. But even if trials by jury were allowed, could any person rest satisfied with a mode of trial which prevents the parties from being obliged to bring a cause for discussion before a jury of men chosen from the vicinage, in a manner conformable to the present administration of justice, which had stood the test of time and experience, and ever been highly approved of? Mr. Lowndes expatiated some time on the nature of compacts, the sacred light in which they were held by all nations, and solemnly called on the house to consider whether it would not be better to add strength to the old Confederation, instead of hastily adopting another; asking whether a man could be looked on as wise, who, possessing a magnificent building, upon discovering a flaw, instead of repairing the injury, should pull it down, and build another. Indeed, he could not understand with what propriety the Convention. proceeded to change the Confederation; for every person with whom he had conversed on this subject concurred in opinion that the sole object of appointing a convention was to inquire what alterations were necessary in the Confederation, in order that it might answer those salutary purposes for which it was originally intended.

He recommended that another convention should be called; and as the general sense of America appeared now to be known, every objection could be met on fair grounds, and adequate remedies applied where necessary. This mode of proceeding would conciliate all parties, because it was candid, and had a more obvious tendency to do away all inconveniences than the adoption of a government which perhaps might require the bayonet to enforce it;for it could not be expected that the people, who had disregarded the requisitions of Congress, though expressed in language the most elegant and forcible that he ever remembered to have read, would be more obedient to the government until an irresistible force compelled them to be so. Mr. Lowndes concluded a long speech with a glowing eulogy on the old Confederation, and challenged his opponents, whilst {291} one state objected, to get over that section which said, "The Articles of this Confederation shall be inviolably observed in every state, and the Union shall be perpetual; nor shall any alteration at any time hereafter be made in them, unless such alteration be agreed to in a Congress of the United States, and be afterwards confirmed by the legislature of every state."

## Hon. ROBERT BARNWELL

said, although he had been opposed to the investigation of the Federal Constitution at that period, and in that house, and foretold the unnecessary expenditure of both time and treasure that would be occasioned by it, yet he acknowledged that, if individual information upon its principles could by any means be a compensation for these wastes he should be extremely indebted to the honorable gentleman for the opposition which he had given. Mr. Barnwell was most decidedly in favor of the Constitution as recommended by the Convention, and viewed with pleasure the small sacrifices of interest, which, in his opinion, have been made to effect it. The arguments which had been adduced by the honorable gentleman in opposition had riveted his affections still more firmly to it, and had established in his mind, as conviction, what was only approbation before. If he did not view some part of the Constitution through a medium different from any of the gentlemen who had spoken before him, he should not have troubled this house. With this idea he rose, and left it to the house to determine whether he had done his duty as a member, or whether he had unnecessarily contributed to the interruption of the business before them. When he found that a gentleman of such acknowledged abilities, and of so great experience, was opposed to the Constitution, he expected a train of reasoning, and a power of argument, that would have made the federal fabric totter to its foundation. But to him they rather appeared like those storms which shake the edifice to fix it more strongly on its basis. To give his reasons for this opinion, he begged the indulgence of the house while he made the following observations upon the principles of the gentleman's opposition. In the first instance, it appeared to him that the gentleman had established, as the basis of his objections, that the Eastern States entertained the greatest aversion to those which lay to the south, and would endeavor in every {292} instance to oppress them; This idea he considered as founded in prejudice, and unsupported by facts. To prove this assertion, Mr. B. requested gentlemen for a moment to turn their attention to the transactions which the late war has engraved upon the memory of every man. When the armor oppression lay heavy on us, were they not the first to arouse themselves? When the sword of civil discord was drawn, were they not the first in the field? When war deluged their plains with blood, what was their language? Did they demand the southern troops to the defence of the north? No! Or, when war floated to the south, did they withhold their assistance? The answer was the same. When we stood with the spirit, but weakness, of youth, they supported us with the vigor and prudence of age. When our country was subdued, when our citizens submitted to superior power, it was then these states evinced their attachment. He saw not a man who did not know that the shackles of the south were broken asunder by the arms of the north. With the above-mentioned supposition of oppression, the gentleman had objected to the formation of the Senate; that the Confederation required nine states to ratify matters of importance, but by the Constitution a majority of fourteen can do almost any thing. That this was the case he did not deny; but the conclusions that he had drawn were by no means consequential. The seven Eastern States, the gentleman had said, whose interests were similar, will unite together, and, by having a majority in the Senate, will do what they please. If this was the ease, it went against uniting at all; for, if he was not mistaken, the interests of nine of the United States are almost the same. New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, and Delaware, are very similar in their interests. They are most of them entirely carriers for others; and those states which are exporting ones are very nearly equal to the carrying of their products themselves. Supposing, then, the desire of oppression to exist, he asked if they could not do it equally as well under the Confederation as the Constitution. He thought so; and, as the gentleman's arguments equally lay against every kind of coercive government, he was of opinion that the Senate, as established by this Constitution, was the most proper. Upon this head he {293} begged permission to ask these questions: If the majority was in the Southern States, (which, as ten is a majority, might be the case,) would not objections, equally forcible as the gentleman's, lie on the side of the Eastern States? and yet that, in all governments, a majority must be somewhere, is most evident: nothing would be more completely farcical than a government completely checked. Having commented thus far on the gentleman's opposition to the Federal Constitution, he proceeded, according to the order of his objections, to consider the presiding power. On this he would be extremely concise; for, as the only objection which had fallen upon this head from the honorable gentleman was, that we had only a thirteenth part of him; and as this might equally, and, in his opinion, with more justice, be the objection of many and almost every state, he considered it only as a weight thrown into the scale of other objections, and not a subject for discussion.

With respect to the President's responsibility, it could not be established more firmly than it is by the Constitution. When treaties are made, if in the time of prosperity, men seldom think they gain enough; if in the day of adversity, they would be apt to make the President the pillow upon whom they would rest all their resentment. The Constitution had then wisely made him, as a man, responsible by the influence of fame, his character, and his feelings; as a citizen, they have postponed the period at which he could be tried with propriety until the fervor of party and cool reflection can determine his fate. The gentleman had also objected to the power given to those two branches of making treaties, and that these treaties should become the law of the land. A number of gentlemen have proved this power to be in the possession of the head of every free nation, and that it is within the power of the present Congress. He should only, therefore, observe, that the most free and enlightened nations of the world had a federal head, in which this power was established — he meant the Amphictyonic council of the Greeks, which was the palladium of their united liberties, and, until destroyed by the ambition of a few of the states of Greece, was revered by that jealous people as the cornerstone of their federal union. Against the representation he generally objects, that they are too few, and not elected immediately by the people. The whole body consists of sixty-five persons, in the proportion of one to thirty thousand. The British Parliament have one to fifteen thousand in the island of Great Britain, without considering her possessions elsewhere. The numbers of her Parliament are fixed; our congressional powers may be increased almost ad infinitum. Supposing, then, that a smaller apportionment had been made, in time we should have been oppressed with the number of legislators, and our government would be as languid and inoperative as it is at present; and he differed so much from the honorable gentleman, that he was apprehensive lest he should find that, by the Constitution, their numbers will be too great. As for their not being immediately elected by the people at large, the gentleman Would please to observe, that, contradictory to their present method of electing delegates to Congress, — a method laid down by that Confederation which he admires, — all the representatives are elected by the people; so that, in this instance, the gentleman was very unfortunate in his objection. The gentleman also asked why we were deprived of the liberty of paying our own delegates? This is another of the gentleman's unfounded suspicions; for the reason is so evident, and the regulation so favorable, that he was astonished how it escaped the honorable gentleman's notice. Congress are to have the sole power of laying on imposts; and therefore, when that fired is given up by which we were enabled to pay our delegates, we are also eased of the burden of doing it. This is so evident, that the establishment of the objection takes not a little from the weight of the gentleman's other observations. Mr. Barnwell proceeded to say that the gentleman, upon the deprivation of the right to issue paper medium, has altogether made use of an argument ad hominem, calculated to seduce; and his eulogium upon it was, in his opinion, misapplied. However, supposing that to be the clew that led us to our liberty, yet the gentleman must acknowledge it was not the state, but the Continental money, that brought about the favorable termination of the war. If to strike off a paper medium becomes necessary, Congress, by the Constitution, still have that right, and may exercise it when they think proper.

The honorable gentleman asks why the trial by jury was not established in every instance. Mr. Barnwell considered this right of trial as the birthright of every American, and the {295} basis of our civil liberty; but still most certainly particular circumstances may arise, which would induce even the greatest advocates for this right to yield it for a time. In his opinion, the circumstances that would lead to this point were those which are specified by the Constitution. Mr. Barnwell said, Suffer me to state a case, and let every gentleman determine whether, in particular instances, he would not rather resign than retain this right of trial. A suit is depending between a citizen of Carolina and Georgia, and it becomes necessary to try it in Georgia. What is the consequence? Why, the citizen of this state must rest his cause upon the jury of his opponent's vicinage, where, unknown and unrelated, he stands a very poor chance for justice against one whose neighbors, whose friends and relations, compose the greater part of his judges. It is in this case, and only in cases of a similar nature with this, that the right of trial by jury is not established; and judging from myself, it is in this instance only that every man would wish to resign it, not to a jury with whom he is unacquainted, but to an impartial and responsible individual.

Mr. Barnwell then adverted to the parts of the Constitution which more immediately affected our state; namely, the right of establishing imposts and granting preferences, and the clause which respects the importation of negroes. Upon the first he premised, that, in the compacts which unite men into society, it always is necessary to give up a part of our natural rights to secure the remainder; and that, in every instance; if the latter could be maintained without giving up the former, every individual would be willing to keep back his share of those aggregate ties which then would bind the rest of the community; each individual would wish to retain his right to act as he pleases, whilst all but himself were restricted in their conduct. Let us, then, apply this to the United States; and yet the honorable gentleman supposes that South Carolina should be free herself. Surely this is not just, and cannot be admissible.

Mr. Chairman, suffer me to make this one other remark-that, when the distinctions occasioned by wealth take place, the desire of equality and the appetite for property soon render it necessary that the wealthy weak man should make greater sacrifices than the man who has nothing to lose, and consequently nothing to fear. This is the case with us. To {296} secure our wealth, and establish our security, perhaps some little sacrifice was necessary; and what is this sacrifice? Why, that, generally, American vessels should have a preference in the carrying trade. The gentleman asserts that, by granting this preference, we, as a large importing state, will suffer greatly. Let us examine the truth of this position. By so doing, says the honorable gentleman, we shall destroy all competition, and the carrying states will establish what freight they please. I deny the declaration; and upon this principle: bounties act as encouragements; and this preference may, in a trifling degree, injure us for one or two years, but will throw so many capitals into this trade, that, even if the Eastern States should desire to oppress us, this would prevent them; for when this bounty takes place, our harbors will most indisputably reduce the freight. the gentleman will perhaps say that this is conjectural only. I appeal to every author, who has written upon the subject, for the certainty of this commercial maxim, and will ask the gentleman himself, whether an overstock of the market, in every instance, does not reduce the price of the commodity. Thus he had proved, he thought, that, should the Eastern States be desirous to take unfriendly advantages, their own interest would defeat their intention.

### slaves

Mr. Barnwell continued to say, I now come to the last point for consideration, — I mean the clause relative to the negroes; and here I am particularly pleased with the Constitution. It has not left this matter, of so much importance to us, open to immediate investigation. No; it has declared that the United States shall not, at any rate, consider this matter for twenty-one years; and yet gentlemen are displeased with it. Congress has guarantied this right for that space of time, and at its expiration may continue it as long as they please. This question then arises — What will their interest lead them to do? The Eastern States, as the honorable gentleman says, will become the carriers of America. It will, therefore, certainly be their interest to encourage exportation to as great an extent as possible; and if the quantum of our products will be diminished by the prohibition of negroes, I appeal to the belief of every man, whether he thinks those very carriers will themselves dam up the sources from whence their profit is derived. To think so is so contradictory to the general conduct of mankind, that I am of opinion, that, without we ourselves put a stop to them, the traffic for negroes will continue forever.

Mr. Barnwell concluded by declaring that this Constitution was, in his opinion, like the laws of Solon, not the best possible to be formed, but the best that our situation will admit of. He considered it as the panacea of America, whose healing power will pervade the continent, and sincerely believed that its ratification is a consummation devoutly to be wished.

