

John Dickinson and the Making of the U.S. Constitution, 1776-1788



Dr. Jane E. Calvert
The Library Company
of Philadelphia
Autumn 2020

READINGS

for

JOHN DICKINSON

and the

**MAKING OF THE U.S. CONSTITUTION,
1776–1788**

a

LIBRARY COMPANY OF PHILADELPHIA
SEMINAR

October 19
November 4
November 18
2020

The John Dickinson Writings Project
Ed. Jane E. Calvert

© by Jane E. Calvert
All rights reserved

CONTRIBUTORS TO THE JOHN DICKINSON WRITINGS PROJECT

Editor

Jane E. Calvert

Managing Editor

Christopher F. Minty

Assistant Editor

Nathan R. Kozuskanich

Transcribers

Alicia K. Anderson

Ellen M. Pawelczak

Editorial Assistant

David R. Hoth

Legal Consultants

Christian G. Koelbl III

Matthew C. Mirow

Simon Stern

Digital Assistant

Erica Cavanaugh

Advisory Board

R.B. Bernstein

Kenneth R. Bowling

Randy J. Holland

John C. Van Horne

Ondine LaBlanc

Alison L. LaCroix

J. Jefferson Looney

Jack N. Rakove

Karin A. Wulf

Preparation of this material is made possible through the support of:

The American Philosophical Society
The Lynde and Harry Bradley Foundation
The William Nelson Cromwell Foundation
The Earhart Foundation
The Friends of the John Dickinson Mansion
The General Society of Colonial Wars
The Library Company of Philadelphia
Mutual Mt. Airy
The National Endowment for the Humanities
The National Historic Publications and Records Commission
The Society of Colonial Wars in the Commonwealth of Kentucky
The State of Delaware
Private Individuals

NOTE TO READERS:

The transcriptions of archival documents in this Course Reader are the product of the John Dickinson Writings Project (JDP) and will eventually be published by the University of Delaware Press. They are not in their final form, most still requiring final verification and annotation, and have been compiled here exclusively for the use of the Library Company of Philadelphia Seminar. They are not to be circulated or reproduced without written permission from JDP Director [Jane E. Calvert](#).

CONTENTS

EDITORIAL METHODOLOGY	•	iii
ABBREVIATIONS AND SHORT TITLES	•	vi
CHRONOLOGY OF JOHN DICKINSON'S LIFE	•	vii

THE CONFEDERATION

1. Notes on the Articles of Confederation, [June 12–17, 1776] • 1
2. “Hints of a Confederation,” [June 12–17, 1776] • 3
3. Draft of the Articles of Confederation, [June 12–17, 1776] • 8
4. Josiah Bartlett Copy of Dickinson Draft of the Articles of Confederation, [June 1776] • 29
5. JD et al., Report of the Annapolis Convention, September 14, 1786 • 35

THE FEDERAL CONVENTION

6. *Fragments on the Confederation of the American States*, Philadelphia: T. Dobson, June 1787 • 39
7. Draft Resolution for a New Federal Government, [May 30, 1787] • 49
Image
8. On Separation of Powers, Form of Government, and Representation, June 2, 1787 • 51
9. On Election of the Two Branches of the Legislature, June 6, 1787 • 52
10. On Election of the Two Branches of the Legislature, June 7, 1787 • 52
11. Plan of Government, [June 18, 1787] • 53
Image
12. “Objections to New Jersey Plan,” [June 18–19, 1787] • 59
Image
13. Notes on the Hamilton Plan, [June 18, 1787] • 61
Image
14. On Election of Representatives, June 21, 1787 • 64
15. Notes for a Speech, [c. June 29, 1787] • 64
Image
16. Fragment of Notes, [June 1787] • 67
Image
17. Notes for a Speech I, [June 30, 1787] • 68
Image
18. Notes for a Speech II, [June 30, 1787] • 71
Image
19. Notes for a Speech III, [June 30, 1787] • 74
Image
20. Notes for a Speech IV, [June 30, 1787] • 77

- Image
21. Notes on Representation and Slavery in the West, [July 9–14, 1787] • 81
 22. On Election of the Executive, July 25, 1787 • 83
 23. On Qualifications in the Constitution, July 26, 1787 • 83
 24. On Restricting Rights in the First Branch, August 7, 1787 • 84
 25. On Restricting Money Bills, August 13, 1787 • 84
 26. On Wages for the National Legislature, August 7, 1787 • 85
 27. On the Importation of Slaves, August 22, 1787 • 85
 28. Fragment on the Division of Powers and the Electoral College, [n.d.] • 85
- Image
29. Note on the Constitution, [n.d.] • 87
- Image

RATIFICATION OF THE CONSTITUTION

30. Fabius [JD], “Observations on the Constitution proposed by the Federal Convention, No. 1,” *The Pennsylvania Mercury, and Universal Advertiser*, April 12, 1788 • 88
31. Fabius [JD], “Observations on the Constitution proposed by the Federal Convention, No. II,” *The Pennsylvania Mercury, and Universal Advertiser*, April 15, 1788 • 90
32. Fabius [JD], “Observations on the Constitution proposed by the Federal Convention, No. III,” *The Pennsylvania Mercury, and Universal Advertiser*, April 17, 1788 • 95
33. Fabius [JD], “Observations on the Constitution proposed by the Federal Convention, No. IV,” *The Pennsylvania Mercury, and Universal Advertiser*, April 19, 1788 • 100
34. Fabius [JD], “Observations on the Constitution proposed by the Federal Convention, No. V,” *The Pennsylvania Mercury, and Universal Advertiser*, April 22, 1788 • 104
35. Fabius [JD], “Observations on the Constitution proposed by the Federal Convention, No. VI,” *The Pennsylvania Mercury, and Universal Advertiser*, April 24, 1788 • 109
36. Fabius [JD], “Observations on the Constitution proposed by the Federal Convention, No. VII,” *The Pennsylvania Mercury, and Universal Advertiser*, April 26, 1788 • 112
37. Fabius [JD], “Observations on the Constitution proposed by the Federal Convention, No. VIII,” *The Pennsylvania Mercury, and Universal Advertiser*, April 29, 1788 • 116
38. Fabius [JD], “Observations on the Constitution proposed by the Federal Convention, No. IX,” *The Pennsylvania Mercury, and Universal Advertiser*, May 1, 1788 • 121

EDITORIAL METHODOLOGY

This edition seeks to provide the reader with documents that appear as true to the original as possible while also being accessible

Basic Editorial Devices

Word inserted by author:	{Government}
Word deleted by author:	Government
Word in a hand different from main author:	[JD:] <Government>
Editorial notes in brackets and italics:	[<i>illegible</i>]
Illegible word deleted by author:	[<i>illegible</i>]
Word added by editors, very certain:	[Government]
Very unclear word, guess by editors:	[Government?]
Unclear word inserted and deleted by author:	{[Government]}
Expanded abbreviation:	Gov. ^t <i>becomes</i> Gov[ernmen]t
When letters or words have been cancelled by a new letter or word written over the original:	g{G}overnment

Other Conditions

- The general physical appearance of the text has been reproduced, including blocks of text, columns, indentations, and blank spaces. To preserve original formatting, manuscript texts are aligned left. This also distinguishes them from printed documents, which are justified. Lines and other drawings on the page, such as hand-

braces, insertion symbols, or boxes drawn around words or paragraphs, are reproduced as near to the original as is technologically possible. Where a feature is not reproduced visually, a descriptive editorial note is added.

- Marginalia and other inserted words and sentences are placed in the text either where JD indicated they belong or where the flow of the text dictates. Either way, if the text to be inserted appears far from its intended insertion point (e.g., in the margin, on another page, or on a separate scrap of paper), an editorial note states where it actually appears in the original.
- When edits to a document have been made in an unknown hand or hands, this fact is mentioned in the headnote.
- Editorial interpolations are styled to match the text in which they have been inserted; for instance, if an underlined abbreviation has been expanded, the interpolation is also underlined.
- Underlined text is retained as written. Where underlines exceed two, an endnote specifies how many times.
- Catchwords (the dangling word at the bottom of a page, repeated at the top of the next) are omitted in correspondence but retained in draft manuscripts where they aided editors in determining order of pages.
- Single hyphens replace double hyphens.
- A single em-dash is used for all dashes, regardless of length or number.
- Text written larger or darker for emphasis is rendered in **boldface** type.
- Original signatures are rendered in **boldface** type; copied or proxy signatures are in roman.
- Abbreviations are expanded except in common titles (e.g., “M^r,” “M^{rs},” “D^r,” “S^t,” “Esq^r”), suffixes (“J^r,” “S^r”), and numbers (e.g., 4th, 2.^d). In expansions, periods are removed, superscript text is lowered, and the missing letters are supplied in square brackets. In cases where there could be either a British or an American spelling (e.g., “fav[o]r” or “fav[ou]r”), the Editors followed the conventions of the author in that particular document. When there was no model, spelling follows British conventions before 1776 and American afterward, following the evolution of JD’s spelling habits.
- Contractions are retained as written, with or without an apostrophe; “ed” words without the “e” or an apostrophe are not changed.
- Archaic letters and abbreviations are modernized or expanded, and rendered in brackets: the long “s” (*f*) is made short; the per sign

Editorial Methodology

(𐍂) is expanded as “[per],” “[pro],” “[pre],” “[præ],” or “[pri],” as appropriate; the thorn is rendered as “[th]” (e.g., “[th]e,” “[th]at”), except in the case of “ye” for “you.”

- When a dash is used instead of a period at the end of a sentence, a space is left between it and the following word.
- Authorial errors or slips of the pen are not corrected or marked with [*sic*], except where they might be mistaken for an editorial error, such as a repeated word. Misspelled words that might be confusing are provided with an endnote.
- Capitalization is retained. Typical of the age, however, some letters, including “p” and “s,” had middling cases, neither capital nor lowercase. In those instances, which could be decided either way, capitalization follows the conventions of the author in the text or the general usage of the period.
- When multiple words or lines are illegible, they are noted as [*illegible words*]. If the words or lines are illegible because of deletion by the author, they will appear thusly: [*two illegible lines*].
- Lacunæ are represented with a descriptive note: [*torn*], [*ink spot*].

ABBREVIATIONS AND SHORT TITLES

When a document resides in a named collection within a repository, its source is cited in annotation in the following form: XXX-YYY, where XXX is the repository or institution, and YYY is the named collection. Thus, for example, the R. R. Logan Papers at the Historical Society of Pennsylvania is cited PHi-RLL.

Bartlett	Josiah Bartlett Papers, New Hampshire State Library
DS	document, signed
Emmet	Emmet Collection of Manuscripts, New York Public Library
JDFP	John Dickinson Family Papers, Library Company of Philadelphia
Ms	manuscript
Nh	New Hampshire State Library
NN	New York Public Library
PHi	Historical Society of Pennsylvania, Philadelphia
PPL	Library Company of Philadelphia, Philadelphia
RRL	R.R. Logan Collection of John Dickinson Papers, Historical Society of Pennsylvania

Published Sources

Farrand

The Records of the Federal Convention of 1787 3 vols. New Haven: Yale, 1911.

JCC

Journals of the Continental Congress 34 vols .Washington: Library of Congress, 1904–37.

LDC

Letters of Delegates to Congress, 1774-1789. Washington: Library of Congress, 1976-2000.

OED

The Oxford English Dictionary. Edited by J.A. Simpson and E.S.C. Weiner. 20 vols. 2nd ed. Oxford: Oxford University Press, 1989; rev. ed., www.oed.com.

PBF

The Papers of Benjamin Franklin. Edited by Leonard W. Labaree et al. 43 vols. to date. New Haven, Conn.: Yale University Press, 1959– .

CHRONOLOGY OF THE LIFE OF JOHN DICKINSON

- 1731 **Nov. 4:** Samuel Dickinson (b. 1689) married Mary Cadwalader (b. 1700)
- 1732 **Nov. 13 (Nov. 2, old calendar):** John Dickinson born at Crosia-doré in Talbot Co., Md.
- 1734 **Oct. 4:** Brother Thomas born (died young)
- 1739 **April 5 (old calendar):** Brother Philemon born
- 1741 **Jan. 18:** Samuel Dickinson moved family to Poplar Hall near Dover, Del.
- 1740s Tutored by James Orr and William Killen
- 1750–53 Read law in Philadelphia in the office of king’s attorney John Moland
- 1753–57 Studied law at Middle Temple, Inns of Court, London; certificate issued March 14, 1757
- 1757 Began law practice in Philadelphia
- 1759 **Oct. 1:** Elected to Del. Assembly as representative from Kent Co.
- 1760 **July 6:** Father, Samuel Dickinson, died
Oct. 1: Reelected to the Del. Assembly; chosen speaker of the House
- 1761 Served in Del. Assembly
- 1762 **May 14:** Elected to Pa. Assembly in special election as representative from Phila. Co.
Oct. 1: Elected to Pa. Assembly in regular election
- 1763 **March:** Elected a director of the Library Company of Philadelphia
Oct. 1: Elected to Pa. Assembly
- 1764 **June:** Represented the Moravian Indian Renatus in his murder trial; Renatus acquitted
 Published: *A Speech, Delivered in the House of Assembly*
 To the King’s Most Excellent Majesty
 A Reply to a Piece Called the Speech of Joseph Galloway
 “Last Tuesday Morning...”
 A Receipt to Make a Speech

John Dickinson and the Making of the U.S. Constitution

A Protest Presented to the House of Assembly

Oct. 1: Elected to the Pa. Assembly

- 1765 **Oct. 7:** Served as delegate to the Stamp Act Congress
Published: Declaration of Rights of the Stamp Act Congress
Petition to the King from the Stamp Act Congress
The Late Regulations
“Friends and Countrymen”
- 1766 Published: *An Address to the Committee of Correspondence in Barbados*
- 1767–68 **Nov.–Feb.:** Published: “Letters from a Farmer in Pennsylvania” serially in newspapers
- 1768 Published: “The Centinel,” nos. 6, 7, 8, & 16 serially in newspapers
A Copy of a Letter from a Gentleman in Virginia To the Public
“The Liberty Song”
Elected member of American Philosophical Society
- 1769 **Sept. 29:** Awarded an honorary degree from College of New Jersey (later Princeton)
- 1770 **July 19:** Married Mary Norris (b. July 17, 1740)
Oct. 1: Elected to Pa. Assembly
- 1771 Published a Petition from the Pa. Assembly to the king protesting the tea tax
Dec. 10: First child, daughter Sarah (Sally), born
- 1772 **Oct. 1:** Candidate for the Pa. Assembly (against his wishes); not elected
- 1773 Published: *A Letter from the Country, to a Gentleman in Philadelphia*
“Extract of a Letter [on the Tea Tax]”
- 1774 **May 7:** Second child, daughter Mary, born
May–June: Published: “Letters to the Inhabitants of the British Colonies”
May 20: Appointed to the Pa. Committee of Correspondence
July 15: Appointed to committee to draft instructions for Pa. delegates to the First Continental Congress
Sept.: Published: *An Essay on the Constitutional Power of Great*

Chronology

Britain

Oct. 1: Elected to Pa. Assembly

Oct. 15: Added as a delegate from Pa. to the First Continental Congress

Oct. 17: Took seat in the First Continental Congress

Oct. 21: Added to the drafting committees, which produced:

To the Inhabitants of the Colonies

Bill of Rights and List of Grievances

Petition of Congress to the King

A Letter to the Inhabitants of the Province of Quebec

Nov. 12: Elected to serve on a Committee for the City of Phila., the Northern Liberties, and Southwark

Dec. 5: Appointed to a Committee of Inspection and Observation

Dec. 15: Appointed delegate to the Second Continental Congress

1775

Feb. 19: Chosen for the Secret Committee of Correspondence

May 5: Daughter, Mary, died

Spring: Raised First Philadelphia Battalion of Associators and commissioned as colonel

Served on Pa. Committee of Correspondence

Served on Pa. Committee of Safety

May 10: Delegate to Second Continental Congress, which produced:

Olive Branch Petition

Declaration on the Causes and Necessity of Taking Up Arms

Oct. 1: Elected to Pa. Assembly

Nov. 9: Wrote instructions to Pa. delegates disallowing them to vote for independence

1776

Feb.-March: Worked with members of Congress for reconciliation with Great Britain and to secure military aid from France

March 22: Mother, Mary Cadwalader Dickinson, died near Trenton, N. J.

May: In Dover, Del.

June 8: Wrote new instructions to Pa. delegates allowing them to vote for independence.

June 12–17: Head of committee to draft the Articles of Confederation

July 1: Speech in the Second Continental Congress against the Declaration of Independence

July 2: Abstained from vote on independence

July 10: Joined battalion at Elizabethtown, N.J.

Sept. 1: Returned to Phila. with battalion

Sept. 30: Resigned commission in Pa. militia

Nov 5: Elected to Pa. Assembly

Nov. 27: Abdicated seat in Assembly in protest over the new Pa. constitution

John Dickinson and the Making of the U.S. Constitution

Published: *Essay on a Frame of Government for Pennsylvania*

Dec.: Accused by Pa. Council of Safety of treasonous activities

- 1777 **May 12:** Manumitted all his slaves conditionally
Summer–Fall: Served as private soldier in Del. militia
Sept. 26: Received commission as brigadier-general in Del. militia; did not act on it
Oct. 30: Dickinson family escaped Phila., joined JD at Poplar Hall (Dover, Del.)
Nov. 22: Fairhill (Phila.) burned by the British
Dec. 19: Resigned commission in Del. militia
- 1778 **June 29:** Affirmed (rather than swore) fidelity to the State of Delaware
Aug. 19: Third child, son John, born
Sept. 2: Son John died
- 1779 **Feb 1:** Appointed by the Del. Assembly to serve in the Continental Congress
Published: “To the Inhabitants of the United States”
July 5: Fourth child, a son, stillborn
- 1780 **April 12:** Declined seat as delegate to the Continental Congress from Del.
Nov. 28: Elected to the Del. Assembly for New Castle Co. in special election
- 1781 **Aug. 10:** Poplar Hall (Dover, Del.) plundered by Loyalists
Sept. 21: Manumitted some slaves unconditionally
Oct. 20: Elected to Del. Executive Council
Nov. 6: Elected president of Del. for a term of three years (served 1)
Published: *For the Use of the Militia of the Delaware State, an Abstract of the Regulations for the Order and Discipline of the Troops of the United States*
- 1782 **Nov. 7:** Elected president of Pa.
Dec.–Jan. 1783: Attacked by “Valerius” serially in the newspapers; published response
Served as *ex officio* member and president of the board of trustees of the University of Pennsylvania
- 1783 **Jan. 14:** Resigned as president of Del.
June: Mutiny of 1783, removal of US capital from Phila.