## Commodore GILLON

wished to know what reason the house had to suppose that, if another convention met, our interest would be better taken care of by men of equal abilities with those who went to the other; or if, when there, they could procure for us superior advantages to those already agreed on. Indeed, he could not but consider our negativing the proffered government as an oblique mode of reflecting on the conduct of our delegates, instead of giving them that praise they were so justly entitled to. He called the attention of the house to the late commotions that had happened in Holland, where one part Of the citizens had called in the assistance of foreigners, for the sanguinary purpose of cutting the throats of the other. Are we more virtuous? If not, may it not happen that, if dissension unhappily prevail among us, foreign aid will be joined to those enemies already amongst us, and introduce the horrors of a civil war? He was warmly in favor of our sister states becoming the carriers of America; not that he wished to exclude our employing foreigners; at present two thirds of our produce was carried in American bottoms. The commodore hoped the gentleman who had approved of our state Constitution of 1778, would be, in time, equally pleased with the Federal Constitution proposed in 1787. He had represented our present situation to be calm and peaceable, but it was such a calm as mariners often experience at sea, after a storm, when one ship rolls against another, and they sink.

## Hon. RAWLINS LOWNDES

said, the honorable gentleman frequently thought proper to level his shot at him; but on the present occasion they were not well pointed. The reason why he assented unto the Constitution in 1778 was, because it had been approved of by the people. There had been something said about a ship: the Confederation was our old ship; it had cost us a great deal of money; and {298} he hoped we should keep her at sea without having any new commanders.

## Hon. JOHN MATHEWS,

chancellor, confessed himself astonished at hearing such encomiums on the Articles of Confederation, as if they had carried us victoriously through the war, when, in fact, they were not ratified until the year 1781; and if the Confederation had been in force in 1776, this country would have inevitably been lost, because, under it, Congress had not authority to give General Washington the powers of a dictator at Valley Forge. Surely the honorable gentleman must be sensible that the success of Congress depended on the explicit confidence of the people; the voice of Congress had the force of law, and was cheerfully and readily obeyed. With regard to the carrying trade, when the Convention was first appointed, he was afraid that, if a navigation act passed, the Northern States could not for some time furnish shipping sufficient for carrying the produce of America; but on going, last year, to the northward, he was fully convinced to the contrary. At Rhode Island, he received information that they could immediately furnish 50,000 tons of shipping, and that in 1787 Massachusetts could furnish 150,000 tons. He then went into a calculation of the produce of the Southern States. Virginia raised between 60,000 and 70,000 hogsheads annually; South Carolina, he supposed, would raise nearly 150,000 barrels of rice; Georgia about 40,000; which, making large allowances for other kind of produce, still left an excess of shipping. As to any fears that the Northern States would so far engross the navigation of America as to lay the Southern States under a kind of contribution, by charging excessive freightage, we must suppose that they and the Middle States would confederate for this purpose; for, if they did not, a competition would naturally arise between them, and also between America and the European nations, which would always secure us against the payment of great and exorbitant freights. As to the idea that a Senate could overturn our liberties and establish tyranny, this evil never could take place whilst the President was an honest man, because he possessed the power of negativing any improper proceedings of the two other branches of government.

## Hon. EDWARD RUTLEDGE

proved, from the act passed last session, appointing delegates from the state to meet those from other states, in Convention at Philadelphia, that they had not exceeded their powers. He then compared the powers given under the old and new constitutions, and proved that they differed very little, except in that essential point which gave the power to government, of enforcing its engagements; and surely no person could object to this. Mr. Rutledge thought very lightly of those fears entertained about bayonets being necessary to enforce an obedience in the people to the laws, when it became certain that they could not be broken with impunity; but if a spirit of resistance should appear, surely it ought to be in the power of government to compel a coercion in the people. He then took some notice of the union between Great Britain and Scotland, showed the difference between the articles of union and our Federal Constitution. Great Britain reserved to herself the power of passing navigation laws, regulating the excise; the rate of taxation was also proportionate; for every two millions of money raised in England, Scotland engaged to raise £45,000; but in this country, we were to be equally taxed; no distinction had been made, and we went on all-fours. So far from not preferring Northern States by a navigation act, it would be politic to increase their strength by every means in our power; for we had no other resource, in the day of danger, than in the naval force of our northern friends; nor could we ever expect to become a great nation until we were powerful on the waters. Look only at the partiality of an act passed in England last year, in which we were excluded from trading in some parts of the West Indies, whilst liberty was given to all European powers. In fact, we must hold our country by courtesy, unless we have a navy; for, if we are invaded, supposing in the month of July, Congress could not send troops nine hundred miles, in time to rescue us from danger, were we to run such risk, because it was possible we should be charged a little more freightage for our produce. But if we are a great maritime people, what have we to fear? Nothing; because European powers were so far removed from us that it would be very dangerous to send a considerable force against us; besides, as the West India trade must pass near our coast, it naturally lay at our mercy. The honorable gentleman had said a great deal about establishing an aristocracy, and yet he wanted more power to the old constitution: now, did not his own proposition, which tended to establish a precedent for slipping in, by degrees, additional power, appear as likely to promote what he dreaded, as to agree with a constitution that came sanctioned by the voice of the people?

## Hon. ARTHUR SIMKINS,

### religion

of *Ninety-six*, asked, for information, whether Congress had a right to interfere in religion.

## Gen. CHARLES COTESWORTH PINCKNEY

answered, they had no power at all, and explained this point to Mr. Simkins's satisfaction.

## Hon. RAWLINS LOWNDES

saying that he was much in arrear, the committee rose, reported some progress, and asked leave to sit again. Leave was given.

# FRIDAY, *January* 18, 1788.

## Maj. PIERCE BUTLER

opened the debate (as we understand; the reporter of those debates unfortunately not being in the house) with several satisfactory answers to some points of objection the preceding day.

## Gen. CHARLES COTESWORTH PINCKNEY,

in answer to Mr. Lowndes, observed, that, though ready to pay every tribute of applause to the great characters whose names were subscribed to the old Confederation, yet his respect for them could not prevent him from being thoroughly sensible of the defects of the system they had established; sad experience had convinced him that it was weak, inefficient, and inadequate to the purposes of good government; and he understood that most of the framers of it were so thoroughly convinced of this truth, that they were eager to adopt the present Constitution. The friends of the new system do not mean to shelter it under the respectability of mere names; they wish every part of it may be examined with critical minuteness, convinced that the more thoroughly it is investigated, the better it will appear. The honorable gentleman, in the warmth of his encomiums on the old plan, had said that it had carried us with success through the war. In this it has been shown that he is mistaken, as it was not fatally ratified till March, 1781, and, anterior to that ratification, Congress never acted under it, or considered it as binding. Our success, therefore, ought not to be imputed to the old Confederation; but to the vast abilities of a Washington, {301} to the valor and enthusiasm of our people, to the cruelty of our enemies, and to the assistance of our friends. The gentleman had mentioned the treaty of peace in a manner as if our independence had been granted us by the king of Great Britain. But that was not the case; we were independent before the treaty, which does not in fact grant, but acknowledges, our independence. We ought to date that invaluable blessing from a much older charter than the treaty of peace from a charter which our babes should be taught to lisp in their cradles; which our youth should learn as a *carmen necessarium*, or indispensable lesson; which our young men should regard as their compact of freedom; and which our old should repeat with ejaculations of gratitude for the bounties it is about to bestow on their posterity: I mean the Declaration of Independence, made in Congress the 4th of July, 1776. This admirable manifesto, which, for importance of matter and elegance of composition, stands unrivalled, sufficiently confutes the honorable gentleman's doctrine of the individual sovereignty and independence of the several states.

In that Declaration the several states are not even enumerated; but after reciting, in nervous language, and with convincing arguments, our right to independence, and the tyranny which compelled us to assert it, the declaration is made in the following words: "We, therefore, the representatives of the United States of America in General Congress assembled, appealing to the Supreme Judge of the world for the rectitude of our intentions, do, in the name and by the authority of the good people of these colonies, solemnly publish and declare, that these United Colonies are, and of fight ought to be, FREE AND INDEPENDENT STATES." The separate independence and individual sovereignty of the several states were never thought of by the enlightened band of patriots who framed this Declaration; the several states are not even mentioned by name in any part of it, as if it was intended to impress this maxim on America, that our freedom and independence arose from our union, and that without it we could neither be free nor independent. Let us, then, consider all attempts to weaken this Union, by maintaining that each state is separately and individually independent, as a species of political heresy, which {302} can never benefit us, but may bring on us the most serious distresses.

### enumerated

The general, then, in answer to Mr. Lowndes's objections, that the powers vested in the general government were too extensive**, enumerated all the powers granted**, and remarked particularly on each, showing that the general good of the Union required that all the powers specified ought necessarily to be vested where the Constitution had placed them; and that, as all the powers granted sprang from the people, and were to be exercised by persons frequently chosen, mediately or immediately, by the people; and that, as we had as great a share in the government, in proportion to our importance, as any other state had, — the assertion that our representation would he merely virtual, similar to what we possessed under the British government, was altogether unfounded; that there was no danger of the powers granted being abused while the people remained uncorrupt; and that corruption was more effectually guarded against, in the manner this government was constituted, than in any other that had ever been formed. From the number of electors who have a right to vote for a member of the House of Representatives, little danger can be apprehended of corruption or undue influence. If a small district sent a member, there would be frequent opportunities for cabal and intrigue: but if the sphere of election is enlarged, then opportunities must necessarily diminish. The little demagogue of a petty parish or county will find his importance annihilated, and his intrigues useless, When several counties join in an election; he probably would not be known, certainly not regarded, out of his own circle; while the man whose abilities and virtues had extended a fair reputation beyond the limits of his county, would, nine times out of ten, be the person who would be the choice of the people.

There will be no necessity, as the honorable gentleman has Strangely supposed, for all the freeholders in the state to meet at Charleston to choose five members for the House of Representatives; for the state may be divided into five election districts, and the freeholders in each election district may choose one representative. These freeholders need not all meet at the same place in the district; they may ballot in their particular parishes and counties on the same day, and the ballots may be thence carried into a central part of {303} the district, and opened at the same time; and whoever shall appear to have a majority of the votes of the freeholders of the whole district will be one of the five representatives for this state. But if any state should attempt to fix a very inconvenient time for the election, and name (agreeably to the ideas of the honorable gentleman) only one place in the state, or even one place in one of the five election districts,for the freeholders to assemble to vote, and the people should dislike this arrangement, they can petition the general government to redress this inconvenience, and to fix times and places of election of representatives in the state in a more convenient manner; for, as this house has a right to fix the times and places of election, in each parish and county, for the members of the House of Representatives of this state, so the general government has a similar right to fix the times and places of election, in each state, for the members of the general House of Representatives. Nor is there any real danger to be apprehended from the exercise of this power, as it cannot be supposed that any state wilt consent to fix the election at inconvenient seasons and places in any other state, lest she herself should hereafter experience the same inconvenience; but it is absolutely necessary that Congress should have this superintending power, lest, by the intrigues of a ruling faction in a state, the members of the House of Representatives should not really represent the people of the state, and lest the same faction, through partial state views, should altogether refuse to send representatives of the people to the general government. The general government has not the same authority with regard to the members of the Senate. It would have been improper to have intrusted them with it; for such a power would, in some measure, have authorized them to fix the times and places when and where the state legislatures should convene, and would tend to destroy that necessary cheek which the general and state governments will have on each other. The honorable gentleman, as if he was determined to object to every part of the Constitution, though he does not approve of electing representatives immediately by the people, or at least cannot conceive hawk is to be effected, yet objects to the constitution of the Senate, because the senators are to be elected b the state legislatures, and not immediately by the people. When the Constitution says the people shall elect, the gentleman cries out, "It is {304} chimerical! — the election will be merely virtual." When the Constitution determines that the state legislatures are to elect, he exclaims, "The people's rights are invaded! — the election should be immediately by them, and not by their representatives." How, then, can we satisfy him, as he is determined to censure, in this Constitution, that mode of election which he so highly approves in the old Confederation? The reason why our present state Constitution, made in 1778, changed the mode of electing senators from the mode prescribed by our first constitution, passed in 1776, was because, by the first, the senators were elected by this house, and therefore, being their mere creatures, they could not be supposed to have that freedom of will as to form a proper check on its proceedings; whereas, in the general Constitution, the House of Representatives will be elected immediately by the people, and represent them and their personal rights individually; the Senate will be elected by the state legislatures, and represent the states in their political capacity; and thus each branch will form a proper and independent check on the other, and the legislative powers will be advantageously balanced.

With regard to the objection that had been made to the mode of electing the President of the United States, General Pinckney asked what other mode would have been so proper. If he was to be elected by the House of Representatives and the Senate, as one of them have the power of impeaching and the other of trying him, he would be altogether their creature, and would not have independence enough to exercise with firmness the revisionary power and other authorities with which he is invested by the Constitution. This want of independence might influence his conduct, in some degree, if he was to be elected by one branch of the legislature alone; but as he is to be elected by the people, through the medium of electors chosen particularly for that purpose, and he is in some measure to be a check on the Senate and House of Representatives, the election, in my opinion, could not have been placed so well if it had been made in any other mode.

### uniformity commerce

In all elections of a chief magistrate, foreign influence is to be guarded against. Here it is very carefully so; and it is almost impossible for any foreign power to influence thirteen different sets of electors, distributed throughout the states, from New Hampshire to Georgia. By this mode, also, and for the same reason, the dangers of intrigue and corruption are avoided, and a variety of other inconveniences, which must have arisen if the electors from the different states had been directed to assemble at one place, or if either branch of the legislature (in case the majority of electors did not fix upon the same person) might have chosen a President who had not been previously put in nomination by the people. I have before spoken of the policy and justice of vesting the majority of Congress with the power of making commercial regulations, and the necessity there is, in all well-constituted republics, that the majority should control the minority; and I should have had a very strong objection if it had contained the restrictive clause the honorable gentleman appears so anxious for, "that Congress should not have it in their power to prevent the ships of any nation from entering our ports." I cannot think it would have been prudent or fitting to have given the ships of all foreign nations a constitutional right to enter our ports whenever they pleased, and this, too, notwithstanding we might be at war with them; or they may have passed laws denying us the privileges they grant to all other commercial nations; or circumstances not now foreseen might render it necessary for us to prohibit them. Such a clause would have injured the Eastern States, would have been eventually detrimental to ourselves, and would have in fact amounted to a declaration that we were resolved never to have a navy. To such a clause the general declared he never would have consented, and desired the gentleman to produce an instance of any independent power who did not give exclusive advantages to their own shipping. He then took notice that Chancellor Matthews had fully answered what had been alleged concerning the exorbitant freights we should be obliged to pay, and had clearly shown that no danger was to be apprehended on that subject; and that the Eastern States could soon furnish us, and all the Southern States, with a sufficient number of ships to carry off our produce. With regard to the general government imposing internal taxes upon us, he contended that it was absolutely necessary they should have such a power: requisitions had been in vain tried every year since the ratification of the old Confederation, and not a single state had {306} paid the quota required of her. The general government could not abuse this power, and favor one state and oppress another, as each state was to be taxed only in proportion to its representation; and as to excises, when it is considered how many more excisable articles are manufactured to the northward than there are to the southward, and the ease and convenience of raising a revenue by indirect taxation, and the necessity there is to obtain money for the payment of our debts, for our common defence, and for the general welfare, he thought every man would see the propriety, and even the necessity, of this clause. For his part, he knew of no sum that he would not sooner have consented to have paid, if he had had it, rather than have adopted Lord North's conciliatory plan, which seems, by the argument of the gentleman, to be in some respect preferable to the proposed Constitution; but in asserting this, the gentleman certainly cannot be serious. As to the payment of members of the legislature out of the federal treasury, General Pinckney contended it was right, and particularly beneficial to us, who were so distant from the seat of the federal government, as we at present paid our members not only while they were actually in Congress, but for all the time they were going there and returning home, which was an expense the Middle States felt but in a slight degree; but now that all the members are to be paid out of the public treasury, our remote situation will not be particularly expensive to us. The ease of the payment of the Massachusetts judges under the royal government can by no ingenuity be made applicable to the payment of the members of the federal legislature. With regard to Mr. Lowndes's question, "What harm had paper money done?" General Pinckney answered, that he wondered that gentleman should ask such a question, as he had told the house that he had lost fifteen thousand guineas by depreciation; but he would tell the gentleman what further injuries it had done — it had corrupted the morals of the people; it had diverted them from the paths of honest industry to the ways of ruinous speculation; it had destroyed both public and private credit, and had brought total ruin on numberless widows and orphans.

As to the judiciary department, General Pinckney observed, that trial by jury was so deservedly esteemed by the people of America, that it is impossible for their representatives to {307} omit introducing it whenever it can with propriety be done. In appeals from courts of chancery, it surely would be improper. In a dispute between a citizen of Carolina and a citizen of Georgia, if a jury was to try the case, from which state are they to be drawn? If from both or either, would the citizens of Carolina and Georgia choose to be summoned to attend on juries eight hundred miles from their home? and if the jury is to be drawn from the state in which Congress shall sit, would these citizens wish that a cause relative to negro property should be tried by the Quakers of Pennsylvania, or by the freeholders of those states that have not that species of property amongst them? Surely not. Yet it is necessary, when a citizen of one state cannot obtain an impartial trial in another, that, for the sake of justice, he should have a right to appeal to the supreme judiciary of the United States to obtain redress; and as this right of appeal does not extend to citizens of the same state, (unless they claim under grants of different states,) but only to the causes and persons particularly mentioned in the Constitution, and Congress have power to make such regulations and impose such restrictions relative to appeals as they think proper, it can hardly be supposed that they will exercise it in a manner injurious to their constituents.

Trials by jury are expressly secured in all criminal cases, and not excluded in any civil cases whatsoever. But experience had demonstrated that it was impossible to adhere to them in all civil cases: for instance, on the first establishment of the admiralty jurisdiction, Congress passed an ordinance requiring all causes of capture to be decided by juries: this was contrary to the practice of all nations, and we knew it; but still an attachment to a trial by jury induced the experiment. What was the consequence? The property of our friends was, at times, condemned indiscriminately with the property of our enemies, and the property of our citizens of one state by the juries of another. Some of our citizens have severely felt these inconveniences. Citizens of other states and other powers experienced similar misfortunes from this mode of trial. It was, therefore, by universal consent and approbation, laid aside in cases of capture. As the ordinance which regulated these trials was passed by Congress, they had the power of altering it, and they exercised that power; but had that ordinance been part of the Confederation, it could not then have been repealed in the then situation of America; and had a clause of a similar tendency been inserted in this Constitution, it could only be altered by a convention of the different states. This shows at once how improper it would have been to have descended to minutioe in this particular; and he trusted it was unnecessary, because the laws which are to regulate trials must be made by the representatives of the people chosen as this house are, and as amenable as they are for every part of their conduct. The honorable gentleman says, compacts should be binding, and that the Confederation was a compact. It was so; but it was a compact that had been repeatedly broken by every state in the Union; and all the writers on the laws of nations agree that, when the parties to a treaty violate it, it is no longer binding. This was the case with the old Confederation; it was virtually dissolved, and it became necessary to form a new constitution, to render us secure at home, respectable abroad, and to give us that station among the nations of the world, to which, as free and independent people, we are justly entitled.

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observed, that he had been accused of obstinacy in standing out against such a formidable opposition; but he would sincerely assure the house that he was as open to conviction as any gentleman on the floor: yet he never would allow himself to be drawn into the adoption of specious arguments; for such he considered many of those now opposed against him to be. Indeed, some gentlemen had departed from their usual candor in giving an interpretation to his arguments which they did not merit. In one instance, it had been stated as if he was of opinion that treaties had not the force of law. This was going too far. He did not recollect that he had asserted any more than that the king of Great Britain had not a legal power to ratify any treaty which trenched on the fundamental laws of the country. He supposed a case, under the dispensing act of William and Mary, asking, "If the king had made a treaty with the Roman Catholics, could that which was excepted by the laws ever be considered as paramount?" The honorable gentleman again took an ample view of the old Confederation, on which he dwelt with fervency for some time, and ridiculed the depraved inconsistency of those who pant for the change. Great stress was laid on the admirable checks which guarded us, under the new Constitution, from the encroachments of tyranny; hut too many checks in a political machine must produce the same mischief as in a mechanical one — that of throwing all into confusion. But supposing we considered ourselves so much aggrieved as to reduce us to the necessity of insisting on redress, what probability had we of relief? Very little indeed. In the revolving on misfortune, some little gleams of comfort resulted from a hope of being able to resort to an impartial tribunal for redress; but pray what reason was there for expectancy that, in Congress, the interest of five Southern States would be considered in a preferable point of view to the nine Eastern ones? With respect to, migration from the Eastern States to the Southern ones, he did not believe that people would ever flock here in such considerable numbers, because our country had generally proved so uncomfortable, from the excessive heats, that our acquaintance, during the heats, is rather shunned than solicited. The honorable gentleman mentioned that he had sent for a person from Europe, who did not long survive his introduction here, falling a sacrifice to the baneful effects of fogs and swamps; so that, from our limitation of importing negroes after the term of twenty years, instead of rising in representation, we should gradually degenerate. He treated those fears of our falling a prey to foreigners as one of those arguments tending to precipitate us into measures inimical to our natural interest; for was it to be supposed that the policy of France would ever suffer America to become an appendage of the crown of Great Britain; or that Great Britain, equally jealous of France, would permit her to reduce us to subjection? Our danger of ruin should rather be apprehended from dissensions amongst ourselves — from our running into debt without any intention to pay: that was the rock on which we might split, rather than foreign enemies; and, therefore, all those arguments for establishing the necessity of a navy and standing army were nugatory, and entitled to very little attention.

### Navy

It was urged that, until we had a navy powerful enough to protect us, our liberties and property were held only on courtesy; but if gentlemen adverted, where this navy, so necessary, was to come from, — not from the Southern States, but the Northern ones, — they would easily perceive to whom this country would belong. It was true, the old Confederation was a mere paper defence; but then it was a good proof on our behalf if we were overcome by unmerited wrongs. Some had made this a question — "Will you join, or will you be single?" For his part, he did not think matters had come to such a crisis; rather let us comply with our federal connection, which, not yet being broken, admits of being strengthened. A gentleman had instanced Vattel in support of his argument, and laid down, from that author, an opinion that where parties engaged in the performance of an obligation, should any one of them fly off from his agreement, the original was null and void. He had ingeniously applied this to our present Continental situation, and contended, as some of the states acted in a refractory manner towards the Continental Union, and obstinately refused a compliance, on their parts, with solemn obligations, that of course the Confederation was virtually dissolved. But Vattel merely recited such a case as where only a part of a confederation was broken; whereas ours was totally different, every state in the Union having been uniform in refusing a compliance with the requisitions of Congress. Some gentlemen had advanced a set of assertions to prove that the Eastern States had greatly suffered in the war. Pray, how had they suffered? Did they not draw from the Continental treasury large sums of money? Was not every expense incurred by them defrayed out of the Continental coffers? Another great advantage held out was, that we should be eased, in future, from the obligation and difficulty of defraying the expenses of delegates. Had we gained so much by this, when we had given up the very means of furnishing this sort of supply, formerly in our own option? As to the taxes, undoubtedly they must be increased under this new government. We paid at present two dollars per head upon our negroes; but the expenses attending our pompous government might increase this expense into six dollars per head, and this enormous sum collected by a sort of foreign power; for did any man, that knew America, suppose such tax will be easily paid? But if there was such a universal propensity to set up this golden image, why delay its inauguration? Let us at once go plump into the adoration of it; let us at once surrender every fight which we at present possess. A material objection of his to the offered plan was, that the President would have power to call both houses at what time and place he thought proper. Suppose a political cause for partiality; might he not so arrange things, as to carry a favorite point, by assembling the federal government, to the ruin or detriment of those states he meant to crush, and laws be enacted before those in extreme parts of the country knew any thing of their tendency? Surely some restrictions, as to time of meeting, should have been specified. The President had also the power of adjourning to any day he thought proper. In our old constitution, no such power was given to the chief magistrate to adjourn or dissolve. On the whole, this was the best preparatory plan for a monarchical government he had read. The Constitution of Great Britain he considered as the best monarchical one he ever perused; and this new government came so near to it, that, as to our changing from a republic to a monarchy, it was what every body must naturally expect. How easy the transition! No difficulty occurred in finding a king: the President was the man proper for this appointment. The Senate, hailing him a king, (constituted, according to Mr. Adams's description, from the well-born,) will naturally say to one another, "You see how we are situated; certainly it is for our country's benefit that we should be all lords;" and lords they are.