Sept. 9: Founding of Dickinson College by Benjamin Rush; JD donated 600 acres and books; served as president of the board of trustees
Oct. 15: Elected honorary member of the Society of the Cincinnati

Chronology

- Nov. 6:** Fifth child, daughter Maria, born
Nov. 7: Reelected president of Pa.
- 1784 **Nov. 3:** Reelected president of Pa.
- 1785 **Oct.:** Established permanent residence in Wilmington, Del.
- 1786 **May 11:** Manumitted remaining slaves unconditionally
Sept. 11–14: Served as chairman of the Annapolis Convention
 Published: *The Report of the Annapolis Convention*
 Presented bill for emancipating slaves in Del.
 Donated funds to found the Society for Alleviating the Miseries of
 Public Prisons
- 1787 **Feb. 3:** Declined to serve as delegate to the Confederation Congress
 from Del.
 Feb. 21: Congress read and approved JD's letter from the Annapolis
 Convention proposing a Federal Convention in Phila.
 May 29: Seated as delegate from Del. to the Constitutional Convention
 May 30: favors amending Confederation
 June: Published: *Fragments on the Confederation of the American
 States*
 June 1: wants executive powers defined
 June 2: argues at length for the independence of the branches and
 a weak executive in a republic; *proposes that one branch of the
 legislature have equal representation and the other proportional*;
 suggests a Senate chosen by state legislatures; moves that the execu-
 tive should be removable by state legislatures on impeachment
 and conviction for misconduct and neglect of office
 June 4: Virginia Plan presented; drafts resolution for a new federal
 government
 June 5: favors national judiciary instituted by the national legisla-
 ture
 June 6: argues for bicameral legislature; reiterates: “*one branch of
 the Legislature sh[oul]d be drawn immediately from the people;
 and as expedient that the other sh[oul]d be chosen by the Legis-
 latures of the States*”; argues for transparency and accountability
 in executive and separation from judiciary
 June 7: motions for Senate to be large and chosen by state legisla-
 tures so it has best people, like House of Lords; wants other branch
 chosen by the people; their powers flow from different sources; ar-
 gues for retaining agency in the individual states; suggests solar sys-
 tem analogy: the states are to the federal gov't like planets to the
 sun
 June 8: favors a negative on state laws; worries about states injur-
 ing national government

John Dickinson and the Making of the U.S. Constitution

June 9: favors representatives elected people and senate chosen by state legislatures

June 11: argues that representation ought to be determined by actual tax contributions of the states

June 15: New Jersey Plan presented; “Mr. Dickenson said to Mr. Madison you see the consequence of pushing things too far. Some of the members from the small States wish for two branches in the General Legislature, and are friends to a good National Government; but we would sooner submit to a foreign power, than submit to be deprived of an equality of suffrage, in both branches of the legislature, and thereby be thrown under the domination of the large States.”

June 16–18: so-called Connecticut Compromise adopted; drafts a plan of government

June 18: motions to substitute first resolution of NJ Plan: “Resolved that the articles of confederation ought to be revised and amended, so as to render the government of the United States adequate to the Exigencies, the preservation, and the prosperity of the Union.” (approved); Hamilton plan presented; drafts notes on Hamilton plan

June 19: proposes comparing VA and NJ plans

June 21: favors three years term and rotation for representatives

June 29: drafts notes for a speech on danger to small states from larger; representation in first branch should be proportional based on taxes

June 30: drafts speech on danger of large states; wants equal representation in one branch; concerned about abolishing Articles of Confederation that were declared “perpetual”

July 9–14: drafts notes about slavery and new states in the west

July 25: favors election of executive by people “as the best and purest source”

July 26: opposes qualifications for office holding in Constitution

Aug. 7: favors restriction of voting for first branch of legislature to freeholders

Aug. 8: favors citizenship requirement for representatives; favors representatives elected by people and senators by state legislators

Aug. 13: favors restricting money bills to the representatives of the people; “Experience must be our only guide. Reason may mislead us.”

Aug. 14: favors keeping national gov’t independent of state legislatures; payment of both houses the same, and opposes payment by states

Aug. 15: strongly disapproves of the power of judges to set aside law

Chronology

Aug. 17: thinks felonies sufficiently defined by common law; moves modification of wording in clause concerning rebellion in a state

Aug. 18: appointed to committee state debts and regulation of militia; favors appointments made by legislature rather than executive; proposes to restrain power over militia to one fourth at a time

Aug. 20: thinks treason clause too vague

Aug. 21: moves to limit number of representatives allowed to each state; opposes absolute prohibition of export tax

Aug. 22: elected to committees slavery and navigation act; opposed importation of slaves

Aug. 23: agrees with amendment to Art. 7, sect. 1 on powers of national legislature, although it disadvantaged small states in making treaties

Aug. 24: favors ratification of treaties by law; moves to amend wording of clause on appointment of officers by the executive (approved)

Aug. 25: motions to prohibit the importation of slaves by states that had not already prohibited it (approved)

Aug 27: favors postponement of clause on succession to presidency because too vague; favors proposal for removal of judges by the executive for bad behavior on application by legislature (rejected); favors jurisdiction of supreme court “both as to law and fact” (approved)

Aug. 29: quotes Blackstone on ex post facto laws as relating only to criminal cases; opposes small states securing large states in western claims

Aug. 30: moves clause concerning formation of new states; opposes federal intervention on the application of state legislature: “He thought it of essential importance to the tranquillity of the U--S. that they should in all cases suppress domestic violence, which may proceed from the State Legislature itself, or from disputes between the two branches where such exist”; asks whether concurrence of congress is essential to ratification of Constitution

Aug. 31: appointed to the Committee of Postponed Matters (Unfinished Parts) to consider, inter alia, election of the executive

Sept. 5: favors eventual election of president by legislature instead of senate; moves that majority of electors be of the total number (approved)

Sept. 7: favors a council for president

Sept. 12: favors assent of congress for inspection laws to protect small states from large; moves to strike “and direct taxes: from Art. 2, sect. 2 (rejected)

Sept. 15: left Convention; George Read signs by proxy

John Dickinson and the Making of the U.S. Constitution

- 1788 **April–May:** Published the first *Fabius Letters* advocating ratification of the US Constitution
April 16: Appointed judge in the Del. appellate court
- 1791–92 **Oct. 10:** Resigned as judge in the Del. Chancery Court
Nov. 29: Attended Del. Constitutional Convention
Dec. 7: Elected president of the Convention
- 1792 Served as judge of Del. Court of Appeals
Sept. 15: Put forth as candidate for senator from Del.; preemptively resigned
- 1794 Donated funds to found the Wilmington Academy for the education of poor children
- 1795 **June 10:** Donated land to Quakers to found Westtown School (Pa.)
Aug. 5: Led Del. protest against the Jay Treaty
- 1796 Published: *A Fragment* on the education of youth
- 1797 Published: “Ode, on France”
Fabius Letters, a second set in support of France
- 1798 Published: *A Caution; or, Reflections on the Present Contest between France and Great-Britain*
“Ode, on the French Revolution”
- 1799 Donated land for the Brandywine Academy (Del.)
- 1800 Asked to run for Congress; declined
- 1801 Published: *The Political Writings of John Dickinson, Esq.*
Asked to run for governor of Del.; declined
- 1803 **July 23:** Wife, Mary Norris Dickinson, died, age 63.
Published: *An Address on the Past, Present and Eventual Relations of the United States to France*
- 1807 **Oct:** Del. Republicans nominated JD for election to Congress; not elected
- 1808 **Feb. 14:** Died, age 75; buried at Wilmington Friends Meeting burial ground

THE CONFEDERATION

1

Notes on the Articles of Confederation, [June 12–17, 1776]

We in behalf of and by Authority of our respective Constituents the Inhabitants of the Col[onie]s of N.H. &c {jointly & severally} do in the Presence of Almighty

and ~~upon~~ ~~T~~ in the most solemn {& obligatory} Form by wh[ich] public Faith can be plighted devoutly and deliberately pledge and bind Ourselves & the Colonies aforesaid and their present & future Inhabitants t{e}ach to the other that We & our Constituents & {our &} their Successors shall & will ~~to the~~ ~~H~~ always support uphold maintain warrant & forever defend the Constitutions {& Frames of Gov[ernmen]t} now established in these Colonies respectively against all Kings States Powers Insurrections & Disturbances within or without the said Colonies or any of them respectively, and will not {cause or} suffer any Change or Alteration whatever to be made or to take Place in the said Constitutions & Frames of Gov[ernmen]t or any of them, unless such Change or Alter[ation] be made by a Law or Laws of ~~such~~ {a} Colony with the full free and voluntary Assent of two thirds of each of the legislative Bodies forming the Supreme Legislature of such Colony

[*upside down:*]

Gov[erno]r not to hold that Office for more than 3 Years in any Term of 12 Years commencing from any period whatever {—} Except when the Gov[erno]r is in actual Service, when he is to command; but not to continue in actual Service longer than the rest of the Col[ony] shall approve & consent [*page break*]

~~Two~~{hree} preliminaries,

Importance

Ascertaining the Limits of every Colony by known & indisputable Boundaries

Securing Liberty of Conscience by [pro]viding that all persons believ[in]g one Supreme Being the Creator of Things & living peaceably shall {not} be molested {&c}— That all persons believing the Christian Religion {shall not be molested &c and} (here such Expressions as are in the

John Dickinson and the Making of the U.S. Constitution

Penn[sylvani]a Charter & Laws, to be used—for precision) shall always hereafter be capable of holding Posts Offices or Employments, who are now capable in the several Colonies respectively by the Laws thereof to hold Posts Offices or Employments— That no Laws shall for ever [Ex?] future be made to impose any other Tests or Qualif[icati]ons of any persons appointed or elected into any Post Office or Emp[loymen]t in any Colony, than such Tests Qualif[icati]ons as are now by Laws established in such Colony, except an Oath or Aff[irmati]on to support the Gov[ernmen]t then establ[ishe]d in such Colony— That such Qualif[icati]ons may be taken by Affirm[ati]on, ~~in the same Manner~~ such Col[onie]s where ~~an~~ Qualif[ica]{ti}on to hold Posts &c can now be taken by Aff[irmati]on—

That no [per]sons whatsoever shall at any Time hereafter be obligd to contribute to or maintain any religious Worship or Place of Worship &c further or otherwise than [per]sons now are bound by Law so [*illegible*]

That these [[pri]nc[iple]s] shall never be abridged on Acco[un]t of Misbehaviour by Indiv[dua]ls but only the Offenders be pun[ishe]d [*page break*]

{{Agreed} The Meeting of Congress to be at Philad[elphi]a till otherw[ise] ord[er]d by Congress ~~by Ballot~~}

==
Q[uære]. The Delegates of each Colony to Congress to be ~~elected by all the~~ ~~{{illegible}}~~ Bodies of each Colony ~~{{jointly?}}~~ in which the Supreme Legislature of the Colony is vested appointed by the {Legislative Bodies in which the} Supreme Legislature of each Colony {is vested—}

==
A[nswer]. That a new Congress shall ~~meet~~ be annually elected & meet on the first Monday in November in every Year—with a Power reserv'd to each Colony to supersede its Delegates at any Time within the Year and send new Delegates in their Stead for the Remainder of the Year

==
Q[uære]. The Power of Congress interfer[in]g in Change of Const[ituti]on in any Col[ony] or garranty[in]g their Constitutions mutually

==
A[nswer]. Each Col[ony] to retain as much as it chuses of its own Laws &c (without ment[ionin]g any Thing of Amendment) & the {sole &} exclusive Right of regulat[in]g its internal gov[ernment] & Policies

June 1776

A[nswer]. Power of Cong[ress] as in 5th Art[icle] of first Draft—with an Exception relat[ing] to [hostile] Oper[ati]ons ag[ains]t Indian Nations to be partly guarded

A[nswer]. That the Union shall warrant to every Col[ony] the Jurisdiction within the Limits that shall be settled hereafter

A[nswer]. The Commerce betw[een] Col[ony] & Col[ony] {as to the Pro[duct] or Manuf[actures] of each Col[ony]} to be forever free from all Imposts or Duties—The Fees on Clear Entries &c on the Trade betw[een] Col[ony] & Col[ony] to be settled by the Union—& to be Comm[erce] to all the Col[onies] The Comm[erce] with for for[eign] Pow[ers] to be regulated by the Union, provided that no Imposts or Duties shall be laid on Import[ation] or Export[ation] from any Col[ony] but what shall be common to all the Colonies All Fees to be settled by the Union

No Colony shall assess or lay any Duties or Imposts on the Importations of the produ[cti]ons or Manuf[acture]s of ano[the]r {nor settle or affix Fees on Import[ati]on or Export[ati]on from one Col[ony] to ano[the]r}—Nor any other Duties

The Inhabitants of all the Colonies shall have all the Rights Priv[ilege]s & Immun[ities] in Trade Naviga[ti]on & Comm[erce] in every Colony {& in going & from the same} which the Natives of such Col[onie]s enjoy

Ms (PHi-RRL)

2

“Hints of a Confederation,” [June 12–17, 1776]

On June 7, 1776, Richard Henry Lee motioned in Congress “that a plan of confederation be prepared and transmitted to the respective Colonies for their consideration and approbation.”¹ Although JD was opposed to independence, because of his known expertise in constitutional law, he was the logical person to take the lead. Little is known about the process involved in writing the Articles of Confederation. JD was the head of a drafting committee composed of representatives from twelve of the thirteen colonies, with New Jersey joining later.² His are the only known papers from the drafting process. The following notes and queries give, as his title suggests, hints of what was to come in his full draft of the Articles.³ This second set of notes was likely composed on or shortly after June 12, when the drafting committee first met. An earlier version of the Articles had been drafted by Benjamin Franklin in July 1775. It was

never formally considered by Congress, but it did circulate in the colonies.⁴ JD likely had this version in front of him as he drafted, but he did not let it dictate his thinking. The similarities between Franklin's version and these notes are superficial, and there are points of departure that became amplified in JD's full draft. One was a strong central government, with would-be states subordinate to its powers; a second was that one of these powers would be protection of the religious liberty of dissenters. Although some scholars have found this to be an "innovative" and "radical" proposition,⁵ as JD's notes show, he was actually referring to the Pennsylvania 1701 Charter of Privileges as a model.⁶ Aside from the significant step of making religious liberty in the states enforceable by the central government—a measure that the United States would not adopt until the ratification of the Fourteenth Amendment in 1868—another landmark aspect of this clause is JD's use of gender-inclusive language, the first known instance of such in an American constitution. Both of these provisions can be attributed to the Quaker influence on his political thought.⁷ Although JD retained these provisions in his full draft of the Articles, neither found their way into the [version that was ratified in 1781](#).⁸

Hints of a Confederation

See Mod Univ Hist 6 Vol Oct[av]o pa[ge] 442⁹
Salm[on] Mod Hist publ[ishe]d by Moll
Vol[ume] 3. pa[ge] 571. 572. 573. 740¹⁰

No Member of the League to send any Embassy to or enter into any Treaty or Conference with the King or Kingdom of G[reat] B[ritain] or with any for [K?] {Pr}ince or State, or any Subj[ect] Serv[an]t or Off[ice]r of the King or Kingdom of G[reat] B[ritain] or of any for Prince or State, without the free & volunt[ary] Consent & *illegible* {Ap}prob[ation] of the whole Union

No Member of the League or any of its Delegates {or} ~~or~~ {S}ervants ~~or~~ ~~Subjects~~ to accept of any present or Emolument from the King or Kingd[om] of G[reat] B[ritain] or from any for Prince or State or {from} any Subj[ect] Serv[an]t or Off[ice]r of the King or Kingd[om] of G[reat] B[ritain] or of any for Prince or State under any Pretence whatever

A Congress to meet at appointed Times twice a Year, or when invited by any Memb[er] of the Union Q[uære]— Place of Meeting Philad[elphi]a¹¹

June 1776

{The Powers of Congress} {What \in {Q}uestions to be determ[in]ed by a Major[ity] of the Col[onie]s {actually} repres[ente]d—by a Major[ity] of the whole—or unanim[ous] [A?] Col[ony] in Recess of Congr[ess] & their Powers—}

The Union alone to determine of Peace, War, Trade, Alliances Disputes between two or more Col[onie]s the Post Office, the Lands {late[ly] call'd} of the Crown— sending & {or} receiving Ambass{adors}— {What shall be legal Capt[ure] & the Mode of divid[in]g Prizes} {Approp[ria]t[in]g to Gen[era]l Benefit, Lands th[at] may be taken off from too extensive Claims of Col[onie]s [creat[in]g?] new Col[onie]s therein or on Lands purch[ase]d from Indians—}

The Rights Lib[erties] {Laws} & Customs of every Member to be reserv'd to every Colony, subj[ect] solely to Alterations by its own Legis[ation]— How far [C?] {T}he Union to interfere in internal Differences—by Advice or Force—

Commissions to Gen[era]l Officers

Q[uære] The Union's Garrantying the respective Forms of Gov[ernmen]t establish'd by Recomm[endation] of Congress—unless chang'd by $\frac{2}{3}$ of each of the legis[ative] Bodies constituting the Sup[reme] Legis[ature] in each Col[ony] respectively

regulating Indian Trade Establish[in]g Fees—on Interc[ourse] betw[een] Col[ony] & Col[ony]

Q[uære] The Coining or emitting Money— Sameness of Weights & Measures— Religion {Toleration}— Representation {{*illegible*} {in} Congress & in Colonies}— Limits of each Col[ony] Mutual Renunc[iati]ons of Demands or Titles to Lands within the ascertained Limits of each respect Col[ony] Sale of unsettled Lands for gen[era]l Benefit of all the Col[onie]s Establish[in]g new Col[onie]s on those Lands of a convenient Size & under [proper] Forms of Government

{Indian Affairs} {Admission of new Col[onie]s or other parts of the Brit[ish] Dom[inion]s into th[*torn*]}

All the Col[onie]s to unite & bind themselves the Inhab[itants] the[ir?] [*torn*] Lives & Fort[une]s ag[ain]st all Attacks made upon them or any part of them on Pretence of Religion Sover[eignty] Trade or any other Pretence whatever

The Quotas of Contrib[ution] of Men & Money to be settl'd— In Case of necessity the whole Force of every Col[ony] to act of any Memb[er] or Memb[er]s The Union to determ[in]e the Necess[ity] & the Force of each Col[ony] that shall act [page break]

The Board of Admir[alty] besides the Care of equip[in]g Fleets & issuing Money for naval Services Q[uære]— to have a jud[icia]l Power for tak[in]g Cogniz[ance] of all Crimes Frauds & piracies comm[itte]d on the high Seas— Q[uære] The Coll[ecti]on of Duties on Merchand[ise]—& appropriat[in]g the Revenue aris[in]g from Comm[erce] to the purposes of the Navy¹²

Q[uære] Oath of a Deleg[ate] See 31 Vol[ume] of Mod[ern] Univ[ersal] Hist[ory]— page 9.