Mr. Lowndes concluded his speech with thanking the house for their very great indulgence in permitting him to take up so much time. He hoped that the vast importance of the subject would plead his excuse. He also thanked those gentlemen on the other side of the question for the candid, fair manner in which they had answered his arguments Popularity was what he never courted; but on this point he spoke merely to point out those dangers to which his fellow-citizens were exposed — dangers that were so evident, that, when he ceased to exist, he wished for no other epitaph, than to have inscribed on his tomb, "Here lies the man that opposed the Constitution, because it was ruinous to the liberty of America."

## Hon. JOHN RUTLEDGE

declared he had often heard the honorable gentleman with much pleasure; but on the present occasion, he was astonished at his perseverance. Well might he apologize for his taking up the time of gentlemen, when, in the very outset, he declared that this Constitution must necessarily be submitted to a future convention {312} of the people. Why, then, enter so largely in argument on its merits, when the ultimate decision depended on another body? Mr. Rutledge then took up an argument relative to treaties not being paramount to the laws of the land. Was not the last treaty contrary to the Declaratory Act, and a great number of other acts of Parliament? Yet who ever doubted its validity? The gentleman had declared that his sentiments were so much in contradiction to the voice of his constituents, that he did not expect to be appointed a member of the Convention. Mr. Rutledge hoped he would be appointed, and did not hesitate to pledge himself to prove, demonstrably, that all those grounds on which he dwelt so much amounted to nothing more than mere declamation; that his boasted Confederation was not worth a farthing; and that, if Mr. Chairman was intrenched in such instruments up to his chin, they would not shield him from one single national calamity. So far from thinking that the sun of this country was obscured by the new Constitution, he did not doubt but that, whenever it was adopted, the sun of this state, united with twelve other suns, would exhibit a meridian radiance astonishing to the world The gentleman's obstinacy brought to his recollection a friend to this country, once a member of that house, who said, "It is generally imputed to me that I am obstinate. This is a mistake. I am not so, but sometimes hard to be convinced."

## Hon. PATRICK CALHOUN,

of *Ninety-six*, made some observations on the too great latitude allowed in religion.

## Hon. JAMES LINCOLN,

of *Ninety-six*, declared, that if ever any person rose in a public assembly with diffidence, he then did; if ever any person felt himself deeply interested in what he thought a good cause, and at the same time lamented the want of abilities to support it, it was he. On a question on which gentlemen, whose abilities would do honor to the senate of ancient Rome, had enlarged with so much eloquence and learning, who could venture without anxiety and diffidence? He had not the vanity to oppose his opinion to such men; he had not the vanity to suppose he could place this business in any new light; but the justice he owed to his constituents — the justice he owed to his own feelings, which would perhaps upbraid iran hereafter, if he indulged himself so far as to give merely a silent vote on this great question — impelled him, reluctantly impelled him, to intrude {313} himself on the house. He had, for some years past, turned his thoughts towards the politics of this country; he long since perceived that not only the federal but the state Constitution required much the hand of correction and revision. They were both formed in times of confusion and distress, and it was a matter of wonder they were so free from defects as we found them. That they were imperfect, no one would deny; and that something must be done to remedy those imperfections, was also evident; but great care should be taken that, by endeavoring to do some good, we should not do an infinite deal of mischief. He had listened with eager attention to all the arguments in favor of the Constitution; but he solemnly declared that the more he heard, the more he was persuaded of its evil tendency. What does this proposed Constitution do? It changes, totally changes, the form of your present government. From a well-digested, well-formed democratic, you are at once rushing into an aristocratic government. What have you been contending for these ten years past? Liberty! What is liberty? The power of governing yourselves. If you adopt this Constitution, have you this power? No: you give it into the hands of a set of men who live one thousand miles distant from you. Let the people but once trust their liberties out of their own hands, and what will be the consequence? First, a haughty, imperious aristocracy; and ultimately, a tyrannical monarchy. No people on earth are, at this day, so free as the people of America. All other nations are, more or less, in a state of slavery. They owe their constitutions partly to chance, and partly to the sword; but that of America is the offspring of their choice — the darling of their bosom: and was there ever an instance in the world that a people in this situation, possessing all that Heaven could give on earth, all that truman wisdom and valor could procure — was there ever a people so situated, as calmly and deliberately to convene themselves together for the express purpose of considering whether they should give away or retain those inestimable blessings? In the name of God, were we a parcel of children, who would cry and quarrel for a hobby-horse, which, when we were once in possession of, we quarrel with and throw it away? It is said this Constitution is an experiment; but all regular-bred physicians are cautious of experiments. If the constitution be crazed a {314} little, or somewhat feeble, is it therefore necessary to kill it in order to cure it? Surely not. There are many parts of this Constitution he objected to: some few of them had not been mentioned; he would therefore request some information thereon. The President holds his employment for four years; but he may hold it for fourteen times four years: in short, he may hold it so long that it will be impossible, without another revolution, to displace him. You do not put the same check him that you do on your own state governor a man born and bred among you; a man over whom you have a continual and watchful eye; a man who, from the very nature of his situation, it it almost impossible can do you any injury: this man, you say, shall not be elected for more than four years; and yet this mighty, this omnipotent governor-general may be elected for years and years.

He would be glad to know why, in this Constitution, there is a total silence with regard to the liberty of the press. Was it forgotten? Impossible! Then it must have been purposely omitted; and with what design, good or bad, he left the World to judge. The liberty of the press was the tyrant's scourge — it was the true friend and firmest supporter of civil liberty; therefore why pass it by in silence? He perceived that not till almost the very end of the Constitution was there any provision made for the nature or form of government we were to live under: he contended it should have been the very first article; it should have been, as it were, the groundwork or foundation on which it should have been built. But how is it? At the very end of the Constitution, there is a clause which says, — "The Congress of the United States shall guaranty to each state a republican form of government." But pray, who are the United States? A President and four or five senators? Pray, sir, what security have we for a republican form of government, when it depends on the mere will and pleasure of a few men, who, with an army, navy, and rich treasury at their back, may change and alter it as they please? It may be said they will be sworn. Sir, the king of Great Britain, at his coronation, swore to govern his subjects with justice and mercy. We were then his subjects, and continued so for a long time after. He would be glad to know how he observed his oath. If, then; the king of Great Britain forswore himself, what security have we that a future President and four or five {315} senators — men like himself — will think more solemnly of so sacred an obligation than he did?

Why was not this Constitution ushered in with the bill of rights? Are the people to have no rights? Perhaps this same President and Senate would, by and by, declare them. He much feared they would. He concluded by returning his hearty thanks to the gentleman who had so nobly opposed this Constitution: it was supporting the cause of the people; and if ever any one deserved the title of man of the people, he, on this occasion, most certainly did.

## Gen. CHARLES COTESWORTH PINCKNEY

### enumerated

answered Mr. Lincoln on his objections. He said, that the time for which the President should hold his office, and whether he should be reëligible, had been fully discussed in the Convention. It had been once agreed to by a majority, that he should hold his office for the term of seven years, but should not be reëlected a second time. But upon reconsidering that article, it was thought that to cut off all hopes from a man of serving again in that elevated station, might render him dangerous, or perhaps indifferent to the faithful discharge of his duty. His term of service might expire during the raging of war, when he might, perhaps, be the most capable man in America to conduct it; and would it be wise and prudent to declare in our Constitution that such a man should not again direct our military operations, though our success might be owing to his abilities? The mode of electing the President rendered undue influence almost impossible; and it would have been imprudent in us to have put it out of our power to reëlect a man whose talents, abilities, and integrity, were such as to render him the object of the general choice of his country. With regard to the liberty of the press, the discussion of that matter was not forgotten by the members of the Convention. It was fully debated, and the impropriety of saying any thing about it in the Constitution clearly evinced. **The general government has no powers but what are expressly granted to it**; it therefore has no power to take away the liberty of the press. That invaluable blessing, which deserves all the encomiums (ĕn-kō′mē-əm warm, glowing praise) the gentleman has justly bestowed upon it is secured by all our state constitutions; and to have mentioned it in our general Constitution would perhaps furnish an argument, **hereafter, that the general government had a right to exercise powers not expressly delegated to it. For the same reason, we had no bill of rights inserted in our Constitution; for, as we might perhaps have omitted the enumeration of some of our rights, it might hereafter be said we had delegated to the general government a power to take away such of our rights as we had not enumerated: but by delegating express powers, we certainly reserve to ourselves every power and right not mentioned in the Constitution.** Another reason weighed particularly, with the members from this state, **against the insertion of a bill of rights. Such bills generally begin with declaring that all men are by nature born free. Now, we should make that declaration with a very bad grace, when a large part of our property consists in men who are actually born slaves.** As to the clause guarantying to each state a republican form of government being inserted near the end of the Constitution, the general observed that it was as binding as if it had been inserted in the first article. The Constitution takes its effect from the ratification, and every part of it is to be ratified at the same time, and not one clause before the other; but he thought there was a peculiar propriety in inserting it where it was, as it was necessary to form the government before that government could guaranty any thing.

## Col. MASON

thanked Mr. Lowndes for his opposition, by the desire of several gentlemen, members of that house. It had drawn forth from the other side most valuable information, and he thanked those gentlemen for the willingness with which they had given it, with so much good-nature. Those gentlemen who lived in the country were now enabled to satisfy their constituents.

The question being put, that a convention of the people should be called for the purpose of considering, and of ratifying or rejecting, the Constitution framed for the United States by a Convention of delegates assembled at Philadelphia in May last, it was unanimously agreed to.

[There will appear some omissions in what fell from Mr. Lowndes, which could not be supplied, owing to the loss of a note-book in the fire which consumed the State-House.]

# SATURDAY, *January* 19, 1788.

On the question being put for the Convention to assemble in Charleston on Monday, the 12th day of May next, the ayes and nays were as follows, viz.: —

For the Parishes of

* St. Philip and St. Michael, Charleston. — Ayes: Edward Rutledge, Dr. David Ramsay, William Johnson, C. C. Pinckney, Edward Darrell, Thomas Jones, Isaac Motte, John Mathews, Daniel Cannon, Daniel Stevens, John Blake, Anthony Toomer, John F. Grimke, Thomas Heywood, Jun., Richard Lushington, Francis Kinloch, Jacob Read, Edward Blake, John Budd, Rawlins Lowndes, Michael Kalteisen, Thomas Bee, Adanus Burke, Hugh Rutledge, Edward Lightwood. — Nays: none.
* Christ Church. — Ayes: Charles Pinckney, Plowden Weston, Joseph Manigault, John Hatter. — Nays: none.
* St. John's, Berkley County. — Ayes: Peter Fassoux, Theodore Gourdine, Thomas Simons. — Nays: Robert M'Kelvey, Gideon Kirke.
* St. Andrew's. — Ayes: John Rivers, Glen Drayton, Thomas Farr, James Ladson, Charles Drayton. — Nay: William Scott.
* St. George's, Dorchester. — Ayes: John Glaze, Walter Izard, William Postell, John Bell. — Nays: none.
* St. James's, Goose Creek. — Ayes: Ralph Izard, Gabriel Manigault, William Smith, John Parker, Jun. — Nays: none.
* St. Thomas, and St. Dennis. — Ayes: Thomas Screven, Robert Daniel, Thomas Shrubrick. — Nays: none.
* St. Paul's. — Ayes: George Haig, William Washington, Paul Hamilton. — Nays none.
* St. Bartholomew's. — Ayes: William Furguson, Peter Youngblood, William C. Snipes, John North. — Nays: none.
* St. Helena. — Ayes: William Haxard Wigg, John Joyner, John Jenkins, Robert Barnwell, Benjamin Reynolds, Bernard Elliott. — Nays: none.
* St. James's, Santee. — Ayes: Thomas Horry, Jacob Bond, I'On, William Douxsaint, Lewis Miles. — Nays: none.
* Prince George's, Winyaw. — Ayes: Thomas Waties, Matthew Irvine. — Nays James Withers, Thomas Dunbar.
* All Saints. — Ayes: Robert Herriot, Daniel Morral. — Nays: none.
* Prince Frederick's. — Ayes: none. — Nays: John T. Green, John Dicky, Benjamin Porter, James Pettigrew.
* St. John's, Colleton County. — Ayes: Isaac Jenkins, William Smelie. — Nays: none.
* St. Peter's. — Ayes: none. — Nays: James Thompson, John Chisholm, Jetta Fenwick, Samuel Maner.
* Prince William's. — Ayes: Pierce Butler, John Lightwood, John A. Cuthbert. — Nays: Stephen Bull, William Murray.
* St. Stephen's. — Ayes: none. — Nays: Thomas Palmer, John Coutuier, T Cordes.
* District to the Eastward of Wateree. — Ayes: none. — Nays: Isaac Alexander, Thomas Sumter, Andrew Buskins, Joseph Lee, Thomas M'Faddin, George Cooper, Benjamin Cudworth, Samuel Dunlap, Hugh White.
* District of Ninety-six. — Ayes: Patrick Calhoun, John Purvis. — Nays: Arthur Simpkins, James Lincoln, Adam Crain Jones, William Butler.
* District Of Saxe-Gotha. — Ayes: none. — Nays: Joseph Culpeper, Henry Pendleton, John Threewits, Llewellen Threewits.
* Lower Districts, between Broad and Saluda Rivers. — Ayes: none. Nays: Philemon Waters, George Ruff, John Lindsay, William Wadlington.
* Little River District. — Ayes: none. — Nays: John Hunter, Angus Campbel, Levi Casey, James Mason.
* Upper, or Spartan District. — Ayes: none. — Nays: Thomas Brandon, S. M'Junkin Winn, James Craig, John Gray, James Knox, John Turner, Aromanus Lyles, John Cook, James Pedian.
* District called the New Acquisition. — Ayes: none. — Nays: Andrew Love, James Powell, William Fergus, William Bratton, Robert Patton, James Ramsay, John Drennan, James Martin, Joseph Palmer, Alexander Moore.
* St. Matthew's. — Ayes: none. — Nays: Thomas Sabb, J. Frïerson, Paul Warley.
* Orange Parish. — Ayes: none. — Nays: William Robinson, Lewis Lesterjette.
* St. David's. — Ayes: none. — Nays: Calvin Spencer, Robert Baxwill, A. Hunter.
* District between Savannah River and the North Fork of Edisto. — Ayes: none. — Nays: William Davis, Isaac Cush, James Fair, Daniel Greene.

Ayes, 76. | Nays, 75.

So it was resolved in the affirmative.

JOHN SANDFORD DART, C. H. R.

# DEBATES IN CONVENTION.

# MONDAY, *May* 12, 1788.

{318} This day being appointed for the meeting of the state Convention, (Mr. Thomas Bee, in the chair, *pro tem*.,) the returns were read, and there not being a majority, adjourned until Tuesday, the 13th.

# TUESDAY, *May* 13, 1788.

On this day the Convention met, and the names being called over, there appeared to be present one hundred and seventy-three members; upon which they proceeded to ballot, when

His excellency, Governor THOMAS PINCKNEY, was elected *President*.

Colonel JOHN SANDFORD DART was elected *Secretary*.

Mr. Atmore, Messenger. Mr. Athwell, Door-keeper. Mr. John Bounetheau, Bar-keeper. Mr. Stevens, Cashier. Colonel Lushington, Assistant-Cashier.

# WEDNESDAY, *May* 14, 1788.

## Mr. CHARLES PINCKNEY,

Speech of (*one of the delegates of the Federal Convention*.)

Mr. President, after so much has been said with respect to the powers possessed by the late Convention to form and propose a new system — after so many observations have been made on its leading principles, as well in the House of Representatives as in the conventions of other states, whose proceedings have been published — it will be as unnecessary for me again minutely to examine a subject which has been so thoroughly investigated, as it would be difficult to carry you into a field that has not been sufficiently explored.

Having, however, had the honor of being associated in the delegation from this state, and presuming upon the indulgence of the house, I shall proceed to make some observations which appear to me necessary to a full and candid discussion of the system now before us.

It seems to be generally confessed that, of all sciences, that of government, or politics, is the most difficult. In the old world, as far as the lights of history extend, from the earliest ages to our own, we find nations in the constant exercise of all the forms with which the world is at present furnished. We have seen among the ancients, as well as the moderns, monarchies, limited and absolute, aristocracies, republics of a single state, and federal unions. But notwithstanding all their experience, how confined and imperfect is their knowledge of government! how little is the true doctrine of representation understood! how few states enjoy what we call freedom! how few governments answer those great ends of public happiness which we seem to expect from our own!

In reviewing such of the European states as we are best acquainted with, we may with truth assert that there is but one among the most important which confirms to its citizens their civil liberties, or provides for the security of private rights. But as if it had been fated that we should be the first perfectly free people the world had ever seen, even the government I have alluded to withholds from a part of its subjects the equal enjoyment of their religious liberties. How many thousands of the subjects of Great Britain at this moment labor under civil disabilities, merely on account of their religious persuasions! To the liberal and enlightened mind, the rest of Europe affords a melancholy picture of the depravity of human nature, and of the total subversion of those rights, without which we should suppose no people could be happy or content.

We have been taught here to believe that fill power of right belongs to the people; that it flows immediately from them, and is delegated to their officers for the public good; that our rulers are the servants of the people, amenable to their will, and created for their use. How different are the governments of Europe! There the people are the servants and subjects of their rulers; there merit and talents have little or no influence; but all the honors and offices of government are swallowed up by birth, by fortune, or by rank.

From the European world are no precedents to be drawn for a people who think they are capable of governing themselves. Instead of receiving instruction from them, we may, with pride, affirm that, new as this country is in point of settlement, inexperienced as she must be upon questions of government, she still has read more useful lessons to the old world, she has made them more acquainted with their own rights, than they had been otherwise for centuries. It is with pride I repeat that, old and experienced as they are, they are indebted to us for light and refinement upon points of all others the most interesting.

Had the American revolution not happened, would Ireland enjoy her present rights of commerce and legislation? Would the subjects of the emperor in the Netherlands have presumed to contend for, and ultimately to secure, the privileges they demanded? Would the parliaments of France have resisted the edicts of their monarch, and justified in a language that will do honor to the freest people? Nay, I may add, would a becoming sense of liberty, and of the rights of mankind, have so generally pervaded that kingdom, had not their knowledge of America led them to the investigation? Undoubtedly not. Let it be therefore our boast that we have already taught some of the oldest and wisest nations to explore their rights as men; and let it be our prayer that the effects of the revolution may never cease to operate until they have unshackled all the nations that have firmness to resist the fetters of despotism. Without a precedent, and with the experience of but a few years, were the Convention called upon to form a system for a people differing from all others we are acquainted with.

The first knowledge necessary for us to acquire, was a knowledge of the people for whom this system was to be formed; for unless we were acquainted with their situation, their habits, opinions, and resources, it would be impossible to form a government upon adequate or practicable principles.

If we examine the reasons which have given rise to the distinctions of rank that at present prevail in Europe, we shall find that none of them do, or in all probability ever will exist in the Union.

The only distinction that may take place is that of wealth. Riches, no doubt, will ever have their influence; and where they are suffered to increase to large amounts in a few hands, there they may become dangerous to the public — particularly when, from the cheapness of labor and the scarcity of money, a great proportion of the people are poor. These, however, are dangers that I think we have very little to apprehend, for these reasons: One is from the destruction of the right of primogeniture; by which means, the estates of intestates are equally to be divided among all their children — a provision no less consonant to the principles of a republican government, than it is to those of general equity and parental affection. To endeavor to raise a name by accumulating property in one branch of a family, at the expense of others equally related and deserving, is a vanity no {321} less unjust and cruel than dangerous to the interests of liberty: it is a practice no wise state will ever encourage or tolerate. In the Northern and Eastern States, such distinctions among children are seldom heard of. Laws have been long since passed in all of them, destroying the right of primogeniture; and as laws never fail to have a powerful influence upon the manners of a people, we may suppose that, in future, an equal division of property among children will, in general, take place in all the states, and one means of amassing inordinate wealth in the hands of individuals be, as it ought, forever removed.

Another reason is that, in the Eastern and Northern States, the landed property is nearly equally divided: very few have large bodies, and there are few that have not small tracts,

The greater part of the people are employed in cultivating their own lands; the rest in handicraft and commerce. They are frugal in their manner of living. Plain tables, clothing, and furniture, prevail in their houses, and expensive appearances are avoided. Among the landed interest, it may be truly said there are few of them rich, and few of them very poor; nor, while the states are capable of supporting so many more inhabitants than they contain at present — while so vast a territory on our frontier remains uncultivated and unexplored — while the means of subsistence are so much within every man's power — are those dangerous distinctions of fortune to be expected which at present prevail in other countries.

The people of the Union may be classed as follows: Commercial men, who will be of consequence or not, in the political scale, as commerce may be made an object of the attention of government. As far as I am able to judge, and presuming that proper sentiments will ultimately prevail upon this subject, it does nor appear to me that the commercial line will ever have much influence in the politics of the Union. Foreign trade is one of the enemies against which we must be extremely guarded — more so than against any other, as none will ever have a more unfavorable operation. I consider it as the root of our present public distress — as the plentiful source from which our future national calamities will flow, unless great care is taken to prevent it. Divided as we are from the old world, we should have nothing to do with their politics, and as little as possible with their commerce: they can never improve, but must inevitably corrupt us.

Another class is that of professional men, who, from their education and pursuits, must ever have a considerable influence, while your government retains the republican principle, and its affairs are agitated in assemblies of the people.

The third, with whom I will connect the mechanical, as generally attached to them, are the landed interest — the owners and cultivators of the soil — the men attached to the truest interests of their country from those motives which always bind and secure the affections of the nation. In these consists the great body of the people; and here rests, and I hope ever will continue, all the authority of the government.

I remember once to have seen, in the writings of a very celebrated author upon national wealth, the following remarks: "Finally," says he, "there are but three ways for a nation to acquire wealth. The first is by war, as the Romans did in plundering their conquered neighbors: this is robbery. The second is by commerce, which is generally cheating. The third is by agriculture, the only honest way, wherein a man receives a real increase of the seed thrown into the ground, in a kind of continual miracle wrought by the hand of God in his favor, as a reward for his innocent life and virtuous industry."

### commerce

I do not agree with him so far as to suppose that commerce is generally cheating. I think there are some kinds of commerce not only fair and valuable, but such as ought to be encouraged by government, I agree with him in this general principle — that all the great objects of government should be subservient to the increase of agriculture and the support of the landed interest, and that commerce should only be so far attended to, as it may serve to improve and strengthen them; that the object of a republic is to render its citizens virtuous and happy; and that an unlimited foreign commerce can seldom fail to have a contrary tendency.

These classes compose the people of the Union; and, fortunately for their harmony, they may be said in a great measure to be connected with and dependent upon each other.

The merchant is dependent upon the planter, as the purchaser of his imports, and as furnishing him with the means of his remittances. The professional men depend upon both for employment in their respective pursuits, and are, in their turn, useful to both. The landholder, though the most independent of the three, is still, in some measure, obliged to the merchant for furnishing him at home with a ready sale for his productions.

From this mutual dependence, and the statement I have made respecting the situation of the people of the Union, I am led to conclude that mediocrity of fortune is a leading feature in our national character; that most of the causes which lead to destructions of fortune among other nations being removed, and causes of equality existing with us which are not to be found among them, we may with safety assert that the great body of national wealth is nearly equally in the hands of the people, among whom there are few dangerously rich or few miserably poor; that we may congratulate ourselves with living under the blessings of a mild and equal government, which knows no distinctions but those of merits or talents — under a government whose honors and offices are equally open to the exertions of all her citizens, and which adopts virtue and worth for her own, wheresoever she can find them.

Another distinguishing feature in our Union is its division into individual states, differing in extent of territory, manners, population, and products.