==

Meeting at Philad[elphi]a till otherw[ise] ord[ere]d by Congress

Plighting¹³ publ[ic] Faith in most solemn Manner for Observance of Terms of Confederation

==

Const[ructi]on of Art[icle]s to be in the States—two Thirds to agree in a Const[ructi?]on—

==

Militia

Stand[in]g Army— Forts

~~Army~~

~~Forts~~

War on Indians

Commerce (see Notes)¹⁴

Settl[in]g Limits— Garranty[in]g Jurisd[icti]ons within those Limits

{Q[uære] in Trade} The Union shall never {~~at any~~} hereafter {impose or levy Taxes or Duties except in the Post Office} interfere in the internal Police of any Colony, any farther than such Police may be affected by the Exercise of the Powers ~~ex~~ {he}reby expressly given to the Union—{;} nor shall any Alteration be hereafter made {at any Time} in the Terms of this Confederation, unless such ~~Change~~ {Alteration} be a[p?] {g}reed to in General Congress by the Delegates of every Colony and afterwards confirm'd by the Legislature of every Colony [page break]

No person ~~or persons~~ in any Colony living peaceably under the Civil Govern

June 1776

ment shall be molested or prejudiced in ~~his or their~~ {his or her} persons or Estate for his or her [p?] religious persuasion or Practise, nor be compelled to frequent or maintain or contribute to maintain any religious Worship, Place of Worship, or Ministry, contrary to his or her Mind, [vested?] by Virtue or Force of any Law {or Ordinance} hereafter to be made in any Colony; and no ~~persons who~~ {persons professing & exercising the same} are not disqualified [~~care?~~] {on Account of their religious persuasion or [illegible] {Practise} [whereby?]}¹⁵ by the present Laws of the said Colonies respectively from holding any Posts Offices or Employments civil or Military, shall by Virtue or Force of any Law or [illegible] {Or} dinance of [a?] hereafter to be made in any Colony ~~be a Dis~~ disqualify any persons profess[in]g or practising {exercising} the same from holding any Posts Offices or Employments as fully as they might have done before the Commencement of the present War; nor shall any {further} Test{s} or Qualification{s} [or?] ~~further other than such~~ {concerning religious persuasion or Opinion, than such as} hath{ve} been usually administred in the said Colonies respectively, be imposed by Virtue of{r} Force of any Law or Ordinance hereafter to be made in any Colony; and ~~in all Cases, where~~ wherever on Admission Election or Appo[intmen]t to Posts Off[ices] or Employments or in Courts, the Affirmation of persons conscientiously scrupulous of taking an Oath, hath been admitted, no Oath shall hereafter be imposed by Virtue or Force of &c it being the Intent of the said Colonies, that all the Inhabitants thereof [~~care?~~] respect {of every Sect [illegible] {o}r Society} shall {forever} enjoy all the civil & religious Liberties {without the least Abridgement} under this Confederation, which they have heretofore enjoyed

Ms (PHi-RRL)

¹ JCC, 5: 425.

² JCC, 5: 433.

³ See doc. 2, below, “JD Draft of the Articles of Confederation, June [12–17], 1776.”

⁴ JCC, 2: 195; PBF, 22: 120–25.

⁵ Jack N. Rakove, *Beginnings of National Politics: An Interpretive History of the Continental Congress* (Baltimore: Johns Hopkins University Press, 1982), 152–53; LDC, 4: 253.

⁶ See doc. 1, above, “Notes on the Articles of Confederation, June [12–17], 1776.” See also the first clause of Pennsylvania’s 1701 Charter of Privileges, still in effect in June of 1776. PWP, 4:104–110, 106.

⁷ JD was not a member of the Society of Friends (Quakers), but he identified closely with them and shared many of their beliefs. See Calvert, *Quaker Constitutionalism*, 189–95. On the unusual role Quakers women played in their Society, see Larson, *Daughters of Light*.

⁸ See “Articles of Confederation, 1781.”

⁹ *The Modern Part of an Universal History, from the Earliest Account of Time. Compiled from Original Writers. By the Authors of the Antient Part*, 44 vols. (London: S. Richardson, et al., 1759–1766). The page cited concerns Middle Eastern history and “some considerable presents which the Khân made to *Rusbn ray Begum*, in conjunction with other presented to the *Great Mogol* himself.”

¹⁰ Thomas Salmon, *Modern History: or, the Present State of All Nations ... Illustrated with Cuts and Maps accurately drawn according to the Geographical Part of this Work, By Herman Moll*, 3 vols. (London: Bettesworth & Hitch, et al., 1739). The pages cited concern treaties between the French and the English regarding Hudson’s Bay (571, 572), the history of New York, New Jersey, and Indian nations (573), and Native American customs (740).

¹¹ A clear departure from Franklin’s draft, which proposed that meeting places would rotate through each colony.

¹² This paragraph is taken almost verbatim from the source JD cites below and concerns the Republic of Holland.

¹³ To plight: “To put (something) under risk of forfeiture; to give in pledge; to pledge or engage (one’s troth, faith, oath, promise, etc.). Now *rare*” (*OED*).

¹⁴ See doc. 1, above, “Notes on the Articles of Confederation, June [12–17], 1776.”

¹⁵ The placement of this and the preceding insert is unclear. One speculates whether the deleted caret meant that the deleted text should be reinstated.

3

Draft of the Articles of Confederation, [June 12–17, 1776]

This is probably JD’s second draft of the document. There is no complete first draft extant. After he wrote this draft, it was amended by the drafting committee and a “committee draft” also prepared by JD, was presented to Congress on July 12, 1776.¹ There is also a clean copy of this draft in the hand of Josiah Bartlett.² The draft underwent revisions until August 20. Two printed versions emerged from this process.

JD prepared this manuscript like other legal notes, by folding the paper in half lengthwise and making two columns. He drafted the articles in the right column and used the left for queries, notes, edits, and additions. See [images of the original manuscript](#) at the Historical Society of Pennsylvania.

Papers relating to Business in Congress

- | | |
|---|---|
| 1 | Articles of Confederation and perpetual Union between the Colonies of New Hamp[s]h[ire] &c
{[]in General Congress met{[]} at Philadelphia
the [blank] Day of [blank] 1776 |
|---|---|

June 1776

Art[icle]. The Name of the{is} Confederacy shall be “The [E?]{U}nited States of America.”

Art[icle]. The said Colonies hereby unite themselves [as?] {into} ~~one Body~~ {[}politie{]} so as never to be divided by any Act whatever {of the Legislature} {of any Colony or Colonies, or {of} the Inhabitants thereof, and hereby severally enter into a firm League of Friendship with each other, binding [on?] them and all the Inhabitants and their Posterity for their Common Defence, the Security of their Liberties, and their mutual & general Welfare, binding the said Colonies, {and all} the Inhabitants, ~~illegible~~ {&} their Posterity, to assist one another with their Lives and Fortunes against all Force offered to or Attacks made upon {them or} any of them, on Pretence {Account} of {establishing} Religion, Sovereignty, Trade, or any other Pretence whatever;{.} {[}except in such Ca[ses?]} as are herein after [exempted?]{]} and faithfully to observe and adhere to all & singular the Articles of this Confederation

Q[uære]. The Power of Congress interf[er]in[g] in any Change of the Const[ituti]on? Also the P[ro]priety of garr[an]t[ee]in[g] the respect[ive] Const[ituti]ons & Frames of Gov[ernmen]t

Art[icle]. Each Colony shall retain and enjoy as much of its present Laws {Rights &} Customs{,} and Rights, as it may think {fit,} and reserves to itself the sole and exclusive Right of regulating {on} its internal {and} Government and Police {of

its internal Police,} {f} in all Mat-
ters that shall not interfere with the
Articles ~~agreed upon by~~ {of} this
Confederation {;} [page break]

2 {All this Art[icle] rejected}

Art[icle].

X from the usual Laws & Customs
subsisting at the Commencement
of this War—provided, that such
person frequents regularly some
Place of religious Worship on the
Sabbath,

No person in any Colony living
peaceably under the Civil
Gover{n}ment, shall be molested or
prejudiced in his or her person or
Estate for his or her religious
persuasion {Profession} or practise,
nor be compelled to frequent or
maintain or contribute to maintain
any religious Worship, Place of
Worship or Ministry, contrary to his
or her Mind, by ~~Virtue of~~ {Virtue}
~~Force of~~ any Law or Ordinance
hereafter to be made in any Colony
{different (see margin X)} {;} & no
religious persuasion or practise for
the Profession or Exercise of which,
persons are not disqualified by the
present Laws [*torn:*] [of?] the said
Colonies respectively, from holding
any Office{s} Civil or military,
shall by ~~Virtue of~~ any Law or
Ordinance hereafter to be made in
any Colony, be rendered a
Disqualification of any persons
professing or exercising the same,
from holding any such Offices, as
fully as they might have done
heretofore: Nor shall any further
Tests or Qualifications concerning
religious persuasion ~~Opinion or~~
~~Tenet[s?]~~, {Profession or Practise,}
than such as have been usually
administred in the said Colonies
respectively, be imposed by ~~Virtue~~
~~of~~ any Law or Ordinance hereafter
to be made in any Colony; and

wherever on Election or Appointment to any Office{s}, or on any other Occasions, the Affirmation of persons conscientiously scrupulous of taking an Oath, hath been admitted in any Colony or Colonies, no Oath shall in any such Cases be hereafter [be?]{im}posed by Force of any Law or Ordinance in any such Colony or Colonies—it being the full Intent of these united Colonies, that all the Inhabitants thereof respectively of every Sect Society or religious Denomination shall enjoy under this Confederation, all those Liberties {and Priviledges} which they have heretofore enjoyed, without the least Abridgement of their civil Rights for on{r} on Account of their religious Persuasion, profession, {or} practise, [etcetera?] [page break]

3

Art[icle]. No Colony or Number of Colonies ~~less than the whole~~ {without the Consent of the United States Union} shall send any Embassy to or receive any Embassy from, or enter into any Treaty {Convention} or Conference with, the King or Kingdom of Great Britain, or any Foreign Prince or State, ~~or any Subject or Servant or Officer of the King of G[reat] B[ritain] or any foreign Prince or State;~~ nor shall any Colony or Colonies, without nor [th?] any [Subjects{ervant}?] or {Servant or} Servants of any Colony or Colonies, accept of any Present, Emolument,

Office or Title of any kind whatever, from the King or Kingdom of G[reat] B[ritain] or any foreign Prince or State, ~~whatever or from any Subject or Servant of such King, Kingdom, Prince or State, under any Pretence whatever, without the previous and free Consent and Allowance of the~~ {of every {{other?}} Colony of the} whole Union {in General Congress met,} ~~certified in Writing~~ [*illegible*] under the Hand of the President and Secretary {[}] and the {Great} Seal of the {whole} Union {[}] Nor shall {the Union and States or} any Colony grant ~~or Create~~ any Title {[*illegible*]} of Nobility to any person what {so} ever

Art[icle]. No two or more Colonies ~~with- out the such previous Consent as is mentioned~~ shall enter into any Treaty {,} of Confederation, ~~or~~ {or} Alliance ~~or Agreement whatever~~ {whatever} {between them} ~~on any Pretence, except it be an Agree- ment for the whatever,~~ without the previous and free Consent & Allowance {of the Union [...]} {Col- ony?}} of the whole Union in Gen- eral Congress met, {& certified as is mentioned in the next preceding Article,} specifying accurately the {sole} purpose{s} for which the same is to be entered into, and how long it shall continue—

Art[icle]. The Inhabitants of each Colony shall henceforth always have the same Rights Privileges and

~~Immunities~~ {Advantages} {in all
Ca[ses?] whatever} in the other
Colonies, which they now have.

Art[icle].

[vertically:]

Duties, as it thinks proper, on Im-
portations ~~from~~ or Exportations ~~to~~
~~the British Dominions or any for-~~
~~ign Kingdom or State.~~ {X} pro-
vided such {Imposts or} Duties do
not interfere with any Stipulations
~~made &~~ {in Treaties hereafter} en-
tered into by the whole Union.{,}
with any the King or Kingdom of
G[reat] B[ritain] or with any for-
eign Prince or State.

~~X or the Importation of the produc-~~
~~tions or Manufactures of G[reat]~~
~~B[ritain] {such Dominions} or any~~
~~foreign Kingdom or State from an~~
~~other Colony~~

The Inhabitants of all the
{united} Colonies shall enjoy all the
Rights {~~Liberties~~} {Liberties} Priv-
iledges {Exemptions} & Immuni-
ties in Trade Navigation & Com-
merce in every Colony, and in going
to & from [~~illegible~~]{th}e same,
which the Natives of such Colony
enjoy— ~~No Colony shall assess or~~
~~lay any Duties or Imposts on the Im-~~
~~portation {by Water or Land} of the~~
~~[illegible] {Pr}oductions or Manu-~~
~~factures of another, {Colony,} nor~~
~~settle or establish any Fees for En-~~
~~tries, Clearances, or any Business~~
~~whatever relating to {such} Impor-~~
~~tation or Exportation Or any Inter-~~
~~course {by Water by Sea or land}~~
~~between Colony and Colony~~
{Art[ticle].} Each Colony may as-
sess or lay such Duties or Imposts or
(see margin X) [page break]

4

Art[icle].

No {standing} Army or Body of
Forces shall be kept up by any
Colony {in [~~illegible~~]} in Time of or
Colonies in the Pay of such Colony
~~or Colonies, in Time of Peace or~~
~~War, without the Approbation~~
~~{Consent} {of every other Colony}~~
of the whole Union, {except it be
(see margin X)} but every Colony
shall ~~keep~~ always keep up a well
regulated & disciplined Militia
sufficiently armed and
accoutred{;, in which every {able
bodied} Male White person

~~X except it be {X except such a~~
~~Number as may be sufficient {only~~
~~as may be requisite}} to garrison~~
~~the Forts necessary for the Defence~~
~~of such Colony or Colonies; nor~~
~~shall this be done without the Con-~~
~~sent of the Union—but {but}~~

* with such reasonable Exceptions as each Colony may think proper, shall be duely enrolled suff and {shall} properly provided and constantly have prepared ready for [~~illegible~~]{U}se a proper Quantity of public Stores of Ammunition, Tents Field pieces, Tents, and other Camp Equipage. When Troops are {to be} raised in any Colony {of the Colonies} for the Common Defence, the Resolutions of the Union in General Congress for raising them, shall be executed by the Legislature of the {each} Colony, {respectively, where such Forces are to be raised,} or by such persons as the {said} Legislature{s} shall authorize for that purpose, unless it be agreed by the Delegates of nine Colonies, in ~~C~~ that the Troops shall be raised immediately by the Union, without the Aid of the ~~respective~~ {said} Legislatures; and even in that Case, the Officers proper ([prout]³ below)

Art[icle].
It being the true Intent & Meaning of this Confederacy, n{N}otwithstanding the Powers hereafter given to the Union in Gen[era]l Congress, that all Troops raised for the Com[mon] Defence Resolutions of Congress for raising Troops {Land Forces}, should be executed by the Legislatures of each Colony respectively where they are to be raised, or by persons authorized for [th?] by such Legislature[s?] for that purpose,

~~between the Ages of [blank] and [blank] Years, except {Ministers of the Gospel, and} those who are conscientiously scrupulous of bearing Arms, shall be duely enrolled. {*} Each Colony shall also be constantly provided with public Stores of Ammunition not less than [blank] pounds of lead powder & [blank] pounds of leaden Ball for every Militia Man in the Colony, with {good} Tents, Camp Kettles [blank?] sufficient for one third of the {whole} Militia of the Colony, and with [blank] Field pieces of not less than [blank] nor larger than [blank] to every thousand Men of the Militia, and a proper Company of Officers~~

to every Train of Artillery, who shall be well exercised in the Manageme[nt] thereof

When Troops are raised in any of the [Colonies?]⁵ for the Common Defence, the Commission Officers proper for the Troops raised in each Colony, except the General Officers, shall be appointed in such Manner as shall be settled {directed} by the Legislature of each Colony respectively-,{ } [and its?] {or in such Manner as shall by them be directed.} [page break]

5

Art[icle]. All Charges of Wars and all other Expences that shall be incurr'd for the general Wellfare and allowed by the Union in General Congress, shall be defrayed out of a Common Treasury, which shall be supplied by the several Colonies in proportion to the Number of

in each Colony, a true Account of which shall be triennially taken and transmitted to Congress— The Taxes for paying that Proportion shall be laid and levied by the Authority & Direction of the Legislature of the respective Colonies.

Q[uære] The propriety of raising Troops in each Colony in due proportion to its share of Taxes, and the Number of Troops to be raised, and allowing Colonies to raise & pay Troops in Lieu of Taxes?

Art[icle]. Every Colony shall abide by the Determ[inati]ons of the Union in General Congress, concerning the Losses, ~~or~~ {or} Expences; {o}f ~~any Contributions of Men or Money~~ {every} Colony, ~~or any Thing that may~~ in the general Cause, and {no Colony or Colonies} shall in {a}n ~~o~~{y} Case whatever endeavour by Force ~~of~~ to procure Redress of any Injury or Injustice supposed to be done {by the Union} to such Colony or Colonies ~~by the Union,~~ ~~by~~ {in} not granting to such Colony or Colonies such Indemnifications, Compensations, Retributions, Exemptions or ~~Advantag~~ Benefits of any kind, as such Colony or

Colonies may think just or reasonable. [page break]

6 Art[icle].
Q[uære] How far the Expence of
any War is to be defrayed by the
Union?

No Colony {or Colonies} shall engage in any War {[~~with any Nation of Indians~~]}, without the Consent of the Union, unless such Colony or Colonies be actually invaded {by Enemies,} or shall have received certain Advice of a Resolution being formed by ~~the~~ {some Nation of} Indians to invade such Colony or Colonies, and the Danger is so imminent as not to admit of a Delay, till the other Colonies can be consulted

Art[icle].
Q[uære]. How far any Col[ony]
may interfere in Indian Affairs?

A perpetual Alliance offensive & defensive, is to be entered into {by the ~~whole~~ Union} as soon as may be with the Six Nations[;?] {and all other Nations of Indians;} their Limits to be ascertained; their Lands to be secured to them, and not encroach'd on; no ~~Colonial or private~~ Purchases {~~of Lands now unappropriated~~} by Colonies or private persons hereafter to be made of them {before the Limits of the Colonies are ascertained,} to be held good; all ~~purchases for the future to be made~~ {~~Contracts for Lands to be made for the future~~} by {between} {X} the ~~whole~~ Union in General Congress met and the Great Council of Indians, for the general Benefit & Advantage of all the united Colonies—~~Persons to be appointed~~ {by the Union} to reside among the Indians in ~~proper Districts, who shall take Care~~

X Contracts for Lands {not included} within those Limits when ascertained, to be made between

June 1776

~~to prevent Injustice in the Trade with them, and shall be enabled at the general Common Expence of the united Colonies by occasional Supplies to relieve their personal Wants & Distresses~~ [page break]

6{7}

Art[icle].

{ascertained {by Agreement among themselves, or} in the Manner herein after directed,}

~~The whole shall ascertain the {The rest of the Union shall in a short Time ascertain the} Limits Boundaries between Colony & Colony, {where they cannot agree among themselves} either in General Congress or by erecting some Court for that purpose, & shall also in General Congress fix and assign reasonable Limits towards the West to those Colonies, whose Colonies shall be judged too extensive, {the Words of whose Charters extend to the South Sea,} and {When the Boundaries of any Colony shall be [cont. in left column]} upon thus ascertaining the Bounda[ries] of any Colony, the whole Union {all the other Colonies} shall garrantee to such Colony the full & peaceable Possession of the Territory included within such Boundaries and the free and [and?]—[illegible] entire Jurisdiction in & over the Territory included within such Boundaries—~~

Art[icle]. For the more convenient Management of {the} general Interests, Delegates shall be annually appointed by {[}the all [torn] legislative Bodies in wh[ic]h the} Supreme Legislature of{}} each

H the Colony shall authorize for that purpose,
X those who appointed the said Delegates,

Q[uare]. How Representation in Congress to be regulated? How many shall make a Quorum, save in the Cases [torn] Except[torn]?
The Oath of every Delegate?
What Points shall be determined by a Majority of the Col[onie]s present, what by a Majority of all, or of two Thirds?

If any Delegate may be allowed to vote by Proxy given to one of his Colleagues, or a Delegate of another Colony—if he is sick or absent?

Q[uare]. If not supplied by Co[uncil] of Safety?

Art[icle]. Each Colony shall have one Vote {[and no?]} in Congress.

Q[uare]. If each Colony shall support its own Delegates, while acting as Members of the Co[uncil] of Safety?

7{8} A{A}rt[icle].⁴
O representing these Colonies in all Affairs upon the high Seas, and in all Transactions with Powers beyond the Seas;

{Q[uare]. if this is not supplied [illegible] ?}

Colony {[is—vested{]} {or such Branch thereof as (see Marg[in] H)} to meet in General Congress at the City of Philadelphia in the Colony of Pennsylvania untill otherwise ordered by Congress, which Meeting shall be on the first Monday in November in every Year-{,} with a Power reserved to {X} {[the said legislative Bodies in{]} each Colony to supersede the{m} Delegates thereof {or any of them,} at any Time within the Year, and to send new Delegates in their Stead for the Remainder of the Year— If any Matter shall come to the Knowledge of a Colony, in Recess of Congress, and shall appear of such Importance as to require its assembling before {the} Day appointed, such Colony shall communicate the Business to the rest, & if a Majority of them shall agree, that the Congress ought to be assembled before the Day appointed, the Colony that gave the Intelligence may call summon a Congress and appoint {some?} {the} Day & Place of Meeting. Each Colony shall support its own Delegates in Congress{, and while acting as Members of the Co[uncil] of State.} [page break]

The Congress shall have the sole and exclusive Power {& Right of (see margin O)} of determining on War, (except in the Cases mentioned in the Article—see pa[ge] 5. & first Art[icle] in this Copy) and

= what Captures {by Land or Water} shall be legal {} ~~in Time of War~~ {} and in what Manner Prizes shall be divided & appropriated; granting Commissions to {the Commanders of [~~illegible~~] Ships or Vessels of War, [~~or?~~] {&} Letters of Marque and Reprizal; {of receiving} establishing {&} regulating Courts for the Trial of all Crimes Frauds & piracies committed on the high Seas; {;} & {or} receiving & {f} determining {finally} Appeals in all maritime Causes;

* establishing a Sameness of Weights & Measures throughout all the united Colonies; coining ~~Specie~~ {Money} ~~and emitting the same or Paper Money;~~ {any other Money or Bills of Credit, and regulating the Value thereof;} ~~establishing & regulating Fees for Entries, Clearances, or any other Business whatever relating to the Importation of the Productions or Manufactures of one Colony into another;~~

~~Q[uare]. If Congress should have an exclusive Right of emitting paper Money or Bills of Credit?~~

Peace; {establishing Rules for deciding (see margin |=)}⁶ sending and receiving Embassadors ~~of any kind;~~ {under any Character;} entring into Treaties & Alliances; settling all Disputes and Differences {now subsisting [~~illegible~~] {or} that hereafter may arise} between two or more Colonies concerning Boundaries, Jurisdictions, or any other Cause whatever, ~~if such arise;~~ {*} {superintending all Indian Affairs; {,} & {regulating all Trade with those Nations;} ~~planting laying out~~ {assigning Territories for} new Colonies ~~in~~ {eit} her {in} Lands [~~now purch?~~] to be separated from Colonies {the words of} whose Charters extend to the South Sea, {or from the Colony of New York,} or Lands {heretofore purchased by the Crown,} ~~now or~~ hereafter to be purchased from the Indians; {,} & selling all such Lands for the general Benefit and Advantage of all the united Colonies;} ~~and,~~ ascertaining convenient and moderate Boundaries to such new Colonies; {,} and ~~establishing~~ {giving} proper Forms of Government {to the Inhabitants} within them upon the Principles of Liberty; and establishing and regulating Post-Offices; {,} throughout all the united Colonies.}

The Congress shall have Authority to agree upon {in the Manner hereby directed} ~~and carry into Execution~~ proper Measures for the Defence & Security of the united Colonies {& every of them} against all their Enemies {,} and {to} carry so

□ ~~so-f~~ and {to} carry the same into Execution so far forth as they are hereby permitted {;}, ~~to raise~~

Q[uære] To direct the Marches Cruises & Operations of such Forces;

Q[uære] An Oath to be adm[inistere]d to every Off[ice]r in the Land & naval Forces & to every Soldier & Mariner? to obey Congress & not to violate the {[Const[ituti]on?]} Rights & Lib[ertie]s of any Colony—?

Q[uære] The Power of Congress to erect Forts? {& establish Garr[ison]s for the Gen[era]l Wellfare & to call out the Militia— }

Q[uære] The Power of laying Embargos?

Q[uære] The Power of arresting, securing & trying persons in the Service of the {united} Colonies?

Q[uære]. Powers of the Chamber of Accounts, Off of Treasury, & Board of ~~War~~ {War and that of} Admiralty

Need they be defined, as they are to act under the Congress, & in their Recess under the Co[unci]l of Safety?

Q[uære]. Comm[issione]rs for Indian Affairs?

Q[uære]. Need any of these be [mentioned?]

⊗ and such Committees and Officers as [~~they~~?] may be necessary for managing the general Affairs of the Union, under the Direction of Congress while sitting, and in their Recess, of the Council of ~~Safety~~ {State.}

~~far~~ (see margin □)} to raise naval & land Forces for these purposes; {to emit Money or Bills of Credit;} to make Rules for governing & regulating such Forces; to appoint General Officers to command them{; []and other Officers necessary for managing the general Affairs of the Union under the Direction of Congress;{}} to commission other Officers appointed by Virtue of the [*blank*] Article preceding; (see pa[ge] 4. last Art[icle] of this Copy) to appoint a Council of Safety {to act in the Recess of Congress, ⊗} [~~or a?~~] {[]{a} Chamber of Accounts, an Office of Treasury, {a Board of War,} ~~and~~ Board of Admiralty, out of their own Body {[*illegible*]}, and such Committees out of the same as shall be thought necessary.{} }

They may appoint [*in left column:*] {Q[uære].} [*illegible*] of their Number to preside, and a suitable person †{f}o{r} ~~preside~~ Secretary. {[]The Chamber of Accounts, the Office of Treasury, the Board of War and Board of Admiralty, shall always act under the Direction of Congress while sitting, and in their Recess, under that of the Council of Safety.{} }

But [*page break*]

9

Q[uære]. If Congress may be allowed to impose any Duties for the Regulation of Trade or raising a Revenue for the general Benefit, provided they are {equal &} common to all the Colonies?

Q[uære]. If this part ought not to be transpos'd towards the End?

Establishing a sameness of Weights & Measures

Q[uære]. of a treaty of Peace?

Q[uære]. In what other Cases, such Assent should be required?

No {oth} Question {on any other Point {other Point}} except for Adjourning, shall be put, unless all the {eleven} Colonies are actually represented in Congress {the Assembl[ies?]} where the Question is put. {determined unless the Delegates of seven Colonies vote in} the Affirmative Q[uære]. Limitation of any Person cont[ain]ing a Delegate more than three Years in any Term of nine Years commene[ing] from any Period—

Or any P[er]son bearing an Office of Profit{it?} or Honor {{under the United States?}} by himself or ano[the]r for his Benefit, being a {illegible}{D}elegate—

Or any P[er]son holding any Office of Honor under the United States No persons bearing any {any} Offices {under the U.S.} to which a Salary {ies} or Fees are annexed, for

But the Congress shall never impose {or levy} [~~illegible~~]{a}ny Taxes or Duties, except in managing the Post Offices, nor interfere in the internal Police of any Colony or Colonies, any farther than such Police may be {exp[ressly?]} affected by the express—Words—of this Confederation; nor shall any Alteration be at any Time hereafter made in the Terms of this Confederation {or any of them,} unless such Alteration be agreed to in ~~General Congress by the Delegates of every Colony of the Union,~~ {an Assembly of the United States} and be afterwards confirmed by the Legislat[ure] of every Colony. The Congress shall {United States assembled sha[ll]} never engage the united Colonies in a War, nor conclude any Treaty {except of Peace,} or Alliance {Alliance or Treaty,} with any other Power, nor raise Troops land or naval Forces, nor {form a Resolution to raise land Forces, nor} agree upon the coining Specie {Money} and emitting the same or Paper {any other} Money or Bills of Credit, {Money} {&} {or} regulating the Value thereof, [~~illegible~~] {illegible} or the emitting Bills or borrowing Money on the Credit of the United Colonies,} unless the Delegates of [blank filled in:] {nine} Colonies freely assent to the same— No person shall be capable of being a Delegate for more than three Years

in any Term of [*blank filled in:*]
{six} Years.

No person ~~be~~ holding any Office
under the Unites States, for which
[*illegible*] {h}e receives any pay or
Fees by himself or ~~by~~ another for his
Benefit, shall be capable of being a
Delegate [*page break*]

10 Art[icle].
Q[uære]. Oath of a Councillor?

The Council of ~~Safety~~ {State} shall
consist of one [*illegible*] {D}elegatē
from each Colony, ~~of whom in the~~
~~first Appointment, [*blank filled*~~
~~*in?:*]~~ {five} shall be determined by
Lott to serve for one Year, four for
two Years, and four for three Years,
and as the said Terms expire, the
Vacancies shall be filled by
Appointments for three Years, from
{[among?]} the Delegates of those
Colonies, whose Delegates then go
out of the said Offices; and no
person who has served the said
Term of three Years as a Councillor,
shall be elected again untill after a
Respite of three Years. {to be
{annually} named {annually} by
the Delegates of each Colony, and
where they cannot agree, by the
Congress.}

The Business and Duty of this
Council, ~~of which [*blank filled in:*~~
~~{seven} Members shall be a~~
~~Quorum,~~ shall be, ~~in Recess of~~
~~Congress—~~

To receive & open all Letters
directed to the Congress, {United
States} {and to return proper
Answers, but [*continued in left*
column of next page:] not to make
any Engagements ~~in behalf~~ of {that

shall be binding on} the united Colonies, or any of them{—}, ~~unless specially authoriz'd by Con}~~
To correspond {with all p} with the several Assemblies, {Colonial} Councils and Committees of Safety, [all?] Governors and Presidents in{of} Colonies, and all persons acting under the Authority of the Congress, or of the Legislature of any Colony—

To give Counsel to the commanding Officers of the ~~Continental Forces~~ by {Land and naval Forces in the Pay} of the Continent whenever it may be expedient

Q[uære]. if these powers are not gr[an]ted to the War Off[ice] & Admiralty

To supply the continental Forces by Sea and Land with all Necessaries from Time to Time

To expedite the ~~{Coming or} striking Money ordered by the Congress to be coined or struck~~ {{}} and the Execution of such {other} Measures as the Congress [*continued in left column of next page:*] is hereby im- powered to resolve upon, and may by them be enjoined{{}}

Same Quære

To transmit to the several Com- manding Officers, Paymasters & Commissaries, from Time to Time, such Sums of Money as may be nec- essary for the Pay and Sub- sistã{e}nce of the Continental ~~Forces~~ {,}

Q[uære]. if this is not too large a Power?

{T}o draw upon the Treasurers for such [Sums or other?] [*continued in left column of next page:*] Sums ~~that~~ {as} may be appropriated by Con- gress,} and to order Payment by the{m} ~~Treasurers~~ for such Con- tracts as the said Council may make

in Pursuance of the Authorities
{hereby} given them [page break]

11

Same Q[uære]. { To take Charge of all military Stores
belonging to the united Colonies, to
procure such further Quantities as
may probably be wanted, and to
order any part thereof wheresoever
it may be most requisite for the
Common Service

Same Q[uære]. { To direct the safe keeping &
comfortable Accommodation of all
Prisoners of War

Same Q[uære]. { To contribute their Counsel &
Authority towards raising Recruits
ordered by Congress

To procure Intelligence of the
Condition & Designs of Enemies
To direct military Operations by Sea
and Land, not changing any Objects
or Expeditions determined on by
Congress, unless an Alteration of
Circumstances which shall come to
their Knowledge after the Recess of
Congress, shall make such Change
absolutely necessary ~~for~~

To attend to the Defence and
Preservation of Forts and strong
Posts and to prevent the Enemy
from acquiring new Holds

To apply to the Legislature{s} or to
such Officers in the several
Colonies as are entrusted with the
executive Powers of Government,
for ~~the~~ occasional Aid of ~~Minute
Men & Militia~~ whenever &
wherever necessary

In Case of the Death {or Removal}
of any Officer within the
Appointment of Congress, to
employ a person to fulfill his Duties,

June 1776

untill the Meeting of Congress,
unless the Office be of such a Nature
as to admit a Delay of Appointment
untill such Meeting

~~{To suspend any Officer in the Land
or naval Forces}~~

Q[uære]. if this power is not given
to the Treas[ury] { To examine public Claims &
Accounts and make Report thereof
to the Congress

To superintend & {and} controul
~~[illegible]~~ {[by?]} {or suspend} the
all Officers civil & military acting
under the Authority of the Congress
To publish & disperse authentic
Accounts of military Operations

To summon a Meeting of Congress
at at earlier Day than is appointed
for its next Meeting, if any great &
unexpected Emergency should
render it necessary for the Safety or
Wellfare of the United Colonies or
any of them [page break]

12

{To prepare Matters for the
Consideration of Congress, &} To
lay before the {m} Congress at their
next Meeting all Letters & Advices
received by them, with a Report of
their proceedings

To appoint {a proper person for}
their ~~own~~ Clerk, who shall take an
Oath of Secrecy {& Fidelity,}
before he enters on the Exercise of
his Office

{Seven Members shall have power
to act.}

In Case of the Death of any Member
of the said Council, immediately to
apply to his surviving Colleagues to
appoint some one of themselves to
be a Member of the said Council

{till the Meeting of Congress—}
If only one survives, to given him
{immediate} Notice, that he m[ay?]
take his Seat as a Councillor, till
such Meeting

[several lines blank]

~~The Delegates while acting as
Members of the Council, to be
supported at the Expence of the
Union~~

Art[icle].
Canada acceding to this
Confederation and entirely joining
in the Measures of the United
Colonies, shall be admitted into &
entitled to all the Advantages of this
Union— But no other Colony on
this Continent, shall be admitted
into the same, unless such
Admission be agreed to by the
Delegates of nine Colonies.

~~Any {& every} other of the British
Colonies on this Continent upon ac-
ceding to this Confederation and en-
tirely joining in the Measures of the
united Colonies, shall be admitted &
entitled to all the Advantages &
Priviledges of this Union~~

Art[icle]. These Articles shall be proposed to
the Legislatures of ~~the~~ all the united
Colonies to be by them considered,
and if ~~ratified~~ approved by them,
they are advised to authorize their
Delegates to ratify the same in
Congress, ~~after~~ which being done,
the ~~Confederation and Union shall~~
~~{so agreed to}~~ is to be perpetual,
{the foregoing Articles {[of this]
Confederation} shall be} inviolably
observed by every Colony, and the
Union is to be perpetual—

Q[uære]. The publ[icati]on[s?] of
P[ro]ceed[ing]s of Congress every
Month & the Yeas & Nays

June 1776

Oath on Behalf of every Colony,
{all} the Inhab[itan]ts & their posterity to observe & adhere to all the Arts[icles] of this Confederacy.
{Q[uære] Slav[ery] The
Const[r][ucti]on to be in Congress}
[page break]

|=[*in left margin:*] {The Congress {United States assembled} shall have the sole & exclusive Power & Right of determining on {Peace & W} War (except in the Cases mentioned in the 1st Art[icle] in pa[ge] 5 of this Copy) ~~and Peace,~~ establishing Rules for deciding {in all Cases [*torn*]} what Captures by Land {Sea} [~~or {& }?~~] ~~or~~ {or [*illegible*]} Water shall be legal, and in what Manner Prizes taken by V{s}hips or Vessels of War in the Service of the Union{ted States,} shall be divided & appropriated; granting Commissions to the Commanders of Ships or Vessels of War and Letters of Marque and Reprizal {in Time of Peace,}, ~~and authorizing the first Magistrate {and supreme Executive Power} in each Colony to grant the same, under such pro~~ establishing & regulating {establishing the Regulations under which Commissions to Ships or Vessels of War or Letters of Marque} {under such Regulations as may be made by the Union{ted States,}} {appointing} Courts for the Trial of all Crimes Frauds & Piracies committed on the high Seas, {or on any navigable Water not within the Body of a County or Parish,} ~~and {also Courts}~~ for receiving {establishing} & £ determining finally Appeals in all ~~maritime Causes,~~ {Cases of Capture,} ~~under such Regulations as may be made by the Union;~~ sending and receiving Embassadors under any Character; entring into Treaties & Alliances; settling all Disputes & Differences now subsisting or that hereafter may arise between two or more Colonies concerning Boundaries, Jurisdictions, or any other Cause whatsoever; coining Specie {Money} and regulating the Value thereof; ~~establishing & regulating Fees for {Entries,} Clearances, or any other Business whatever relating to the Importation of the Productions or Manufactures of one Colony into another;~~ superintending all Indian Affairs, & regulating all the Trade with those Nations; limiting the Bounds of those Colonies, which by the Words of Charters, or Proclamations, {or under any other Pretence} are said to extend to the South Sea;{,} and also of those that appear to have no determinate Bounds; assigning Territories for new Colonies, either {in} Lands to be thus separated from Colonies, {&} heretofore purchased by the Crown or hereafter to be purchased from the

Indians; and ~~selling~~ {disposing of} all such Lands for the general Benefit & ~~A~~ of all the united Colonies, {,} ~~in such Manner as shall be most~~ ascertaining Boundaries to such new Colonies {,}; ~~and giving Forms of Government to the Inhabitants within them, {[illegible] which are to be on the Principles of Liberty}~~ {within which Forms of Government shall be established on the Principles of Liberty;} and establishing & regulating Post Offices throughout all the united Colonies- {,} on the Communication from one {Colony} to another—{to adjourn at {to} any Time within the Year}

The Congress shall have Authority ~~to emit Money or Bills of Credit~~ for the Defence and ~~Security~~ {Welfare} of the united Colonies & every of them, ~~to fix~~ {to} ~~and sett~~ agree upon & fix the {necessary} Sums & Expences; to emit {~~Bills or borrow~~} ~~Money or Bills~~ {Bills or borrow Money on the} ~~of {on the}~~ Credit, {o}f the united Colonies {,}; ~~{to borrow Money on their Credit;}~~ to raise naval ~~and Land Forces; to make Rules for governing & regulating such Forces;~~ {Forces; to agree (see Addition ©)⁷ to make Rules for governing and}} [page break] {regulating the {said} land [torn] [nav]al Forces;} to appoint General Officers to command them; to commission other Officers appointed by Virtue of the [blank] Article preceding—({see pa[ge] 4. last Art[icle] of this Copy) to appoint a Council of State ~~{out of their Bo}~~ to act in the Recess of Congress, and such Committees and Officers as may be necessary for managing the general Affairs of the Union {ted States,} under the Direction of Congress while sitting, & in their Recess, of the Council of State.