Those who are acquainted with the Eastern States, the reason of their original migration, and their pursuits, habits, and principles, well know that they are essentially different from those of the Middle and Southern States; that they retain all those opinions respecting religion and government which first induced their ancestors to cross the Atlantic; and that they are, perhaps, more purely republican in habits and sentiment than any other part of the Union. The inhabitants of New York and the eastern part of New Jersey — originally Dutch settlements seem to have altered less than might have been expected in the course of a century; indeed, the greatest part of New York may still be considered as a Dutch settlement, the people in the interior country generally using that language in their families, and having very little varied their ancient customs. Pennsylvania and Delaware are nearly one half inhabited by Quakers, whose {324} passive principles upon questions of government, and rigid opinions in private, render them extremely different from the citizens either of the Eastern or Southern States. Maryland was Originally a Roman Catholic colony, and a great number of their inhabitants, some of them the most wealthy and cultivated, are still of this persuasion. It is unnecessary for me to state the striking difference in sentiment and habit which must always exist between the Independents of the East the Calvinists and Quakers of the Middle States, and the Roman Catholics of Maryland; but striking as this is, it is not to be compared with the difference that there is between the inhabitants of the Northern and Southern States. When I say Southern, I mean Maryland, and the states to the southward of her. Here we may truly observe, that Nature has drawn as strong marks of distinction in the habits and manners of the people as she has in her climates and productions. The southern citizen beholds, with a kind of surprise, the simple manners of the east, and is too often induced to entertain undeserved opinions of the apparent purity of the Quaker; while they, in their turn, seem concerned at what they term the extravagance and dissipation of their southern friends, and reprobate, as unpardonable moral and political evil, the dominion they hold over a part of the human race. The inconveniences which too frequently attend these differences in habits and opinions among the citizens that compose the Union, are not a little increased by the variety of their state governments; for, as I have already observed, the constitution or laws under which a people live never fail to have a powerful effect upon the manners. We know that all the states have adhered, in their forms, to the republican principle, though they have differed widely in their opinions of the mode best calculated to preserve it.

### unicameral

In Pennsylvania and Georgia, the whole powers of government are lodged in a legislative body, of a single branch, over which there is no control; nor are their executives or judicials, from their connection and necessary dependence on the legislature, capable of strictly executing their respective offices. In all the other states, except Maryland, Massachusetts, and New York, they are only so far improved as to have a legislature with two branches, which completely involve and swallow up all the powers of their government. In neither of these are the judicial or executive placed in {325} that firm or independent situation which can alone secure the safety of the people or the just administration of the laws. In Maryland, one branch of their legislature is a Senate, chosen, for five years, by electors chosen by the people. The knowledge and firmness which this body have, upon all occasions, displayed, not only in the exercise of their legislative duties, but in withstanding and defeating such of the projects of the other house as appeared to them founded in local and personal motives, have long since convinced me that the Senate of Maryland is the best model of a senate that has yet been offered to the Union; that it is capable of correcting many of the vices of the other parts of their Constitution, and, in a great measure, atoning for those defects which, in common with the states I have mentioned, are but too evident in their execution — the want of stability and independence in the judicial and executive departments.

In Massachusetts, we find the principle of legislation more improved by the revisionary power which is given to their governor, and the independence of their judges.

In New York, the same improvement in legislation has taken place as in Massachusetts; but here, from the executive's being elected by the great body of the people; holding his office for three years, and being reëligible; from the appointment to offices being taken from the legislature and placed in a select council, — I think their Constitution is, upon the whole, the best in the Union. Its faults are the want of permanent salaries to their judges, and giving to their executive the nomination to offices, which is, in fact, giving him the appointment.

It does not, however, appear to me, that this can be called a vice of their system, as I have always been of opinion that the insisting upon the right to nominate was a usurpation of their executive's, not warranted by the letter or meaning of their Constitution.

These are the outlines of their various forms, in few of which are their executive or judicial departments wisely constructed, or that solid distinction adopted between the branches of their legislative which can alone provide for the influence of different principles in their operation.

Much difficulty was expected from the extent of country to be governed. All the republics We read of, either in the ancient or modern world, have been extremely limited in {326} territory. We know of none a tenth part so large as the United States; indeed, we are hardly able to determine, from the lights we are furnished with, whether the governments we have heard of under the names of republics really deserved them, or whether the ancients ever had any just or proper ideas upon the subject. Of the doctrine of representation, the fundamental of a republic, they certainly were ignorant. If they were in possession of any other safe or practicable principles, they have long since been lost and forgotten to the world. Among the other honors, therefore, that have been reserved for the American Union, not the least considerable of them is that of defining a mixed system, by which a people may govern themselves, possessing all the virtues and benefits, and avoiding all the dangers and inconveniences, of the three simple forms.

I have said that the ancient confederacies, as far as we are acquainted with them, covered up an inconsiderable territory.

Among the moderns, in our sense of the word, there is no such system as a confederate republic. There are, indeed, some small states whose interior governments are democratic; but these are too inconsiderable to afford information. The Swiss cantons are only connected by alliances; the Germanic body is merely an association of potentates, most of them absolute in their own dominions; and as to the United Netherlands, it is such a confusion of states and assemblies, that I have always been at loss what species of government to term it. According to my idea of the word, it is not a republic; for I conceive it as indispensable, in a republic, that all authority should flow from the people. In the United Netherlands, the people have no interference either in the election of their magistrate or in the affairs of government. From the experiment, therefore, never having been fairly made, opinions have been entertained, and sanctioned by high authorities, that republics are only suited to small societies. This opinion has its advocates among all those who, not having a sufficient share of industry or talents to investigate for themselves, easily adopt the opinions of such authors as are supposed to have written with ability upon the subject; but I am led to believe other opinions begin to prevails — opinions more to be depended upon, because they result from juster principles.

We begin now to suppose that the evils of a republic — {327} dissension, tumult, and faction — are more dangerous in small societies than in large confederate states. In the first, the people are easily assembled and inflamed — are always exposed to those convulsive tumults of infatuation and enthusiasm which often overturn all public order. In the latter, the multitude will be less imperious, and consequently less inconstant, because the extensive territory of each republic, and the number of citizens, will not permit them all to be assembled at one time and in one place: the sphere of government being enlarged, it will not easily be in the power of factious and designing men to infect the whole people; it will give an opportunity to the more temperate and prudent part of the society to correct the licentiousness and injustice of the rest. We have strong proofs of the truth of this opinion in the examples of Rhode Island and Massachusetts — instances which have, perhaps, been critically afforded by an all-merciful Providence to evince the truth of a position extremely important to our present inquiries. In the former, the most contracted society in the Union, we have seen their licentiousness so far prevail as to seize the reins of government, and oppress the people by laws the most infamous that have ever disgraced a civilized nation. In the latter, where the sphere was enlarged, similar attempts have been rendered abortive by the zeal and activity of those who were opposed to them.

As the Constitution before you is intended to represent states as well as citizens, I have thought it necessary to make these remarks, because there are, no doubt, a great number of the members of this body, who, from their particular pursuits, have not had an opportunity of minutely investigating them, and because it will be impossible for the house fairly to determine whether the government is a proper one or not, unless they are in some degree acquainted with the people and the states, for whose use it is instituted.

For a people thus situated is a government to be formed — a people who have the justest opinion of their civil and religious rights, and who have risked every thing in asserting and defending them.

### sovereign

In every government there necessarily exists a power from which there is no appeal, and which, for that reason, may be formed absolute and uncontrollable.

The person or assembly in whom this power resides is called the sovereign or supreme power of the state. With us, the sovereignty of the Union is in the people.

### Forms of government

One of the best political and moral writers (Paley, a deacon of Carlisle — vol. ii. 174, 175) I have met with, enumerates three principal forms of government, which, he says, are to be regarded rather as the simple forms, by some combination and intermixture of which all actual governments are composed, than as any where existing in a pure and elementary state. These forms are, —

1st. Despotism, or absolute monarchy, where the legislature is in a single person.

2d. An aristocracy, where the legislature is in a select assembly, the members of which either fill up, by election, the vacancies in their own body, or succeed to it by inheritance, property, tenure of lands, or in respect of some personal right or qualification.

3d. A republic, where the people at large, either collectively or by representation, form the legislature.

The separate advantages of monarchy are unity of council, decision, secrecy, and despatch; the military strength and energy resulting from these qualities of government; the exclusion of popular and aristocratical contentions; the preventing, by a known rule of succession, all competition for the supreme power, thereby repressing the dangerous hopes and intrigues of aspiring citizens.

The dangers of a monarchy are tyranny, expense, exactions, military dominations, unnecessary wars, ignorance, in the governors, of the interest and accommodation of all people, and a consequent deficiency of salutary regulations; want of constancy and uniformity in the rules of government, and, proceeding from thence, insecurity of persons and property.

The separate advantage of an aristocracy is the wisdom that may be expected from experience and education. A permanent council naturally possesses experience, and the members will always be educated with a view to the stations they are destined by their birth to occupy.

The mischiefs of an aristocracy are dissensions in the ruling orders of the state; an oppression of the lower orders by the privilege of the higher, and by laws partial to the separate interests of the law-makers.

The advantages of a republic are liberty, exemption from needless restrictions, equal laws, public spirit, averseness to {329} war, frugality, above all, the opportunities afforded, to men of every description, of producing their abilities and counsels to public observation, and the exciting to the service of the commonwealth the faculties of its best citizens.

The evils of a republic are dissensions, tumults, faction, the attempts of ambitious citizens to possess power, the confusion and clamor which are the inevitable consequences of propounding questions of state to the discussion of large popular assemblies, the delay and disclosure of the public councils, and too often the imbecility of the laws.

A mixed government is composed by the combination of two or more of the simple forms above described; and in whatever proportion each form enters into the constitution of government, in the same proportion may both the advantages and evils which have been attributed to that form be expected.

The citizens of the United States would reprobate, with indignation, the idea of a monarchy. But the essential qualities of a monarchy — unity of council, vigor, secrecy, and despatch — are qualities essential in every government.

While, therefore, we have reserved to the people, the fountain of all power, the periodical election of their first magistrate, — while we have defined his powers, and bound them to such limits as will effectually prevent his usurping authorities dangerous to the general welfare, — we have, at the same time, endeavored to infuse into this department that degree of vigor which will enable the President to execute the laws with energy and despatch.

By constructing the Senate upon rotative principles, we have removed, as will be shown upon another occasion, all danger of an aristocratic influence; while, by electing the members for six years, we hope we have given to this part of the system all the advantages of an aristocracy — wisdom, experience, and a consistency of measures.

The House of Representatives, in which the people of the Union are proportionably represented, are to be biennially elected by them. Those appointments are sufficiently short to render the member as dependent as he ought to be upon his constituents.

They are the moving-spring of the system. With them all grants of money are to originate: on them depend the wars we shall be engaged in, the fleets and armies we shall {330} raise and support, the salaries we shall pay; in short, on them depend the appropriations of money, and consequently all the arrangements of government. With this powerful influence of the purse, they will be always able to restrain the usurpations of the other departments, while their own licentiousness will, in its turn, be checked and corrected by them.

I trust that, when we proceed to review the system by sections, it will be found to contain all those necessary provisions and restraints, which, while they enable the general government to guard and protect our common rights as a nation, to restore to us those blessings of commerce and mutual confidence which have been so long removed and impaired, will secure to us those rights, which, as the citizens of a state, will make us happy and content at home — as the citizens of the Union, respectable abroad.

How different, Mr. President, is this government constructed from any we have known among us!

In their individual capacities as citizens, the people are proportionably represented in the House of Representatives. Here they who are to pay to support the expenses of government, have the purse-strings in their hands; here the people hold, and feel that they possess, an influence sufficiently powerful to prevent every undue attempt of the other branches, to maintain that weight in the political scale which, as the source of all authority, they should ever possess; here, too, the states, whose existence as such we have often heard predicted as precarious, will find, in the Senate, the guards of their rights as political associations.

On them (I mean the state systems) rests the general fabric: on their foundation is this magnificent structure of freedom erected, each depending upon, supporting, and protecting the other: nor — so intimate is the connection — can the one be removed without prostrating the other in ruin: like the head and the body, separate them and they die.

Far be it from me to suppose that such an attempt should ever be made: the good sense and virtue of our country forbid the idea. To the Union we will look up, as to the temple of our freedom — a temple founded in the affections, and supported by the virtue, of the people. Here we will pour out our gratitude to the Author of all good, for suffering us to participate in the rights of a people who govern themselves.

{331} Is there, at this moment, a nation upon earth that enjoys this right, where the true principles of representation. are understood and practised, and where all authority flows from, and returns at stated periods to, the people? I answer, there is not. Can a government be said to be free where these rights do not exist? It cannot. On what depends the enjoyment of these rare, these inestimable privileges? On the firmness, on the power, of the Union to protect and defend them.

How grateful, then, should we be, that, at this important period, — a period important, not to us alone, but to the general rights of mankind, — so much harmony and concession should prevail throughout the states; that the public opinion should be so much actuated by candor, and an attention to their general interests; that, disdaining to be governed by the narrow motives of state policy, they have liberally determined to dedicate a part of their advantages to the support of that government from which they received them! To fraud, to force, or accident, all the governments we know have owed their births. To the philosophic mind, how new and awful an instance do the United States at present exhibit in the political world! They exhibit, sir, the first instance of a people, who, being dissatisfied with their government, — unattacked by foreign force, and undisturbed by domestic uneasiness, — coolly and deliberately resort to the virtue and good sense of their country, for a correction of their public errors.

It must be obvious that, without a superintending government, it is impossible the liberties of this country can long be secured.

Single and unconnected, how weak and contemptible are the largest of our states! — how unable to protect themselves from external or domestic insult! How incompetent to national purposes would even partial union be! — how liable to intestine wars and confusion! — how little able to secure the blessings of peace!

Let us, therefore, be careful in strengthening the Union. Let us remember that we are bounded by vigilant and attentive neighbors, who view with a jealous eye our rise to empire.

Let us remember that we are bound, in gratitude to our northern brethren, to aid them in the recovery of those rights which they have lost in obtaining for us an extension of our commerce, and the security of our liberties. Let us not he unmindful that those who are weak, and may expect support, must, in their turn, be ready to afford it.

We are called upon to execute an important trust to examine the principles of the Constitution now before you, and, in the name of the people, to receive or reject it.

I have no doubt we shall do this with attention and harmony; and flatter myself that, at the conclusion of our discussion, we shall find that it is not only expedient, but safe and honorable, to adopt it.

# TUESDAY, *May* 20, 1788.

This day the Convention went through the discussion of the Federal Constitution by paragraphs.

## Mr. ALEXANDER TWEED,

of Prince Frederick, said: Since I came to town, I have more than once heard it asserted, that the representatives of the parish of Prince Frederick were, prior to their election, put under promise to their constituents, that they should by no means give their sanction to the adoption of the new Constitution. Any such restriction, sir, on my own part, I deny. Had they taken upon them so far as to dictate for me, I should have spurned at the idea, and treated such proposals with that contempt they would have justly merited; and I am clearly of opinion, and I think warranted to say, that these are the sentiments and situation of (at least) some others of my colleagues. Notwithstanding, sir, from all I have heard or can learn, the general voice of the people is against it. For my own part, Mr. President, I came not here to echo the voice of my constituents, nor determined to approve or put a negative upon the Constitution proposed. I came with a mind open to conviction, in order to hear what, in the course of the debates of this house, might be said for and against it. Much, very much, sir, has been advanced on both sides. The matter in hand I look upon to be the most important and momentous that ever came before the representatives of the people of South Carolina. We were told, sir, some days ago, by a learned and honorable gentleman now on the floor, that, as our case at present stood, we must adopt the Constitution proposed; for, if we did not, in all probability some powerful despot might start up and seize the reins of government. Another learned and honorable gentleman on my left hand said, we must look up to it as the rock of our salvation. To make short, sir, *necessitas non habet legem* was the word.

Those gentlemen, Mr. President, and some others, members of this respectable Convention, — whose profound oratory and elocution would, on the journals of a British House of Commons, stand as lasting monuments of their great abilities, — a man of my circumscribed scale of talents is not adequate to the task of contending with; nor have I a turn for embellishing my language, or bedecking it with all the flowers of rhetoric. In a word, Mr. President, my idea of the matter now under our consideration is, that we very much stand in need of a reform of government, as the very sinews of our present constitution are relaxed. But, sir, I would fondly hope that our case is not so bad as represented. Are we invaded by a foreign enemy? Or are the bowels of our country torn to pieces by insurrections and intestine broils? I answer, No.

Sir, admit but this, and then allow me to ask if history furnishes us with a single instance of any nation, state, or people, who had it more in their power than we at present have to frame for ourselves a perfect, permanent, free, and happy constitution. The Constitution, sir, now under consideration, was framed (I shall say) by the wisdom of a General Convention of the United States; it now lies before us to wait our concurrence or disapprobation. We, sir, as citizens and freemen, have an undoubted right of judging for ourselves; it therefore behoves us most seriously to consider, before we determine a matter of such vast magnitude. We are not acting for ourselves alone, but, to all appearance, for generations unborn.

## Mr. CHARLES PINCKNEY,

Speech of *on the* 10*th Section of Article* 1*st of the Federal Constitution*.

This section I consider as the soul of the Constitution — as containing, in a few words, those restraints upon the states, which, while they keep them from interfering with the powers of the Union, will leave them always in a situation to comply with their federal duties — will teach them to cultivate those principles of public honor and private honesty which are the sure road to national character and happiness. The only parts of this section that are objected to are those which relate to the emission of paper money, and its consequences, tender-laws, and the impairing the obligation of contracts.

The other parts are supposed as exclusively belonging to, and such as ought to be vested in, the Union.

If we consider the situation of the United States as they are at present, either individually or as the members of a general confederacy, we shall find it extremely improper they should ever he intrusted with the power of emitting money, or interfering in private contracts; or, by means of tender-laws, impairing the obligation of contracts.

### gold money

I apprehend these general reasonings will be found true with respect to paper money: That experience has shown that, in every state where it has been practised since the revolution, it always carries the gold and silver out of the country, and impoverishes it — that, while it remains, all the foreign merchants, trading in America, must suffer and lose by it; therefore, that it must ever be a discouragement to commerce — that every medium of trade should have an intrinsic value, which paper money has not; gold and silver are therefore the fittest for this medium, as they are an equivalent, which paper can never be — that debtors in the assemblies will, whenever they can, make paper money with fraudulent views — that in those states where the credit of the paper money has been best supported, the bills have never kept to their nominal value in circulation, but have constantly depreciated to a certain degree.

I consider it as a granted position that, while the productions of a state are useful to other countries, and can find a ready sale at foreign markets, there can be no doubt of their always being able to command a sufficient sum in specie to answer as a medium for the purposes of carrying on this commerce; provided there is no paper money, or other means of conducting it. This, I think, will be the case even in instances where the balance of trade is against a state; but where the balance is in favor, or where there is nearly as much exported as imported, there can be no doubt that the products will be the means of always introducing a sufficient quantity of specie,

If we were to be governed by partial views, and each state was only to consider how far a general regulation suited her interests, I think it can be proved there is no state in the Union which ought to be so anxious to have this part of the Constitution passed as ourselves

We are to reflect that this Constitution is not framed to answer temporary purposes. We hope it will last for ages — that it will be the perpetual protector of our rights and properties.

This state is, perhaps, of all others, more blessed in point of soil and productions than any in the Union. Notwithstanding all her sufferings by the war, the great quantity of lands still uncultivated, and the little attention she pays to the improvement of agriculture, she already exports more than any state in the Union, (except Virginia,) and in a little time must exceed her.

Exports are a surer mode of determining the productive wealth of a country than any other, and particularly when these products are in great demand in foreign countries.

Thus circumstanced, where can be the necessity of paper money? Will you not have specie in sufficient quantities? Will you not have more money in circulation without paper money than with it? — I mean, without having only paper in such quantities as you are able to maintain the credit of, as at present. I aver you may, and appeal only to the experience of the last five or six years. Will it not be confessed that, in 1783 and 1784, we had more money than we have at present, and that the emission of your present paper banished double the amount out of circulation? Besides, if paper should become necessary, the general government still possess the power of emitting it, and Continental paper, well funded, must ever answer the purpose better than state paper.

How extremely useful and advantageous must this restraint be to those states which mean to be honest, and not to defraud their neighbors! Henceforth, the citizens of the states may trade with each other without fear of tender-laws or laws impairing the nature of contracts. The citizen of South Carolina will then be able to trade with those of Rhode Island, North Carolina, and Georgia, and be sure of receiving the value of his commodities. Can this be done at present? It cannot! However just the demand may be yet still your honest, suffering citizen must be content to receive their depreciated paper, or give up the debt.

### gold money

But above all, how much will this section tend to restore your credit with foreigners — to rescue your national character from that contempt which must ever follow the most flagrant violations of public faith and private honesty! No more shall paper money, no more shall tender laws, drive their commerce from our shores, and darken the American name in every country where it is known. No more shall our citizens conceal in their coffers those treasures which the weakness and dishonesty of our government have long hidden from the public eye. The firmness of a just and even system shall bring them into circulation, and honor the virtue shall be again known and countenanced among us. No more shall the widow, the orphan, and the stranger, become the miserable victims of unjust rulers. Your government shall now, indeed, be a government of laws. The arm of Justice shall be lifted on high; and the poor and the rich, the strong and the weak, shall be equally protected in their rights. Public as well as private confidence shall again be established; industry shall return among us; and the blessings of our government shall verify that old, but useful maxim, that which states, as well as individuals, honesty is the best policy.

## Mr. PATRICK DOLLARD,

*Speech of* *Prince Frederick's*.

Mr. President, I rise, with the greatest diffidence, to speak on this occasion, not only knowing myself unequal to the task, but believing this to be the most important question that ever the good people of this state were called together to deliberate upon. This Constitution has been ably supported, and ingeniously glossed over by many able and respectable gentlemen in this house, whose reasoning, aided by the most accurate eloquence, might strike conviction even in the predetermined breast, had they a good cause to support. Conscious that they have not, and also conscious of my inability to point out the consequences of its defects, which have in some measure been defined by able gentlemen in this house, I shall therefore confine myself within narrow bounds; that is, concisely to make known the sense and language of my constituents. The people of Prince Frederick's Parish, whom I have the honor to represent, are a brave, honest, and industrious people: In the late bloody contest, they bore a conspicuous part, when they fought, bled, and conquered, in defence of their civil rights and privileges, which they expected to transmit untainted to their posterity. They are nearly all, to a man, opposed to this new Constitution, because, they say they have omitted to insert a bill of rights therein, ascertaining and fundamentally establishing, the unalienable rights of men, without a full, free, and secure enjoyment of which there can be no liberty, and over which it is not necessary that a good government should have the control. They say that they are by no means against vesting Congress with ample and sufficient powers; but to make over to them, or any set of men, their birthright, comprised in Magna Charta, which this new Constitution absolutely does, they can never agree to. Notwithstanding this they have the highest opinion of the virtues and abilities of the honorable gentlemen from this state, who represented us in the General Convention; and also a few other distinguished characters, whose names will be transmitted with honor to future ages; but I believe, at the same time, they are but mortal, and, therefore, liable to err; and as the virtue and abilities of those gentlemen will consequently recommend their being first employed in jointly conducting the reins of this government, they are led to believe it will commence in a moderate aristocracy: but, that it will, in its future operations, produce a monarchy, or a corrupt and oppressive aristocracy, they have no manner of doubt. Lust of dominion is natural in every soil, and the love of power and superiority is as prevailing in the United States, at present, as in any part of the earth; yet in this country, depraved as it is, there still remains a strong regard for liberty: an American bosom is apt to glow at the sound of it, and the splendid merit of preserving that best gift of God, which is mostly expelled from every country in Europe, might stimulate Indolence, and animate even Luxury to consecrate herself at the altar of freedom.