They may appoint one of their Number to preside, & a suitable person for a Secretary.

[several lines blank]

~~establishing Rules~~

Ms (PHi-RRL)

¹ JCC, 5: 546-54.

² Bartlett Papers, item no. 91A, New Hampshire State Library.

³ Lat. “as appears by the record” (i.e., *prout patet per recordum*).

⁴ The original “A” was in a rounded script and then overwritten with a more formal script, to be in keeping with the other instances of “Art[icle].”

⁵ Unclear whether the word was intended to be deleted or underlined, or whether it was written over another.

⁶ See also final unnumbered page.

⁷ Addition not found.

4

**Josiah Bartlett Copy of Dickinson Draft of the Articles of
Confederation, [June 1776]**

Articles of Confederation & perpetual Union between the Colonies of
New hampshire &c in General Congress met at Philadelphia the [blank]
Day of [blank] 1776

Art[icle] 1st the name of this Confederation shall be the “United States of
America”

Art[icle]: 2nd the said Colonies unite themselves so as never to be
Devided by any Act whatever of the Legislature of any Colony or
Colonies or of the Inhabitants thereof, and hereby Severally Enter into
a firm League of friendship with each other for their Common De-
fence, the Security of their liberties, & their mutual & General Well-
fare, binding the said Colonies all the Inhabitants & their Posterity to
assist one another with their lives & fortunes against all force offered
to or attacks made upon them or any of them on pretence of Religion,
Sovereignty, trade, or any other pretence whatever, and faithfully to
observe & adhere to all and Singular the articles of this Confederation.

Art[icle] 3^d Each Colony shall retain & enjoy as much of its present laws
rights & Customs as it may think fit and reserve to it Self the Sole and
exclusive regulation & Government of its Internal Police (in all arti-
cles that shall not interfere with the articles agreed upon by this Con-
federation)

Art[icle] 4th No Colony or Colonies without the Consent of the Union
shall send any Embassy to or receive any Embassy from or Enter into
any treaty ~~with~~ or Conference with the King or Kingdom of Great
Brittain or any foreign prince or State nor shall any Colony or Colo-
nies nor any Servant or Servants of any Colony or Colonies accept of
any present Emolument office or tittle of any kind whatever from the
King {or Kingdom} of G[reat] B[retain] or any foreign prince or State

John Dickinson and the Making of the U.S. Constitution

under any pretence whatever nor shall the Union or any Colony grant any tittle of nobility to any person what[so?]ever.

Art[icle] 5th No two or more of the Colonies shall Enter into any treaty Confederation alliance or agreement whatever between them on any pretence whatever, without the previous & free Consent [øf-ø?] & allowance of the Union Specifying accurately the purposes for which the same is to be Entered into & how long it shall Continue

Art[icle]: 6th the Inhabitants of each Colony shall henceforth always have the same Rights priviledges & advantages in €{a}ll Cases whatever in the other Colonies which they now have.

Art[icle] 7th the Inhabitants of all the United Colonies shall ~~henceforth~~ Enjoy all the rights Priviledges & imunit[ies] in trade & navigation & Commerce in Every Col[ony] and in going to & from the same which the n[atives] of Each Colony Enjoy; Each Colony may Ass[ign] or lay such imposts or Duties {as} it thinks proper [on] importations from, or Exportations to, the Brittish Dominions or any foreign State, or the importa[tion] of ~~such~~ {the} production øf or manufacture of such Dominion Kingdom or State from another Colony Provided such imposts or Duties do not interfere[e?] with any Stipulation in any treaties hereafter ma[de] and Entered into by the whole Union with the King or Kingdom of G[reat] B[ritain] or with any foreign prince or State.

Art[icle] 8th No Army or Body of forces shall be kept up b[y] any Colony or Colonies in time of peace, Exce[pt] such a member only as may be requisite to Garris[on] the forts necessary for the Defence of such Colony [or] Colonies, nor shall this be Done without the Cons[ent] of the union; But Every Colony shall always ke[ep] up a well regulated & Disciplined Militia suffic[iently] armed & accoutered, and shall provide & constantly have ready for use, a proper quantity of Public Stores of Ammunition, field pieces, tents & other Camp Equipage.

Art[icle] 9th When Tro{o}ps are raised in any of the Colonies for the Common Defence the Commission Officers proper for the troops raised in each Colony Except the General Officers shall be appointed in such manner as shall be Directed by the Legislature of each Colony Respectively. [page break]

Art[icle] 10th all Charges of Wars and all other Expences that shall be incurred for the General welfare and allowed by the Union in General Co[*illegible*] {n}gress shall be Defrayed out of the Common treasury, which shall be supplied by the several Colonies in proportion to the Number of [*blank lines*] in Each Colony a true Account of which shall be triennially taken & transmitted to Congress the taxes for paying that proportion shall be laid & Levied by the authority & Direction of the Legislature of the Respective Colonys.

Art[icle] 11th no Colony or Colonies shall Engage in any War without the Consent of the union, unless such Colony or Colonies shall be actually invaded by Enemies, or shall have Received Certain Advice ~~that~~ of a Resolution being formed by some nation of Indians to invade such Colony or Colonies and the Danger is so imminent as not to admit of a Delay till the other Colonies Can be Consulted.

Art[icle] 12th A Perpetual Alliance offensive & Defensive is to be Entered into by the whole union as soon as may be with the Six Nations & all other nations of Indians, their Limits be Ascertained, their lands to be Secured to them and not Encroached on, no purchases by Colonies or private persons hereafter {to be made of them} before the Limits of the Colonies are Ascertained to be made of them to be held Good, all Contracts for Lands not {included} within those Limits when Ascertained, to be made [*illegible*] {bet}ween the whole Union in General Congress met, and the Great Council of Indians for the General Benefit & advantage of all the United Colonies, persons to be appointed by the union to reside among the indians in proper Districts[,?] who shall take Care to prevent injustice in the trade with them and shall be Enabled at the Common Expence of the united Colonies by occasional Supplies to relieve their personal wants & Distresses.

Art[icle] 13th the Union shall in a short time Ascertain the Boundaries between Colony & Colony, where they Cannot agree among themselves Either in General Congress or by erecting some Court for that Purpose and shall also in General Congress fix & assign reasonable limits towards the west to those Colonies the words of whose Charters Extend to the [~~west?~~] South Sea; upon thus Ascertaining [*page break*] the Boundaries of any Colony {all} the other Colonies shall Guarantee to such Colony the full & peaceable possession of, and the free &

Intire Jurisdiction in & over the territory included within such Boundaries.

Art[icle] 14th For the more Convenient Management of the General Intrest, Delegates shall be Annually appointed by Each Colony to meet in General Congress in the City of Philadelphia in the Colony of Pensylvania until otherwise ordered by Congress, which meeting shall be on the first Monday of November Every Year, with a power reserved to Each Colony to supersede the Delegates thereof, at any time within the year and to send new Delegates in th[eir] Stead for the Remainder of the year: Each Colony shall support its own Delegates in Congress: The Congress [shall] have the Sole & Exclusive power & right of Determi[n]ing on war & ~~peace~~ Except as in the Cases mentioned in [the] 11th article & peace & establishing rules for Deciding [in] All Cases, what Captures by land or water shall be Legal[.?] and in what manner prizes taken by Ships of war in th[e] Service of the Union shall be Devided & apportioned, Granting Commissions to the Commanders of ships or vessels of war & letters of marque & reprisal and authorizing the Supreme Legislative power in Each Colony to grant the same, under such Regulation as shall be made by the Union, Establishing & regulating Courts for the trial of all Crimes, frauds & piracies Committed on the high Se[as?] and for Receiving & Determining finally appeals in all Maritime Causes under such Regulations as may be [made] by the Union; Sending & Receiving Ambassadors und[er] any Character, entering into treaties & alliances, Set[tling] all Disputes & Differences now subsisting or that hereafter may ~~subsist~~ arise between two or more Colonies Concerning Boundaries Jurisdic-tions or any other Cause whatever, Coining {Money} & regulating the Value thereof; superintending all Indian Affairs & regulating the trade with those nations, Limiting the Bounds of those Colonies which by Charter proclamation or under any pretence are said to extend to the South Sea, and also of those that appear to have no Determinate Bounds, assigning territories to new Colonies Either in lands to be thus seperated from Colonies & heretofore purchased by the Crown, or hereafter to be purchased from the Indians and Disposing of all such lands [page break] for the general benefit of all the United Colonies Ascertain{in}g Boundaries to such new Colonies, within w[hich] forms of Government shall be Established, on the principles of liberty, and Establishing & regulating Post Offices throughout the united Colonies on th[e] Communication from one Colony to another.

The Congress shall have power & authority f[or] the Defence & Security of the united Colonies & Ev[ery] of them to agree upon & fix the necessary Sums & Expe[n]ces to Emit money or Bills on the Credit of the united Colon[ies] to raise Naval [*illegible*]{&}} land forces for those purposes, to ma[ke] rules for governing & regulating such forces, to app[oint] General officers to Command them, and other officers necessary for managing the General affairs of the union under the Direction of Congress: to appoint a ~~Committee~~ {Council} of Safety to act in the recess of Congress and such Committees & officers as may be necessary for managing the general affairs of the Union under the Direction of the Congress while Setting & in their recess of the Council of Safety; they may appoint one of their Number to preside & a suitable person for Secretary[.?] Bu[t?] the C[*illegible*]{on}gress shall not levy or impose any taxes or Duties Except in managing the post offices (Q[uestion] wh[i]ther or not [on] t[*illegible*]{h}e Indian trade &c) nor inter[*illegible*]{fe}re in the internal Police of any Colony or colonies any farther than such police may be expressly affected by this Confederation nor shall any Alteration be at any time {hereafter} made in th[is?]{e} t[erms?] of this Confederation, unless such alteration be agreed to in General Congress by the Delegates of Every Colony of the union and be afterwards Confirmed by the Legislature of Every Colony.

The Congress shall never Engage the united Colonies in a war, nor Conclude any treaty or alliance with any other power nor raise land or nav[al] forces, nor agree upon the Coining Specie & Emitting the Same or any other money or Bills of Credit unless the Delegates of [*blank*] Colonies freely Assent to the Same. [*page break*]

Art[icle] 1[5]th the Council of Safety shall Consist of one Delegate from Each Colony of whom in the first Appointment five shall be ~~for~~ Determined by lot, to serve for one year, four for two years & four for three years and as the said terms Expire the vacancies shall be filled by appointments for three years from among the Delegates of those Colonies whose delegates then go out of the said Office, and no person who has served the said term of three years as a Councillor shall be Elected again untill after a respite of three years.

The Business & Duty of this Council of which [*blank*] Members shall be a Quorum shall be in Recess of Congress== to receive & open all letters Directed to the Congress and to return proper answers, but not to make any Engagements that shall be binding on the United Colonies or any of them—to Correspond with the Several Assemblies

Colonial Councils & Committees of Safety Governors & Presiden[ts]
of Colonies and all persons Acting under the authority of the Congress
or of the Legislature of any Colony

To give Counsel to the Commanding officers of the Land or naval
forces in the pay of the Continent whenever it may be Expedient: Sup-
ply the Cont[inental] forces by Sea & land with all nec[illegi-
ble] {ess}aries from time to time: to Expedite the Coining or Striking
of Money ordered by the Congress to be Coined or Struck and the
Execution of such other measures As the Congress is hereby empow-
ered to resolve upon and may by them be enjoined; To transmit to the
Several Commanding officers paymasters & Commisaries from time
to time such Sums of money as may be necessary for the pay & Sub-
sistence of the Continental forces & Draw upon the treasurers for such
other Sums [as?] th[at?] may be appropriated by Congress and to order
paym[ent] for such Contracts as the said Council may make i[n?] per-
suance of the authority hereby given them; to take Charge of all mili-
tary Stores Belonging to the united Colonies to procure such further
quantiti[es] as may probably be wanted & to order any part ther[eof]
wheresoever it may be most requisite for the Common Service, to Di-
rect the Safe Keeping & Comfortable accom[m?]odation of all pris-
oners of war, to Contribute their Counsel & authority toward raising
Recruits ordered by Congress. [page break]

[missing page]

to procure intelligence of the Condition & Designs of Enemies; to Di-
rect military operations by Sea and land, not Changeing any objects
or Expeditions Determined on by Congress, unless an alteration of
Circumstances which shall come to their Knowledge after t[he] Re-
cess of Congress shall make such Change absolu[tely] necessary{:}
to attend to the Defence & preservation [of] forts & strong posts &
to prevent the Enemy fro[m] A[illegible] {c}quiring new holds: to apply
to the Legislat[ures] or such officers in the several Colonies as a[re]
entrusted with the Executive powers of Gouve[rn]e[nt] for the Occa-
sional Aid of minute men & Milit[ia] whenever & whereever neces-
sary: in Case of t[he] Death of any officer within the Appointment of
Co[n]gress to Employ a person to fulfil his Duties, until the meeting
of Congress unless the office is of such a nature as to admit of a Delay
of appointment until {1} such meeting, to Examine Public Claims [&]
accounts and [blank lines] to publish & Disperse authentic accounts

September 1786

of military operations to Summon a Meeting of Congress at an Earlier Day than is appointed for its next meeting if any great & unexpected Emergencies should render it necessary for the Safety & welfare of the united Colonies or any of them; to propose matters for the Consideration of Congress, and lay before them at their next meeting all letters & advices Received by them with a Report of their proceedings, to appoint a proper person for their Clerk who shall take an oath of Secresy before he Enters on the service of his office, in Case of the Death of any member of the said Council immediately to apply to his surviv[ing] Colleagues to appoint some one of themselves to be a Member of [*illegible*]{S}aid Council till the meeting of Congr[ess—] if only one survives to give him immediate no[tice] that he may take his Seat as a Councillor till S[uch] meeting The Delegates while acting as Council[lors] to be supported at the expence of the union art[icle] any & every other of the Brititish Colonies on this Continent acceding to this Confederation & Entirely joyn[ing] in the Measure[s?] of the united Colonies shall be admitted and entitled to all the advantages & priviledges of this union. [*page break*]

Art[icle] These articles shall be proposed to the Legislatu[res] of all the united Colonies to be by them considered and {if} approved by them, they are advised to authorize their Delegates to ratify the same in Congress wh[ich] being Done the union so agreed to to be perpetual.

Ms (Nh-Bartlett)

5

JD et al., Report of the Annapolis Convention, September 14, 1786

To the Hon[*illegible*]{o}rable the Legislatures of Virginia, Delaware Pennsylvania, New Jersey and New York.

The Commissioners from the said States respectively Assembled at Annapolis, humbly beg leave to report.

That pursuant to their several appointments, they met at Annapolis in the State of Maryland on the Eleventh day of September Instant, and have{ing} proceeded to a Communication of their powers they found that the States of New York Pennsylvania and Virginia had in Substance and nearly in the same terms authorised their respective Commissioners “to meet such Commissioners as were or might be, appointed by the other States in the Union at [*illegi-*

~~ble~~]{su}ch time and place as should be agreed upon by the said Commissioners to take into Consideration the trade and Commerce of the United States to consider how far an uniform System of their Commercial Intercourse and Regulations might be necessary to their Common Interest and permanent harmony and to report to the several States, such an Act relative to this great Object as when unanimously ratified by them, would enable the United States in Congress assembled effectually to provide for the same.”

That the State of Delaware [~~illegible~~]{h}ad given similar powers to their Commissioners with this difference only, that the Act to be framed in Virtue of these powers, is required to be reported “to the united States in Congress Assembled to be agreed to by them, and confirmed by the Legislatures of every State.”

That the State of New Jersey had enlarged the Object of their Appointment, empowering their Commissioners “to consider how far an uniform System of their Commercial Regulations and other important matters might be necessary to the common Interest and permanent harmony of the several States” and to report such an Act on the Subject as when ratified by them would enable the united States in Congress Assembled effectually to provide for the exigencies of the union”.

That Appointments of Commissioners have also been made by the States of New Ham{p}shire Massachusetts, Rhode Island and North Carolina, none of whom however have attended; but that no information has been received by your Commissioners of any Appointment having been made by the States of Connecticut, Maryland South Carolina or Georgia.

That the express Terms of the powers to your Commissioners supposing a deputation from all the States, and having for object the Trade and Commerce of the United States, Your Commissioners did not conceive it advisable to proceed on the business of their Mission under the Circumstance of so partial and defective a Representation[.?]—

Deeply impressed however with the Magnitude and importance of the object confided to them on this Occasion Your Commissioners ~~did not conceive it advisable to proceed on the business of their Mission~~ cannot forbear to indulge an expression of their earnest and unanimous Wish that speedy measures may be taken to effect a general Meeting of the States in a future Convention for the same and such other purposes as the situation of public Affairs may be found to require.—

If in expressing this Wish, or in inta{i}mating any other Sentiments, Your Commissioners should seem to exceed the strict bounds of their Appointment, they entertain a full Confidence that a Conduct dictated by an anxiety for the Welfare of the united States will not fail to receive an indulgent Construction.—

In this persuasion your Commissioners, submit an Opinion that the idea of extending the powers of their Deputies to other Objects, than those of Commerce, which has been adopted by the State of New-Jersey was an improvement on the original plan and will deserve to be incorporated into that of a future Convention. They are the more naturally led to this Conclusion, as in the Course of their reflections on the Subject they have been induced to think that the power of regulating Trade is of such Comprehensive Extent and will enter so far into the general System of the Fœderal Government that to give it Efficacy, and to obviate Questions and doubts—concerning its precise nature and limits may require a Correspondent adjustment of other parts of the Fœderal System.

That there are important defects in the System of the Fœderal Government is acknowledged by the Acts of all those States which have concurred in the present meeting That the defects upon a closer examination may be found greater and more numerous than even these Acts imply, [i#?] is at least so far probable from the embarrassments which Characterise the present State of our National Affairs, foreign and domestic, as may reasonably be supposed to merit a deliberate and candid discussion in some Mode, which will unite the Sentiments and Councils of all the States.— In the Choice of the Mode your Commissioners are of Opinion, that a Convention of Deputies from the different States for the special and sole purpose of entering into this investigation and digesting a plan for supplying such defects as may be discovered to exist will be entitled to a preference from Considerations which will Occur without being particularised.—

Your Commissioners decline an enumeration of those national Circumstances on which their Opinion respecting the propriety of a future Convention with more enlarged powers is founded; as it would be an useless [~~illegi-~~*ble*]{in}trusion of facts and observations most of which have been frequently the Subject of public discussion and none of which can have escaped the penetration of those to whom they would in this instance be addressed They are however of a nature so serious, as, in {the} view of your Commissioners to render the situation of the united States delicate and critical, calling for an exertion of the united Virtue and Wisdom of all the Members of the Confederacy.