My constituents are highly alarmed at the large and rapid strides which this new government has taken towards despotism. They say it is big with political mischiefs, and pregnant with a greater variety of impending woes to the good people of the Southern States, especially South Carolina, than all the plagues supposed to issue from the poisonous {338} box of Pandora. They say it is particularly calculated for the meridian of despotic aristocracy; that it evidently tends to promote the ambitions views of a few able and designing men, and enslave the rest; that it carries with it the appearance of an old phrase, formerly made use of in despotic reigns, and especially by Archbishop Laud, in the reign of Charles I., that is, "non-resistance." They say they will resist against it; that they will not accept of it unless compelled by force of arms, which this new Constitution plainly threatens; and then, they say, your standing army, like Turkish janizaries enforcing despotic laws, must ram it down their throats with the points of bayonets. They warn the gentlemen of this Convention, as the guardians of their liberty, to beware how they will be accessory to the disposal of, or rather sacrificing, their dear-bought rights and privileges. This is the sense and language, Mr. President, of the people; and it is an old saying, and I believe a very true one, that the general voice of the people is the voice of God. The general voice of the people, to whom I am responsible, is against it. I shall never betray the trust resposed in me by them; therefore, shall give my hearty dissent.

# WEDNESDAY, *May* 21, 1788.

Gen. SUMPTER, agreeably to notice given yesterday, (Tuesday, 20th,) moved for an adjournment of the Convention to the (20th October) twentieth day of October next, in order to give time for the *further consideration* of the Federal Constitution. After considerable debate, it was rejected by a majority of (46) forty-six — yeas, eighty-nine. (89;) nays, one hundred and thirty-five (135).

# FRIDAY, *May* 23, 1788.

On motion, *Resolved*, That this Convention do assent to and ratify the Constitution agreed to on the 17th day of September last, by the Convention of the United States of America, held at Philadelphia.

On the question being put to agree to the same, the yeas and nays were called for by the unanimous voice of the Convention, and are as follows: —

* For the Parishes of St. Philip and St. Michael, Charleston. — Yeas: His excellency, Governor Thomas Pinckney, did not vote. Lieutenant-Governor Thomas Gadsden, C. C. Pinckney, (general,) Christopher Gadsden, (general — member of Congress of '65, at New York,) Edward Rutledge, (governor — one of the Congress of '76,) David Ramsay, (Dr.,) Thomas Heyward, Jun., (judge — and one of the Congress of '76,) Edward Darrell, Isaac Motte, John Mathews, (governor,) Edward Blake, Thomas Bee, (judge,) Daniel De Soussure, Thomas Jones, John F. Grimke, (judge,) William Johnson, John J. Pringle, (attorney-general,) John Blake, Daniel {339} Stevens, Daniel Cannon, Anthony Toomer, Hugh Rutledge, (judge,) John Budd, (Dr.,) Francis Kinloch, Thomas Sommersall, Michael Kalteisen, (captain of fort Johnson,) Richard Lushington, (colonel,) Nathaniel Russel, Josiah Smith, Lewis Morris, Edward Lightwood, John Edwards. 31.
* Christ Church. — Yeas: Hon. Charles Pinckney, Hon. John Rutledge, Hon. A. Vanderhorst, William Read, Joseph Manigault, Jacob Read, Joshua Toomer. 7.
* St. John's, Berkley. — Yeas: Hon. Henry Laurens, Gen. William Moultrie, Henry Laurens, Jun. 3. — Nays: Peter Fayssoux, Keating Simons, Thomas Walter. 3. — Absent: Francis Marion. 1.
* St. Andrew's. — Yeas: Glen Drayton, Hon. Richard Hutson, Thomas Fuller, James Ladson, Ralph Izard, Jun., Charles Drayton, Hon. William Scott. 7. — Nays: none.
* St. George's, Dorchester. — Yeas: John Glaze, Morton Waring, Thomas Warring, Maj. J. Postell, William Postell, Mathias Hutchinson, John Dawson. 7. — Nays: none.
* St. Jame's, Goose Creek. — Yeas: Hon. Ralph Izard, Peter Smith, Hon. Benjamin Smith, Gabriel Manigault, William Smith, J. Parker, Jun., J. Deas, Jun. 7. — Nays: none.
* St. Thomas and St. Dennis. — Yeas: Hon. John Huger, Thomas Karwon, Thomas Screven, Robert Daniel, Lewis Fogartie, Isaac Harleston, Isaac Parker. — Nays: none.
* St. Paul's Parish. — Yeas: Paul Hamilton, George Haig, Joseph Slann, Roger Parker Saunders, William Washington, (hero of Eutaw and Cowpens.) — Nays: John Wilson, Hon. Melcher Garner. 2.
* St. Batholomew's. — Yeas: Hon. John Lloyd, John Crosskeys. — Nays: Benjamin Postell, William Clay Snipes, O'Brien Smith, Paul Walter, Edmund Bellinger. 5.
* St. Helena's. — Yeas: Hon. John Barnwell, Hon. John Kean, Hon. William H. Wigg, Hon. Robert Barnwell, Hon. William Elliott, Hon. James Stuart. 7. — Nays: none.
* St. Jame's, Santee. — Yeas: Isaac Dubose, Lewis Miles, Samuel Warren, Richard Withers, John Mayrant, Thomas Horry. 6. — Nay: John Bowman. 1.
* Prince George's, Winyaw. — Yeas: Hon. Thomas Waties, (judge of C. C. P., and chancellor,) Samuel Smith, Cleland Kinloch, Hon. William Allston, Jun. 5. — Nays: none. — Absent: Peter Horry. 1.
* All Saints'. — Yeas: Daniel Morral, Thomas Allston. 2. — Nays: none.
* Prince Frederick's. — Yeas: William Wilson, Alexander Tweed, William Frierson, James Pettigrew. 4. — Nays: Patrick Dollard, William Read, J. Burges, Jun. 3.
* St. John's, Colleton County. — Yeas: Thomas Legare, Richard Muncreef, Jun., Hon. Daniel Jenkins, Hugh Wilson, Isaac Jenkins, Ephraim Mikel, William Smelie. — Nays: none.
* St. Peter's. — Yeas: John Fenwick, Joachin Hartstone, Seth Stafford, Rev. Henry Holcom. 4. — Nays: John Chisholm, John Lewis Bourjin, Jun. 2. — Absent: William Stafford. 1.
* Prince William's. — Yeas: Thomas Hutson, John M'Pherson, James Maine, John A. Cuthbert, John Lightwood, John Simmons, Stephen Devaux. 7. — Nuys: none
* St. Stephen's. — Yeas: John Palmer, Hon. Hezekiah Mahams, Samuel Dubose, John Peyre. 4. — Nays: none. — Absent: Thomas Cooper, Thomas Palmer. 1 vacant.
* District Eastward of the Wateree. — Yea: John Chesnut. 1. — Nays: Thomas Sumter, Andrew, Andrew Baskins, John Lowry, Benjamin Cudworth, William Massay, Hugh White, Thomas Dunlap, Samuel Dunlap, John Montgomery. 9. — Absent: S. Boykin.
* District of Ninety-six. — Yea: Dr. John Harris. 1. — Nays: James Lincoln, Adam Crain Jones, Edmond Martin, Andrew Hamilton, Joseph Calhoun, William Butler, John Bowie, Hon. John L. Gervais. 8. — Absent: John Ewing Calhoun, Charles Davenport. 2.
* North Side of Saluda. — Yeas: Samuel Earle, Lemuel J. Allstone, John Thomas, Jun. 3. — Nays: none.
* South Side of Saluda. — Yeas: John Miller, William M'Caleb. 2. — Nays none. — Absent: Robert Anderson. 1.
* District of Saxe-Gotha. — Yea: Hon. Henry Pendleton. 1. — Nays: Hon. Richard Hompton, J. Culpeper, William Fitzpatrick, Llewellen Threewits, John Threewits, Wade Hampton. 6.
* Lower Districts between Broad and Saluda Rivers. — Yeas: none. — Nays: Hon. Edanus Burke, J. Lindsay, Philemon Waters, Robert Ruthford, Hon. J. Hampton. 5.
* {340} Little River District. — Yeas: John Hunter, Thomas Wadsworth. 2. — Nays: Samuel Saxon, Joshua Saxon. 2. — Absent: James Mayson. 1.
* Upper or Spartan District. — Yeas: none. — Nays: William Kennedy, James Jourdon, Charles Sims, Thomas Brandon, Hon. Zacariah Bullock. 5.
* District between Broad and Catawba Rivers, Richland County. — Yeas: none. — Nays: Hon. Thomas Taylor, William Meyer, Thomas Howell. 3.
* Fairfield County. — Nays: James Craig, Jacob Brown, John Gray, John Cook. 4.
* Chester District. — Yeas: none. — Nays: Edward Lacy, Joseph Brown, William Miles, James Knox. 4.
* District called the New Acquisition. — Yea: Rev. Francis Cummins. 1. — Nays: Hon. William Hill, Robert Patton, Samuel Watson, James Martin, James G. Hunt, Samuel Lowry, Andrew Love, John M'Caw, Adam Meek, Abraham Smith. 10.
* St. Matthew's. — Yeas: Hon. William Thompson, Hon. Paul Warley. 2. — Nay' Hon. John Linton. 1.
* Orange. — Yeas: Lewis Lesterjette, Jacob Rumph, Donald Bruce. 3. — Nays: none. — Absent: Lewis Golsan. 1.
* St. David's. — Yeas: Lemuel Benton, William Dewitt, Calvin Spencer, Samuel Taylor, R. Brownfield, Benjamin Hicks, Jun. 6. — Nays: none. — Absent: Trist. Thomas. 1.
* District between Savannah River, and the North Fork of Edisto. — Yeas: Stephen Smith, Hon. William Dunbar, Joseph Vince, William Robison, John Collins, Jonathan Clark. 6. — Nays: none. — Absent: William Buford. 1.
* Yeas, | 149. | Nays, - - 73. | Majority, - - 76, | Absent, 15

So it was resolved in the affirmative.

JOHN S. DART, Secretary of Convention.

|  |  |  |  |
| --- | --- | --- | --- |
|  | **Yeas.** | **Nays.** | **Absent** |
| St. Philip and St. Michael, | 31 | 0 | 0 |
| Christ Church, | 7 | 0 | 0 |
| St. John's, Berkley County, | 3 | 3 | 1 |
| St. Andrew's, | 7 | 0 | 0 |
| St. George's, Dorchester, | 7 | 0 | 0 |
| St. James's, Goose Creek, | 7 | 0 | 0 |
| St. Thomas and St. Dennis, | 7 | 0 | 0 |
| St. Paul's Parish, | 5 | 2 | 0 |
| St. Bartholomew's, | 2 | 5 | 0 |
| St. Helena's, | 7 | 0 | 0 |
| St. James's, Santee, | 6 | 1 | 0 |
| Prince George's, Winyaw, | 4 | 0 | 1 |
| All Saints', | 2 | 0 | 0 |
| Prince Frederick's, | 4 | 3 | 0 |
| St. John's, Colleton County, | 7 | 0 | 0 |
| St. Peter's, | 4 | 2 | 1 |
| Prince William's, | 7 | 0 | 0 |
| St. Stephen's, | 4 | 0 | 3 |
| District Eastward of the Wateree, | 1 | 9 | 1 |
| District of Ninety-six, | 1 | 8 | 2 |
| North side of the Saluda, | 3 | 0 | 0 |
| South side of the Saluda, | 2 | 0 | 1 |
| District of Saxe-Gotha, | 1 | 6 | 0 |
| Lower District, between Broad and Saluda Rivers, | 0 | 5 | 0 |
| Little River District, | 2 | 2 | 1 |
| Upper, or Spartan District, | 0 | 5 | 0 |
| District between Broad and Catawba Rivers, Richland County, | 0 | 5 | 0 |
| Fairfield County, | 0 | 4 | 0 |
| Chester County, | 0 | 4 | 0 |
| District called the New Acquisition, | 1 | 10 | 0 |
| St. Matthew's, | 2 | 1 | 0 |
| Orange, | 3 | 0 | 0 |
| St. David's, | 6 | 0 | 1 |
| District between Savannah River and the North Fork of Edisto, | 6 | 0 | 1 |
|  | 149 | 73 | 14 |

{341}Two hundred and thirty-six members appointed to the Convention.

Fourteen absent.

Two hundred and twenty-two attended, of which there were,

|  |  |
| --- | --- |
| In favor of adoption, | 140 |
| Against adoption, | 73 |
| Majority, | 67 |