Under this Impression Your Commissioners with the most respectful deference, beg leave to suggest the{ir} unanimous Conviction that it may essentially tend to advance the Interests of the Union, if the States by whom they have been respectively delegated would themselves concur and use their endeavours to procure the Concurrence of the other States in the Appointment of Commissioners to meet at Philadelphia on the second Monday in May next to take into Consideration the situation of the united States, to devise such further provisions as shall appear to them necessary to render the Constitution of the

John Dickinson and the Making of the U.S. Constitution

Fœderal Government adequate to the Exigencies of the Union; and to report such an Act for that purpose, to the united States in Congress Assembled [*page break*] as when agreed to by them, and afterwards confirmed by the Legislatures of every State will effectually provide for the same.—

Though your Commissioners could not with Propriety address these Observations and Sentiments to any but the States they have the Honor to represent, they have Nevertheless concluded from {Motives} of respect to transmit Copies of the {is} Report to the united States in Congress Assembled and to the Execut[*illegible*] {iv}es of the other States.—

By Order of the Commissioners

Dated at Annapolis
September 14.th 1786 }

John Dickinson
Chairman

DS (NN-Emmet)

THE FEDERAL CONVENTION

There are three types of documents in this section: 1. An essay published by JD; 2. Transcriptions of manuscript notes; 3. Selections from Madison's notes from the Convention. The second two types require some explanation.

As readers will see from the images accompanying the transcriptions below, the manuscript documents are especially challenging to process. JD wrote them at the Convention while he was ill, which likely accounts for his difficult handwriting being even less legible than usual. These transcriptions have not gone through the final stages of proofreading, which yet may enable us to decipher a few of the remaining illegible words. We have drawn on the work of James Hutson in determining the placement of the documents in relation to the Convention proceedings, but readers who compare the work will note that our transcriptions depart considerably from his in the placement of text on the page, indications of editorial intervention, and also in the rendering of many words.¹

The final type of "documents," the passages excerpted from Madison's notes, represent the longest and most substantive of JD's contribution to the Convention that were recorded. Because time did not allow these selections to be fully contextualized with annotations, readers are encouraged to review them at the sources linked below the documents.

¹ James H. Hutson, "[John Dickinson at the Federal Constitutional Convention](#)," *The William & Mary Quarterly* vol. 40, no. 2 (1983), 256–82.

6

Fragments on the Confederation of the American States, Philadelphia: T. Dobson, 1787

Thomas Dobson advertised this treatise in the *Pennsylvania Packet* on June 6, which means JD likely wrote it before he took his seat in the Convention on May 29.

FRAGMENTS
ON THE
CONFEDERATION
OF THE
AMERICAN STATES.

John Dickinson and the Making of the U.S. Constitution

PHILADELPHIA:
PRINTED FOR THOMAS DOBSON, IN
SECOND-STREET, BETWEEN MARKET AND CHESNUT-STREETS.

M,DCC,LXXXVII.

TO
GEORGE WASHINGTON, Esq.

SIR,

THIS little work is dedicated to you, because of your many virtues. You are once more placed in a new and unlooked for station, and it is every good man's wish that you may be as successful in preventing a revolution as you have been fortunate in bringing one about; a labour, which it is hoped, will not be found insurmountable, especially, as we flatter ourselves that the minds of the people are less disposed to a dismemberment of the Union, than an improvement in the Fœderal Constitution. That you may return to your own peaceful shades, and long enjoy the effects of so happy an event, is the sincere wish of

SIR,

Your respectful, and

Very humble servant,

THE AUTHOR.

INTRODUCTION.

IT would seem that the United States have arrived at a very interesting point, when impunctuality has nearly involved them in bankruptcy, and violations of the compact threatens consequences, if possible, yet more alarming. This situation of public affairs necessarily excites apprehensions, lest it should produce some convulsion fatal to the principles upon which the republics are founded. It has attracted therefore the attention of good men, and given birth to an extraordinary appointment; not indeed a Dictator, but something as remarkable in the history of America, as that is in the annals of Rome.

But we shall not attribute the embarrassments or distresses of the sovereignty of the States to the seeds of a new revolution, nor suppose a general depravation of principle from a seeming indifference to the obligations of the compact. If heretofore the States have paid too little attention to these obligations, this conduct has been followed by misfortunes,

May 1787

which, if they are not lost to all hopes of felicity, will teach them where it is to be found. It is the compact itself that envelopes the cause of our calamities. It is defective. It wants vigor, and something to satisfy the people that this vigor will not entrench upon their safety.

Much wisdom is now engaged in a difficult research: men who had dedicated themselves to private life have again relinquished its sweets for public cares. Again, brought forward by an unextinguishable love of liberty, they wish their sun to set in a horizon freed from those clouds that threaten to blast the labours of a generation.

If the fragments herewith presented to the public, by a person who has had some share in the public councils, shall, in any manner, promote this great object, the writer will be happy in the thought that the few hours he has spent on them has not been unprofitably employed.

PHILADELPHIA, MAY 12, 1787

CHAPTER I. OF THE RIGHTS OF CONGRESS.

IN order to know what additional rights Congress ought to possess, it will be necessary to take a view of the rights with which they are invested by the confederation.

The rights of Congress may be divided into *perfect* and *imperfect*. The perfect rights are those which the States have delegated to Congress expressly, and without a participative proviso. The imperfect rights are those in which the States have retained a privilege to participate.

We found this distinction on the rule laid down in the second article of the confederation, wherein it is stipulated, that a state *retains* no right which is *expresly delegated to Congress*. “Each state *retains* its sovereignty, freedom, and independence, and every power, jurisdiction, and right which is not, by this confederation, *expressly delegated* to the United States in Congress assembled.” By this rule a right expressly delegated is not retained, and cannot therefore belong to, or be exercised by a state.

Governed by this distinction, we class among the *perfect rights of Congress*. 1. A right to determine on peace. 2. A right to establish rules for deciding, in all cases, what captures on land and water shall be legal, and in what manner prizes taken, by land or naval forces in the service of the United States, shall be divided or appropriated. 3. A right to appoint courts for the trial of piracies of felonies committed on the high seas. 4. A right to establish courts for receiving and determining finally appeals in all cases of captures. 5. A right to appoint judges to hear and determine all disputes and differences between two or more states concerning boundary,

jurisdiction, or any other cause whatever. 6. A right to regulate the alloy and value of coin struck within the United States. 7. A right to fix the standard of weights and measures. 8. A right to establish and regulate post-offices, from one state to another, throughout the United States. 9. A right to appoint all officers of the naval forces, and to direct their operations. 10. A right to appoint such civil officers as may be necessary for managing the affairs of the union under their direction. 11. A right to ascertain the necessary sums of money to be raised for the service of the United States, and to appropriate and apply the same. 12. A right to fix a mode to estimate the value of all land within each state, granted to, or surveyed for any person, whereby to ascertain each state's proportion of the common expences. 13. A right to borrow money, or emit bills of credit. 14. A right to agree upon the number of land forces. 15. A right to appoint a Commander in Chief of the land forces. 16. A right to commission all officers whatever in the service of the United States.

These are all perfect rights, being expressly delegated, without any participative proviso.

Among the imperfect rights of Congress we may reckon. 1. A right to determine on war. 2. A right to send and receive ambassadors. 3. A right to enter into treaties and alliances. 4. A right to regulate the trade, and manage all affairs with the Indians. 5. A right to build and equip vessels of war. 6. A right to great letters of marque and reprisal. 7. A right to raise and equip land forces. 8. A right to appoint officers of the land forces. 9. A right to coin money.*

These are all imperfect rights which, *sub modo*, may be exercised by a State.

Perhaps it may be objected to this explication, that *to borrow money, or emit bills of credit*, which we have classed with the perfect rights, may be exercised by a State, in as much as they are not conveyed to Congress, by the words sole and exclusive. We presume however, a little attention to the confederation will shew, that a perfect right is not constituted by the presence or absence of the words "sole and exclusive," but, as we have before observed, by being *expressly delegated* to Congress, without any participative reservation. If we admit a different construction, and the words sole and exclusive be made essential to establish a title in Congress to a perfect right, it will draw us into very great absurdities.

By the 9th article of the confederation "the United States in Congress assembled, shall have authority to appoint a committee to sit in the recess of Congress, to be denominated, *a committee of the States*, and to consist

* This is not offered for a complete enumeration of the rights of Congress.

of one delegate from each State; and to appoint such other committees and civil officers as may be necessary for managing the general affairs of the United States, under their direction; and to appoint one of their number to preside, provided that no person be allowed to serve in the office of President more than one year, in any term of three years; to ascertain the necessary sums of money to be raised for the service of the United States, and apply the same for defraying the public expences; to borrow money, or emit bills on the credit of the United States, transmitting every half year to the respective States an account of the sums of money so borrowed or emitted; to build and equip a navy; to agree upon the number of land forces," &c.

Now, if *one* of these rights may be exercised by a State, *all* of them may, for none of them are provided with the words sole and exclusive.

But let us consider this subject a little further, as it respects the right to borrow money or emit bills. A right to borrow money could not be safely trusted out of the hands of the sovereignty of the union. Had it remained with the States, or could it have been exercised by them, as well as by Congress, two or three ambitious States might have used it to establish a separate confederacy, or to carry war among the rest; a danger effectually avoided by its being lodged with Congress, where it can only be exercised with the consent of *nine States*. If we consult the 8th article of the compact we shall find, that it is not even in the power of a State to anticipate its proportion of the common expences by loan. Whatever money is *demanded* by Congress from the States, may not be borrowed, but is to be *raised by taxes*, "to be *laid* and *levied* by the authority and direction of the several States, *within the time* agreed upon by the United States in Congress assembled."

This removal of one great incentive to ambition and separation; the placing the right of borrowing money out of the reach of the States, was an indispensably necessary addition to the stipulation, that "no two or more States shall enter into any treaty, confederation, or alliance whatever, between them, without the consent of the United States in Congress assembled, specifying accurately the purposes for which the same is to be entered into, and how long it shall continue."*

It is no less incompatible with the objects of the union, that a State should retain a right to *emit bills of credit*. The confederation indeed permits that a state may coin money, but it withholds from it, the right to regulate the alloy and fix the value thereof, lest the common treasury should at any time be defrauded with base or adulterated coin, and the

* Sixth Article.

union involved in bankruptcy. A right to emit bills of credit being liable to as great abuses as a right to regulate the alloy of money, had the States retained this right, the precaution against base money would not have afforded security to the union; we see therefore the right to *emit bills* among those which are *unequivocally* or *expressly delegated* to Congress without reservation or participative proviso.

CHAPTER II. DEFECTS OF THE CONFEDERATION.

WE may trace the chief defects of the confederation to the non-compliances of the States with federal requisitions, and in their feeble and disjointed attempts to counteract foreign regulations injurious to their commerce.

Congress have a right “to ascertain the necessary sums of money to be raised for the service of the United States, and to appropriate and apply the same,” but are left without the means to draw this money from the States, no constitutional way being pointed out for carrying their requisitions into effect. This single defect is sufficient to render the compact a dead letter.

By the 9th article of the confederation Congress may enter into treaties and alliances, “provided, that no treaty of commerce shall be made whereby the legislative power of the respective States shall be restrained from imposing such imposts and duties on foreigners as their own people are subjected to, or, from prohibiting the exportation or importation of any species of goods or commodities whatever.”*

In consequence of this right, Congress and a foreign nation may agree upon a tariff of imposts and duties upon exports and imports, which shall not be augmented during the term of the treaty, by the foreign nation or any of the States, but Congress cannot pledge that a State shall not, under the last proviso, render the tariff or treaty nugatory.

We might enumerate other defects, but being inferior ones, we shall pass them over without notice or animadversion, especially as they can excite no alarm for the safety of the union. It is the defects that respect the raising of money, and regulating commerce, from which we have most to apprehend; for, altho’ partial compliances with the compact may, for a while, keep up the form of a federal government, they cannot preserve it from frequent indignity and disgrace, perhaps from annihilation. We hasten therefore to consider how these defects may be amended.

* Ninth Article.

May 1787

CHAPTER III.
AMENDMENTS TO THE CONFEDERATION.

THIS is an intricate subject on which we may expect a diversity of opinions. Some think the sovereign rights reserved by the States should be relinquished to Congress; but this could not be done without exposing some parts of the union to greater inconveniencies than may be felt under a defective confederation. Others would establish a Stadtholder; but this would necessarily introduce changes in the respective republics that must lead to aristocracy and monarchy. These opinions, however, appear as the evidence of thinking men, that the rights of the confederation are insufficient to provide for its objects, and that it cannot well exist without others being superadded.

But what shall these new rights be, and how shall they be guarded; for if comprehensive or indefinite, the States will naturally expect a security against their improper exercise.

The confederation constitutes an *obligation* on the States to raise the money required by Congress, by *taxes*, but does not consign to Congress any right to *oblige* the States to comply with the obligation.* Two new rights are therefore wanted on the present occasion. 1st. A right to *collect* the money, and 2dly. A right to *enforce* the collection. It seems but reasonable that the sovereignty of the union, which alone may contract debts on account of the States, should be enabled to provide for their punctual discharge. A right to borrow, without a power to pay, is a phantom among the prerogatives of government. We would propose therefore to vest Congress with a right to appoint collectors of the federal tax, having authority to sell property to the amount thereof, a certain number of days after the same should fall due; but as each legislative ought to be the best judge of the fittest subjects of taxation, the right to *lay* the tax to remain with the States.

It being intended to make the right to distrain the property of delinquents a part of the confederation, it would of consequence become a perpetual law of the State; and as the process and time of execution ought to be clearly expressed, the citizens would have less matter for complaint than under the variable and changing acts of their legislatures. This arrangement, besides enabling Congress to comply with their contracts, would, we presume, have another happy effect. It is calculated to destroy the prevailing indifference to pay public demands so destructive to morals and industry.

* Articles Eighth and Ninth.

There is another point to be adjusted respecting commerce. Many persons dread the dismemberment of the union, in the States pursuing different systems of duties with regard to each other. Many too believe, that Congress ought to be empowered to withhold advantages from foreign nations, in order to obtain advantages. Indeed, the harmony of the States seem to require uniformity in duties, imposts, and prohibitions, a thing which cannot be so well effected by the States, separately, as by *one will*. It would seem, moreover, that the right to *collect* duties as well as to *impose* them, is intimately and essentially connected with the right to form and maintain treaties of Commerce. It is besides conceived, that these rights, being under the controul of *one council*, would be a constantly operating check to a dismemberment of the union. Let Congress therefore be vested with these rights, provided when one or more States suffer a *manifest detriment* by the exercise of any of them, that a reasonable deduction be made from their quota of the requisition. But in addition to this proviso, the right should not be excluded to prevent a State from securing itself from a scarcity of provisions, by embargoes; or from encouraging the industry of her citizens, by bounties or premiums, or from appropriating the revenue arising from its trade.

These rights, we imagine, would give a due degree of vigor to the sovereignty of the union. We are now to provide a security against their improper exercise.

It has been suggested, that nine States, that eleven States, that the thirteen States should concur in all question involving concessions in trade, or sacrifices for the general good; but whoever has had experience in public assemblies, is not to be informed, that, whether nine, eleven, or thirteen States, is to determine, the advantage will be always on the side of abilities, eloquence, or cunning. Two branches have also been mentioned, as if a modification which operates chiefly against hasty decisions, could prevent the apprehended inconveniencies; as if two branches, or seven branches, while each State appoints delegates to each branch, would not be governed by *one spirit*. Such expedients, therefore, are not likely to obtain universal concurrence. An establishment of a more satisfactory nature is demanded, to which, an aggrieved or accused State may resort for complaint, defence, or protection. We are aware that objections lie against an establishment of this nature, but as we think them inconsiderable, we shall venture to propose an umpire between Congress and the States, to be constituted in the manner following, and to be stiled

THE EQUALIZING COURT.

Let the States be cast as nearly as may be, into three equal divisions. The respective legislatures in each division to nominate one candidate skilled in *economics and jurisprudence*, for judge of the said court. The names of the candidates in each division to be rolled up by the governor of the State in which Congress sit, in the presence of Congress, and put into separate boxes. The Secretary of Congress is then to draw one scroll of paper from the box of each division, and hand the same to the President, who shall announce the names written therein, whereupon Congress shall notify the persons whose names have been so drawn, that they are elected and constituted judges of "The Equalizing Court," agreeable to the articles of confederation. The judges to continue in office during good behaviour, and to have a liberal salary incapable of being diminished or taken away.

It should be the duty of this court to hear and determine on all appeals made by Congress against a State, or by a State against Congress, whose determination should be final and binding upon the parties. The court to furnish the State or Congress with a copy of the charge or complaint, cite an appearance, and in case of non-appearance, proceed to judgment; but the confederacy in no case to be allowed to take measures to compel a delinquent State to comply with any of their acts, before the court shall find a judgment in their favour.

CHAPTER IV. CONCLUSION.

AFTER the five per cent. act, and the act to vest Congress, for a limited time, with a right to prohibit imports and exports, having been partially or reluctantly adopted by some States, and totally disregarded or rejected by others, what hopes can be reasonably cherished that the States will treat with more favour the acts of a Convention? We found our hopes in the good sense of the people, no system having been offered to the deliberation of the States, which contained in it equal advantages to all, and safety to all; two things that independent States look for in the formation of treaties with each other.

States whose staples are dissimilar will be jealous of each other, and afraid to trust them to any exterior management. Mutual concessions entered into by their delegates is subject to too much risque to afford satisfaction; and, where a variety of objects are to be compared and considered, a popular assembly is illy calculated to arrive at a just compromise. But the doctrine of mutual concession, when carried into practice, too frequently turns out to be a sacrifice of some, for the benefit of others; a doctrine, which contemplated in this light, is as cruel and unjust as that one man should suffer for another. A regulation in trade or a treaty that

lessens the wealth of *one State*, and increases the wealth of *twelve*, may be considered as a *general good*, that is, benefiting more than it injures, but justice requires, that those who gain by the measure, should compensate to those who lose. As these ideas readily occur, or rather force themselves upon the mind, upon a view of this subject, we may conclude their impression to be very generally felt; and that the States, especially the States whose apprehensions are most lively, will look for a provision or security that their staples or manufactures shall, at no time, be sacrificed to the general good, without a consideration.

It is in the Equalizing court that the States will deposit their grievances, and find a cure to their jealousies. It is here they will perceive a check against improper acts of Congress, and a conviction that the rights which they surrender cannot be exercised to their injury. Trusting to this, they will relinquish without reluctance those sovereign rights to which they are so strongly rivetted.

Should it be alledged that some States exist by the protection of others, and therefore, that a sacrifice of a portion of their commercial advantages would be no more than a compensation, what umpire so proper to decide this question, or to judge of the equivalent, as the Equalizing court. If it be further objected, that such a court would be a source of incessant appeals, and never-ending jealousy, the objection can have no greater weight, than to a court established by a legislature, to which every citizen may appeal from the valuation of an assessor; but such a court is neither found to be unnecessary, nor a source of jealousy.

Proceeding upon different ground, and subjecting the advantages of a state to be destroyed, or diverted into a different channel at the discretion of Congress, does not appear calculated to obtain the suffrage of the States. The States feel, that if they are not in a situation to defend themselves separately, from foreign invasion, their powers and resources will soon be adequate to this purpose. Under such an impression, it is in vain to say, "We are one people, we cannot exist without each other, let us therefore harmonize and yield something to each other, for the general good," for as long as a State thinks it can enjoy all its natural advantages and be safe, such language will never effect their relinquishment.

The States before they incorporated into a confederacy, though dependent on one power, were independent of each other. This darling idea of each being independent of the other, insinuated itself into the articles of compact, and necessarily encouraged those habits of thinking and acting that have so often resisted the recommendations of Congress, and may for ever oppose a *consolidation of the States into one republic*. Shall we then endeavour to annihilate these deep-rooted habits, or shall we ask the

May 1787

States to vest Congress with rights presumed competent to the purposes of the confederacy, guarded by a court whose decisions shall be binding upon the States, and upon Congress? We conclude the last plan to be the most likely to succeed, being founded on the principles of justice, and consonant to the prejudices of the States.

We have only to add, that it is time for the States to determine whether it is best to be separately independent, or united under one sovereignty. If the latter, let them hasten to invigorate that sovereignty, with rights consistent with their safety and competent to its institution. If the former, let them be candid and declare it. But let no State imagine, that a dissolution of the union, will be a discharge from the public debt.

FINIS.

7

Draft Resolution for a New Federal Government, [May 30, 1787]

JD wrote this document in response to a three-part [motion](#) introduced by Edmund Randolph on this day.

1 That an Union of the States merely fœderal cannot accomplish the Objects of the Confederation, namely “Common Defence security of Liberty & gen[era]l Welfare”

2 That no Treaty or Treaties between any of the States ~~less than~~ {as} individuals sovereigns can accomplish the Objects proposed by their Institution; namely “Common Defence security of Liberty & gen[era]l Welfare”

3 Resolved therefore that a National gov[ernmen]t ought to be established, consisting of a sup[reme] [~~illegible~~] {Legislative} Judiciary & Executive

instead of accomplishing the Objects of the Confederation say—“~~promoting~~ securing the Liberty & promoting the Happiness of the people of

Ms (PPL-JDFP)

- 1 That an Union of the States more by force
cannot than accomplish the Objects of the
Confederation; namely "Common Defense
Security of Liberty & Genl. Welfare"
- 2 That no Treaty or Treaty between any
of the States ^{no} individually sovereign
can accomplish the Objects proposed by them
Confederation; namely "Common Defense
Security of Liberty & Genl. Welfare"
- 3 Resolved therefore that a National ^{Legislative} ~~Legislative~~
established, consisting of a ^{Legislative} ~~Legislative~~
Judiciary & Executive
instead of an accomplishing the Spirit of the Confederation
by — "promoting securing the Liberty &
Promoting the Happiness of the People"

June 1787

8

**On Separation of Powers, Form of Government, and Representation,
June 2, 1787**

Mr. Dickenson considered the business as so important that no man ought to be silent or reserved. He went into a discourse of some length, the sum of which was, that the Legislative, Executive, & Judiciary departments ought to be made as independ[en]t as possible; but that such an Executive as some seemed to have in contemplation was not consistant with a republic; that a firm Executive could only exist in a limited monarchy. In the British Govt. itself the weight of the Executive arises from the attachments which the Crown draws to itself, & not merely from the force of its prerogatives. In place of these attachments we must look out for something else. One source of stability is the double branch of the Legislature. The division of the Country into distinct States formed the other principal source of stability. This division ought therefore to be maintained, and considerable powers to be left with the States. This was the ground of his consolation for the future fate of his Country. Without this, and in case of a consolidation of the States into one great Republic we might read its fate in the history of smaller ones. A limited Monarchy he considered as one of the best Governments in the world. It was not certain that the same blessings were derivable from any other form. It was certain that equal blessings had never yet been derived from any of the republican form. A limited monarchy however was out of the question. The spirit of the times—the state of our affairs, forbade the experiment, if it were desireable. Was it possible moreover in the nature of things to introduce it even if these obstacles were less insuperable. A House of Nobles was essential to such a Govt. Could these be created by a breath, or by a stroke of the pen? No. They were the growth of ages, and could only arise under a complication of circumstances none of which existed in this Country. But though a form the most perfect perhaps in itself be unattainable. we must not despair. If antient republics have been found to flourish for a moment only & then vanish forever, it only proves that they were badly constituted; and that we ought to seek for every remedy for their diseases. One of these remedies he conceived to be the accidental lucky division of this country into distinct States; a division which some seemed desirous to abolish altogether.

As to the point of representation in the national legislature as it might affect States of different sizes, he said it must probably end in mutual concession. He hoped that each State would retain an equal voice at least in one branch of the National Legislature, and supposed the sums paid within each state would

form a better ratio for the other branch than either the number of inhabitants or the quantum of property.

Madison in [Farrand, 1:86–87](#)

9

On Election of the Two Branches of the Legislature, June 6, 1787

Mr. Dickinson considered it as essential that one branch of the Legislature sh[oul]d be drawn immediately from the people; and as expedient that the other sh[oul]d be chosen by the Legislatures of the States. This combination of the State Gov[ernmen]ts with the National Gov[ernmen]t was as politic as it was unavoidable. In the formation of the Senate we ought to carry it through such a refining process as will assimilate it as near as may be to the House of Lords in England. He repeated his warm eulogiums on the British Constitution. He was for a strong National Gov[ernmen]t but for leaving the States a considerable agency in the System. The objection ag[ain]st making the former dependent on the latter might be obviated by giving to the Senate an authority permanent & irrevocable for three, five or seven years. Being thus independent they will Speak & decide with becoming freedom.

Madison in [Farrand, 1:136](#)

10

On Election of the Two Branches of the Legislature, June 7, 1787

The following resolution was submitted by Mr Dickinson seconded by Mr Sherman. namely

Resolved that the members of the second branch of the national Legislature ought to be chosen by the individual Legislatures. [*passed in affirmative*]

Mr. Dickenson had two reasons for his motion. 1. because the sense of the States would be better collected through their Governments; than immediately from the people at large. 2. because he wished the Senate to consist of the most distinguished characters, distinguished for their rank in life and their weight of property, and bearing as strong a likeness to the British House of Lords as possible; and he thought such characters more likely to be selected by the State

June 1787

Legislatures, than in any other mode. The greatness of the number was no objection with him. He hoped there would be 80 and twice 80. of them. If their number should be small, the popular branch could not be [ba]lanced by them. The legislature of a numerous people ought to be a numerous body.

The preservation of the States in a certain degree of agency is indispensable. It will produce that collision between the different authorities which should be wished for in order to check each other. To attempt to abolish the States altogether, would degrade the Councils of our Country, would be impracticable, would be ruinous. He compared the proposed National System to the Solar System, in which the States were the planets, and ought to be left to move freely in their proper orbits.

Madison in [Farrand, 1:148–53](#)

11

Plan of Government, [June 18, 1787]

Resolved—

- 1 That the Articles of Confederation ought to be revised and amended, so as to render the Government of The United States adequate to the Exigencies, the Preservation, & the Prosperity of the Union
- 2 That this Government ought to consist of an {L}egislative, Executive and Judiciary{,—as in Report}
- 3 That the Legislative ought to be composed of two Branches {as in Report}
- 4 That the Members of the first Branch ought to be chosen as they {now} are by the existing Confederation, that is, by the Legislatures of the several States, each State having an equal Vote—to be of the Age of thirty Years &c as in the 4th Resolution of the Report—
that immediately after the first Election they be divided by Lot into seven Classes, as equal as possible, & numbered 1 2 3 4 5 {[&?]} 6 {& 7} & 7—
{& 7}
that the Seats of the Members of the first Class shall be vacated at the End of the first Year, of the second Class at the End of the second Year, and so on continually, to the End that the seventh {sixth} {seventh} {seventh} Part of this Branch, as nearly as possible, may be annually chosen—

John Dickinson and the Making of the U.S. Constitution

that if any Member dies, the Person elected in his Place shall serve only for the Residue of the [*illegible*]{T}erm for which the deceased was elected

5 That the Members of the second Branch ought to be elected by the People of the several States, for a Term of 3 Years &c as in {the 3^d Resolution of} the Report

that the People of each State shall chuse the Members of this Branch for the first 3 Years, in the following Proportions—

New Hampshire	Massachusetts	Rhode Island	
Connecticut	New York	New Jersey	Pennsylvania
Delaware	Maryland	Virginia	North Carolina
South Carolina	& Georgia		

that immediately after the second Election they be divided ~~by Lot~~ into 3 Classes, as equal as possible, & numbered 1 2 & 3—

that the {Seats of the} Members of the first Class shall be vacated at the End of the first Year, of the second Class at the End of the second Year, & of the third Class at the End of the third Year, to the End that the third Part of this Branch, as nearly as possible, may be annually chosen—

that if any Member dies, the Person elected in his Place shall serve only for the Residue of the Term for which the deceased was elected— [*page break*]

that after the first three Years, the Right of Suffrage in constituting this Branch ought from Time to Time to be adjusted, in proportion to the Sums of Money collected in each State and actually paid into the Common Treasury within the preceding 3 Years, except Sums arising from Imposts ~~&c~~ {and such other Taxes as might produce too great an [*illegible*]{In}equality—} **Provided**, that ~~the~~ {each State shall have at least one Vote in this Branch, and that the} Right of Suffrage of the State contributing most shall never exceed that of the State contributing least, more than in the Proportion of [*blank*] to one

~~Or thus~~

that after the first 3 Years the Right of Suffrage in constituting this Branch ought from Time to Time ~~to {be} fixed in the following Manner~~ Each State shall

that every new State on Admission into the Union shall have the same Right of Suffrage with the State contributing least, untill the next Adjustment of the Rights of Suffrage, & then the Right of such State to be enlarged, if entitled to an Enlargement, upon the same Principle that determines the Rights of the other States—

that on the Establishment of part of a State as a new State, if such a Case happens, the Residue of the Representation previously possessed by the whole, shall belong to the State from which the new State shall be separated—{untill Adjustments be made in Course, as is beforementioned.}

[blank lines]

6 That in Addition to the Powers vested in Congress by the existing Confederation, the Legislature of The United States ought to be authorized to pass Acts for enforcing an Observance of the Laws of Nations {& an Obedience to their own Laws}—for raising a Revenue by levying Duties or Imposts on all Goods & Merchandize of foreign Growth or Manufacture imported into any Part of The United States {and also a limited Duty [~~illegible~~] {o}n Imports {Exports}} ~~by Land or Water~~—by Stamps on Paper Vellum or Parchments—by postage on all Letters & Packages passing thro the General Post Office—and by such other Modes of Taxation ~~as may be judged proper~~ {necessary for attaining the Ends mentioned in the first Resolution} {to be enumerated and defined as may be necessary [be necessary?]} for [ensur]ing the Prosperity of the Union.} for the Regulation of Trade & Commerce as well with foreign Nations as with each other. {But before these Acts are passed, they ought to be published at least six Months for [the] {pu}blic Consideration—} that all Punishments Fines Forfeitures & Penalties to be incurred for contravening such Acts concerning Revenue & the Regulation of Trade & Commerce, ought for some Time at least to be adjudged by the Common Law Judiciary of the State in which any Offence contrary to the true Intent & Meaning of such Acts shall be committed or perpetrated, with Liberty for the Officers of The United States to commence in the first Instance all Suits or Prosecutions for that [page break] Purpose in the Superior Common Law Judiciary of such State, subject nevertheless to an Appeal for the Correction of all Errors both in Law & Fact in rendering Judgment to the Judiciary of The United States, for which Purpose all the Evidence in such Suits & Prosecutions shall be put into Writing & upon an Appeal be ~~faithfully~~ & immediately transmitted by the {said} Judiciary of the State to the Judiciary of The United States,

& the Appellee shall give sufficient Surety to the said State Judiciary, for abiding the final Determination—

that when hereafter, in the Judgment of the Legislature of The United States Circumstances shall render it necessary for the public Good, they may transferr the Cognizance of such Suits & Prosecutions {in the first Instance} to the inferior Tribunals of The United States

that all other proper Objects of the Legislative Authority of The United States, if any, ought to be accurately defined—

that the Legislature of The United States [~~she~~] {oug}ht to possess the sole & exclusive Right & Power of emitting Money of any kind, as well as of regulating the Value & Alloy of Coin &c {that they ought also to possess a Negative on the Acts of the sev[era]l Legislatures, as in the sixth Resolution of the Report—}

that Provision ought to be made, for determining Contests within a State, which shall be judged by The United States likely to disturb the public Peace, as well as those between two or more States—

for the Punishment of Officers of The United States—

for securing the Benefits of the Writ of Habeas Corpus & Trial by Jury in proper Cases, & for preventing Contests ~~between th~~ concerning the Authority of The United States & the Authority of Individual States—

7 †{T}hat all Laws & Resolves of any State, in any Manner opposing or contravening the Powers {~~hereby~~} {now} vested or {hereby} to be vested in The United States or any Act of The United States made by Virtue & in Pursuance of [~~the?~~] such Powers, [~~hereby vested,~~] or any Treaties made & ratified under the Authority of The United States, shall be utterly null & void—(then nearly as in the Proposals from New Jersey) [page break]

[7]{8} That the {~~first Branch of the~~} Legislature {as [~~be ar?~~]ranged,} of The United States be authorized to elect{, by Ballot, two thirds concurring,} an Executive to consist of 3 Persons, one of them a Resident of the Eastern States, another of the Middle States, & the third of the Southern States—to receive a Compensation for Service &c One of the first 3 to continue in Office 2 Years, another 4 Years, & the third {7} 6{7} [~~illegible~~]{Y}ears— Every Person appointed upon such Vacancies, & so on afterwards, to continue in Office 6 7 {7} Years—but if any such Officer dies, the Person chosen in his Place, shall serve only for the Residue of the Term for which the Person deceased was elected—to be removable by the Legislature of The United States, if they judge it proper

June 1787

on Application by a Majority of the Executives of the several States— & to be impeachable for Malconduct or Neglect of Duty— The Person appointed at the first Election for 6{7} {7} Years, to be President—& afterwards the Person who shall have been {the} longest Time in the Executive— All their Acts and Appointments, to be immediately entered in their Books— Every one of them to be responsible for every Act & Appointment done or made in his Presence, unless he at the Time enters his Dissent in Writing in their Books— Provision to be made in Cases of Death or Absence, especially upon Emergencies of Invasion or Insurrection—& for convening the Legislature (then as in the Prop[osal] from N[ew] J[ersey])

that the Executive sh[ould] have a Right to negative any Legislative [Act,?] which shall not afterwards be passed, unless by two third Parts of each Branch of the Legislature—

The Executive ought never to order any Monies to be paid to other Purposes than those to which they are expressly appropriated by the Legislature, nor out of other Funds than are so appropriated

9 That the Judiciary be appointed by the ~~first~~ Legislature, to consist for some [illegible]{T}ime at least of a Supreme Tribunal, the Judges of which to be appointed &c (as in the Prop[osal] from N[ew] J[ersey] except—that this Judiciary should have Authority to determine in the first Instance, in all Cases touching the Rights of Ambassadors & other foreign Ministers—

That when hereafter in the Judgment of the Legislature of The United States, Circumstances shall render it necessary for [the?] public Good, they may appoint Inferior Tribunals—

Then from the 14th Resolution of the Report, inclusive, to the End.

Ms (PPL-JDFP)

Involved -

- 1 That the Articles of Confederation ought to be revised and amended, so as to render the Government of the United States, adequate to the Liberties, the preservation, & the prosperity of the Union
- 2 That the Government ought to consist of a Legislative, Executive and Judiciary, and a Senate
- 3 That the Legislature ought to be composed of two Branches
- 4 That the Members of the first Branch ought to be chosen as they are by the existing Confederation, that is by the Legislatures of the several States, each State having an equal vote - to have the Representatives, to be chosen for the first year, or as in the 1st Resolution of the Report that immediately after the first Election they be divided into three classes, as equal as possible, & numbered 1 2 3 - ~~the first class~~ ^{the first class} shall be created at the end of the first year, of the second class at the end of the second year, and so on continually, to the end that the ~~first~~ ^{second} part of the Branch, as nearly as possible, may be annually chosen - that if any Member die, the person elected in his place shall serve only for the residue of the term for which the deceased was elected

- 5 That the Members of the second Branch ought to be elected by the ^{the electing} People of the several States, for a term of 3 years or as in the Report

that the People of each State shall choose the Members of this Branch for the first 3 years, in the following proportions

New Hampshire	Massachusetts	Connecticut	Rhode Island
Delaware	Maryland	Virginia	Pennsylvania
North Carolina	South Carolina	Georgia	

that immediately after the second Election they be divided by ~~lot~~ ^{into 3 classes} as equal as possible, & numbered 1 2 3 - that the first class shall be created at the end of the first year, of the second class at the end of the second year, of the third class at the end of the third year, to the end that the third part of the Branch, as nearly as possible, may be annually chosen - that if any Member die, the person elected in his place shall serve only for the residue of the term for which the deceased was elected

June 1787

12

“Objections to New Jersey Plan,” [June 18–19, 1787]

Although the New Jersey Plan was presented on June 15, Hutson conjectures JD wrote this document after [Hamilton presented his plan](#) using the term “Esprit de Corps,” which JD uses below.

Obj[ecti]ons to N[ew] J[ersey] Plan

1— one Branch of Legislation which unsafe, {as Councils are not enough matured} & will prevent a Deposit[i]on of necess[ary] powers—

2— All new states must be admitted on the same Prin[ciple] wh[ich] is dang[erous]

3— Supplies depend on Requisitions & Coercion

4— ~~Quotas to be settled in an unequal Manner~~

The great Defect of ant[ie]n[t] {& mod[ern]} Confed[erati]ons is {w}as & is—that the necess[ary] Legisl[ature] of the Nation did not operate with suff[icien]t Energy— Let this be prevented—& the Legisl[ature] be allowed to oper[ate] in all proper Cases

We should consider the great States have something to part with as well as the smaller—the only Question is—on what Terms

We shall agree?

Obj[ecti]ons to Report

1— Repr[esentati]on in both Branches founded on Numbers—unreasonable & dangerous—

2 Doubtful Indef[inite] Express[i]ons wh[ich] give a Power to legislate in all Cases

3— The Exec[utive] lodged in a single Person

No Inst[ance] of its being over done with safety

The insurmountable Diff[iculty] of effect[ing] a Junction of Gov[ern]men[t]— & Terr[itory] between two States—what becomes of the Esprit de Corps—?

Ms (PPL-JDFP)

Adjourn to N. J. Plan

- 1 - one Branch ^{as Congress are not enough} of regulation which ^{will} ~~will~~ prevent a deposit of ^{money} ~~money~~ from one
- 2 - all new states must be admitted on ^{the same} ~~the same~~ ^{terms} ~~terms~~ ^{with} ~~with~~ ^{the} ~~the ^{original} ~~original ^{states} ~~states~~~~~~
- 3 - ^{the} ~~the~~ ^{power} ~~power~~ ^{is} ~~is~~ ^{deposed} ~~deposed ^{on} ~~on~~ ^{Requisitions} ~~Requisitions~~ ^{of} ~~of~~ ^{the} ~~the~~ ^{Union} ~~Union~~~~
- 4 - ^{States} ~~States~~ ^{to} ~~to ^{be} ~~be ^{fettered} ~~fettered~~ ⁱⁿ ~~in~~ ^{an} ~~an ^{unequal} ~~unequal ^{manner} ~~manner~~~~~~~~~~

The great defect of our ^{mod} Confederation was this - that the
Legislative of the Nation did not operate with suffi-
cient Energy - Let this be prevented - & the Regd be
allowed to operate in all proper cases

We should consider the great States have something
part with as well as the smaller - thereby
Question is - on what Terms we shall agree?
Adjourn to Report

- 1 - Reason in both Branches founded
on Numbers - reasonable & dangerous
- 2 - Doubtful Indeed to propose to give a power to legislate
in all cases
- 3 - The Seed lodged in a single person
no sort of it being well done with safety
The insurmountable Diff of effecting a Union of both
States between two States - what becomes of the
spirit of the Confederation?

June 1787

13

Notes on the Hamilton Plan, [June 18, 1787]

- 1 Esprit de Corps
- 2 Love of power
- 3 A constant & active Interest in support of a Government
[illegible]{4} ~~Protection~~ Force
- 5 ~~Force~~ Influence

{As to pass[age]—will Names of Gov[ernmen]t Mon[archy] or Re-
publ[ic] make any Diff[erence]? No—[but] Force will supply [&c] i.e. a
stand[in]g army}

~~The~~{The} Esprit de Corps overthrows the whole Plan

Numb[er]s no Rule for Quota[s] yet adopted by the G[entle]man for de-
term[inin]g Repres[entati]on [illegible]

G[entle]man describes Love of power & Danger of it {in an
Appo[intmen]t of the Exec[utive] for 7 Years} yet places the Execut[ive]
in a Situation to urge him by the most powerful Motives to become a
Traytor to his Country

How the Engl[ish] Const[ituti]on grew up— Island {Fleets Stand[in]g
Armies} Contests betw[een] King & Barons Com[mons] call'd into
the Aid of the F[lat]ter & [pro]vided for in every Accom[m]odati[on]
Otherwise in France—and all the Rest of Europe where sim[ila]r Gov[ern-
men]ts were established by barb[arous] Nations
No Instance of a Republ[ic] being changed into a Limited Mon[archy]
Allways into a despot[ism] & Tyrann[y]

A {[singl]} Giant [solitary?] slow heavy unwieldy &c

The States will give Play to Aristoc[racy]— Agreed—better than Lords
or Courtiers [page break]

[vertically on opposing leaf:]

Power to regulate Trade

Imposts Excise Stamp{s} ~~aets~~ Post
Office[s—?]
A limited Poll tax—

John Dickinson and the Making of the U.S. Constitution

Executive in 3

Annual Elect[ion] of 1st Branch

Right of orig[inatin]g Money Bills—Ascertain[ing] what are such—no
Tasks &c

Repr[esentati]on in House of Commons to be [for?] {[at?]} the first
[5?]{3} 5 or 7 Years [illegible] {ac} cord[in]g to 26 = £13000
the p[re]sent [Pro]portion {Quotas} of Con- 52 = £26000
trib[uti]on—Afterw[ar]ds in [Pro]portion to
the Sums actually paid into the Com[mon]
Treas[ury] within every 3 5 or 7 Years—

Expence a point of Detail

Not to be taken for granted, that some Taxes besides Imposts & Excises
will {not be necessary}

Ms (PPL-JDFP)

Power to regulate Trade
Executive in 3
Annual Elect of 1st Branch
Right of orig. Money Bills—Ascertain what are such—no Tasks &c
Repr[esentati]on in House of Commons to be for the first 3 5 or 7 Years according to the
present proportion of Contribution—Afterwards in proportion to the
sums actually paid into the Com[mon] Treasury within every 3 5 or 7 Years—
Expence a point of Detail
Not to be taken for granted, that some Taxes besides Imposts & Excises
will {not be necessary}

Imposts & Excises
A limited Poll tax—
26 = £13000
52 = £26000

June 1787

1 Esprit de Corps

2 Love of power

3 A constant & active Interest in support
of a government

4 Protection of our

5 ~~Power~~ Influence

a to pass - with names of St. Mors or Adjuvants
in the same spirit - but some will supply
via a separate party
The Esprit de Corps overthrows the
Whig plan

Must! no Rule for 2 votes, yet adopted by
Messrs for determining Repression

Yman desires Love of power & Danger get
in an effort of the West for 7 years
got place the seat in agitation to urge
him by the most powerful Motion
to become a strong lot to his Country

How the Engd Comton grew up - Island
West, North, & South
Contd, with King & Barons Condall into
the aid of the latter & provided for in every manner
Alarion in France - & all the rest of Europe
where from foot were established by Lord Ration
no Interest of all Repud being changed into
Limited Mon Always with a deep & profound

in
A Glant writing slow heavy in with a
No Hott, in the King to United - agrees - better
than for a Court

14

On Election of Representatives, June 21, 1787

Mr. Dickinson. The idea of annual elections [of the legislature] was borrowed from the antient usage of England, a country much less extensive than ours. He supposed biennial would be inconvenient. He preferred triennial: and in order to prevent the inconveniency of an entire change of the whole number at the same moment, suggested a rotation, by an annual election of one third.

Madison in [Farrand, 1:360–61](#)

15

Notes for a Speech, [c. June 29, 1787]

But the Majority of the large States in Congress & the [local] Situation of the smaller are not the only two sureties for the Interests of the former against the latter

There are two more—1st—The nat[iona]l Influence of the larger States from a Variety of Causes of the larger, in the Nat[iona]l Co[ur]ts—¹ This acknowl[edge]d with Candor by an Hon[ourable] G[entleman] from Virginia Yesterday

[in left margin:] {Jersey [pro]posal impracticable / Inadmissible}

2.^d The Representation in the first Branch of Legisla[tur]e which will most [pro]bably take place, in ~~in [pro]portion to the~~ {with the future Consent of the [illegible] smaller States} in [pro]portion to Numbers or [Pro]p[er]ty actual Contribution to the National Uses— [illegible] [neither?] Our Situation from Delaware

Let the [Pro]p[er]ty of the larger States be secured— Let the [Pro]p[er]ty & Liberty of the lesser be also secured— Let Neither dictate to the other—

What will be the Cond[iti]on of the larger in this Case? Their [Pro]p[er]ty cannot be disposed of without their Consent—

What will the situation of the smaller, if in both branches, the Representation is in the [pro]port[ion] ment[i]one[d]?

They will deliv[er]ed up into the absolute power of the larger—{X} [in left margin:] {X [So] If {perhaps} Legislation is in [pro]portion to Numbers (or Quotas of Contrib[uti]on—only in one Branch If Numbers or Quotas &c are assumed—the new State to be erected may rule the [pre]sent [illegible] {St}ates as Vassals, under the form of Laws— They will do it—

The Fate of our Country depends on this Foundation}

They may injure them in a Variety of Ways— I will ment[ion] but two— They may destroy their Trade & draw it wholly to themselves {Trade now puts an End to [Controv[ers]ial an [*illegible*?] } /// { *in left margin:* } {/// What other? [Mine?]}—of the diff[erent] Repr[esentation]}

The smaller States will be swallowed up if every new State is to have an equal Vote, wh[ic]h they must have—[pro]portion of Taxes will secure Us. Nothing else can—}

— They may tax them to relieve themselves— Is this too monstrous a Supposition? Athens did it Britain attempted it What did Athens—She with ra[pa]cious[?] Hands tore Taxes from the Allies that were confed[erated] with her in the most solemn Manner— for [pur]poses of the Confed[erati]on— No—to exhibit with Asiatic Magnif[icence] the Tragedies of Sophocles & Euripides

Signal Veng[er] at length overtook the luxurious Tyrants What has been may be There is not a great State in their Union but is as eminent in every public & private p[*illegible*] Virtue as the smaller but Power Grandeur & Prosp[erity] ~~form~~ mingle an intoxicating Draught—too generally too strong for the limited Understanding & fallible Virtue of Mortals

We are not form[ing] plans for a Day Month Year or Age— p[*illegible*]s Æternitali—Let Us endeavor with United Councils to establish a Gov[ernmen]t—that not only may under our Nation great, respectable, free & happy—but also virtuous— Let Us try to combine pol[itica]l ~~Institu~~ Estab[lishment] with moral [Virtues?] —that if possible the first may be [*in left margin:*] {be [*illegible*]table to [pre]sent State ~~or the~~} {of the En[*illegible*] commensurate with the [*illegible*] [*illegible*] of the Empire.} coequal with {[*illegible*]} Duration of this World, & an Aid or at least not a Hindrance to the Enjoyment of another—

Ms (PPL-JDFP)

¹ Here Hutson has “Councils,” which is possibly what JD meant. But that would have been abbreviated as “Co” or possibly “Co.^{ls},” and here JD clearly wrote “Co.^{ls}.”

John Dickinson and the Making of the U.S. Constitution

[illegible]

June 1787

16

Fragment of Notes, [June 1787]

JD wrote this fragment on the same scraps of paper as doc. 21, below, but the subject matter suggests it belongs with the next set of notes immediately below.

Emotion shall submit
public Character

Half a Slave if adopted
{Ruinous to the whole System}
Former Sentiments the same

3 Arg[umen]ts only used—1—Equal[ity] of Repr[esentati]on—
2 England & Holland—3 Resol[uti]on of Sept[ember] 1774

As to the first— It subtracts the only Reason on wh[ich] our Obj[ecti]on
is Founded— Att[ention] to [illegible]{I}nterest of [Par]ticular States De-
pendancies not parts

Gov[ernmen]t of Repub[lics] over their Depend[ancies]

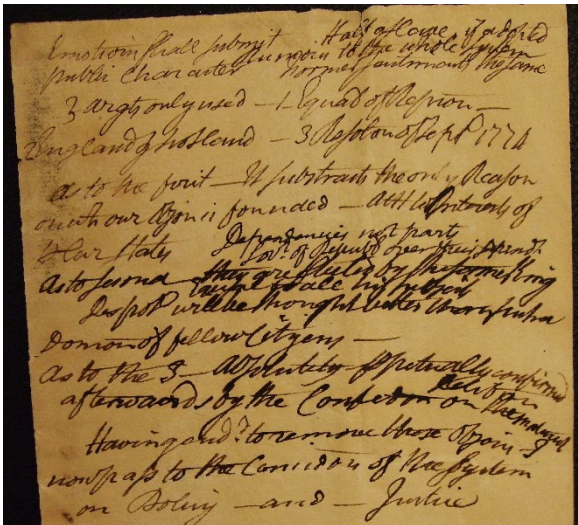
As to Second—they are [pro]tected by the same King {Equal to all his
Subjects}

Despot[ism] will be thought better than such a Dom[ini]on of fellow Cit-
izens

As to the 3—Absolutely [per]petually confirmed afterwards by the Con-
fed[erati]on {[Delib[erati]on]} on the [illegible]

Having end[eavore]d to remove those Obj[ecti]ons I now pass to the Con-
sid[erati]on of the System on Policy—and—Justice

Ms (PPL-JDFP)



17

Notes for a Speech I, [June 30, 1787]

We agree with Hutson that this and the next three documents form a set for a major speech JD planned and that because of apparent references to [James Madison's speech](#) of June 28 ("Dist[inction] made by Virg[inia]" in doc. 18, below) and [William Paterson's notes](#) of June 30 ("Lamb"), JD probably drafted these notes one or shortly after the later date.

{The Sense of all Confed[eration]s in allowing an equal Vote—}

1 Policy

2 Justice

1

In a Conf[ederation] no Danger from small States

 Their Int[er]es[t] is peace Prot[ection] Bal[anc]e

Their Cond[ition] teaches them pol[itica]l Virtue[s] & suppresses
pol[itica]l Vices of

 {[Tis]} This Reason teaches Experience confirms

 Instance[s] [~~illegible~~] {[Greece]} in General {amphyctionic
League.}

{The Republic [of Greece]}

Athens Sparta

 Achaia

Germany

Call for opposite Instances

What Experience in Congress

What are the Causes of our Distresses

 Not the Voice of smaller States but the Want of greater Powers

What Instances of Injury by the Interests of the smaller States being
diff[erent] from the rest

 None

A Majority of States are{is} large

Others of competent Size to be formed by them—as they are a Majority

Little B[enj?]{Enemy pass'd thro[ugh] Delaware &c}

Neither Great States to d[ict]ate to smaller ones nor smaller ones to
great ones

{Large States may tax others & spare herself}

June 1787

A large Comm[ercia]l State ought to patron[ize] the smaller ones in her
[N]eighb[orhoo]d {that depend on her in Trade} [*page break*]

I was of same Opin[ion] at the Beg[innin]g when represent[in]g Penn-
sylv[ani]a

We are settling Gen[era]l Princ[iple]s

The Eyes of Europe
of the World upon Us

A great Theatre

Great Genius's have settled [other] Gen[era]l Princ[iple]s that obtained
the universal pleasing Homage of Mank[in]d because {[*illegible*]} ap-
proved by the Underst[andin]g—& dear to the uncorr[upte]d Heart—
Liberty Benevolence Justice

Lamb

{The [*illegible*]{equ}al Vote allowed in almost every Confedera-
tion}
Compact— {Distinct[ion] between State & Individuals unfounded}

An Experim[en]t more cruel than curious like ex[er]p[er]im[en]t[ing] a living
Animal to examine the palpita[tions] of its dying Heart

The World will know the Force

The Reasons urged ag[ains]t it

What will they say

The Highest Auth[ority] declar[in]g that Justice & Compact must give
way to Convenience—to Necessity

The Plea of Tyrant—a Necess[ity] in words—not in facts

Is this a foundation for Empire— What an Example—

Talk no more of Tender Laws & violations of Treaties—They
were convenient

Let not the larger States dict[ate] to the smaller nor the smaller to the
larger

Ms (PPL-JDFP)

1 Policy The sense of all Congress
in allowing an equal
Vote -

2 Justice

1
What is the danger from
unequal states
Their Int. is plain (not the
their bond bearing through
to supply for the lack of
For this Reason can
Leopoldine confessions
Instances of the same
The Republic of the same
Alabama

Alabama
Germany
Call for opposite instances

What is the danger in Congress
What are the Causes of our
Not the Voice of unequal states
but the Want of greater power
What instances of Injury by
the Interest of the smaller
States being diff. from the
None

A Majority of States are large
Others of competent size to be joined
by them - as they are a majority
Little States are many & their
hundred great States to do so
not smaller ones to qualify
as a State may be a small one
a large common State ought to be
that smaller ones in the future
that are not in the future

June 1787

18

Notes for a Speech II, [June 30, 1787]

I pass to the second Point The Justice

Compact

Dist[inction] made by Virg[inia] inadmissible—between States & Individuals

What are Treaties Compacts betw[een] States—to be violated No {Ano[the]r Observ[ati]on dreadful—that the Compact was temporary tho[ugh] declared perpetual}

What Degrad[ati]on of Char[acte]r have We suff[er]ed on that Account? {A Despot may hereafter use the same Language}

What Treaties—what Compacts more solemn more sacred than these made by States {*[illegible]* Neighbors}—Brethren {of the same Blood—Family}? In a *[illegible]* are imminent a dreadful Danger? Dic not our Hearts dictate our Words— Our Hands confirm the Stipulations {by Subscr[ipti]on} for perpetual Remembrance— Did We not call the Nations of the Earth & Heaven itself to witness our ~~Compact~~ {Agreement}? { w}ith each other?

All to be dissolved in the short period of 11 Years— Is American fidelity only to be retained in Clouds & Storms, like the Traveller's Cloak, & to be thrown away, as soon as the bright & warm Sun breaks thro[ugh] them *[illegible]*? ~~Is this the Return to be made to p~~*[illegible]* for {~~giving Us to great a~~*[illegible]*} ~~break[ing] thro[ugh] the Red Sea?~~ Did our fellow Citizens shed their Blood, lose their Limbs, *[illegible]* {&} encounter every diff[icult] Distress & Danger—upon this Compact, that an Opport[unity] might be purchased by their suff[er]ing for violating it?

Is this the Return &c as above

{Under the Auspices of Heaven—We are where We are & what We are—Let Us recollect the Pythagorean Maxim &—“Revere ourselves”—}

What is the pretense for this Violation? No Inj[ury] in the public Co[unci]ls— No perf[idy] in the publ[ic] Cause—

Not so well acq[ua]inte[d] with [par]ticu[lars] as to the other smaller States— What has N[ew] J[ersey] done or neglected to do to merit this [treatment?] Overwhelmed with hostile Armies—her Citizens {People} plundered—~~or~~ {her *[illegible]* burnt—the *[illegible words]* the Ministers &c her Matrons & Virgins} butchered—~~She remained firm—& [illegible] fully exerted herself in the Com[mon] Cause—~~ {Did New Jersey falter— No— A mournful Mon[ument] of her own Virtues Ass[ailed?] yet faithful

Thro[ugh] the little State of Delaware, the Army of the Enemy passed, while her whole Seaboard was exposed to the cont[inau]l [Invasions?] of ~~her~~ navel forces—dart[in]g upon her wherever they pleased, & not to be [pro]tected because the Points of Attack were Unknown, till the Injuries were committed

Weak as ~~she~~ {her Army} was—yet did her Mind ever waver? No— {All succor cut off— Held by the Throat— Swords incon[s]tantly pointed} She was ready & willing to be sacrificed rather than renounce the ~~Fate~~ {Int[eres]t[s]} of her Country—

What pretence then for this Conduct to the small States? Is it necessary— I hope what had been said on the first Head demonstrates that it is not— Is necessity a {proper} Pleas in the Mouths of those who are to gain by that Plea— What did the Patriots of ~~Britain~~ {England} think & say of such a Plea in the Days of Cha[rle]s—{the 1st} I will not ~~sa~~ repeat what they said

What did {the Patriots of} America say of this Plea in the Days of George 3^d I need not repeat what they said

But—it is perhaps convenient Convenient for whom—for those who are to profit by it? So are Tender Laws to Debtors, & the Violation of Treaties to some Individuals?

But does this ~~miserable~~ Convenience outweigh {the Considerations for} an Adherence to sacred Obligations?

Ms (PPL-JDFP)

19

Notes for a Speech III, [June 30, 1787]

Is the most august Ass[embly] upon Earth to declare to Mankind that Justice & Compact must give Way to {a partial} Convenience a pretended Necessity— {To my poor Jud[gmen]t it appears, that this blending too much of Metaphysics with Politics}

{The Inspired Apostle “All Things to the[e] are lawful but not convenient” {Inspired as} He [waved] lawful Things for the Sake of others—but {t}he{y} must be bold {Politicians or} Metaphys[icians] who reverse his Rule, & say—that all Things are lawful that are convenient— I think Myself at least at Liberty to conclude—that they {who {do} reverse it} cannot be inspired by the same Spirit that he was}

The lesser States will never resign their Dignity [W]{It} must be wrested from them by Violence Nor will they then be silent They will appeal to the awful Trib[unal] of Mankind plead their Cause urge their Reasons Impart[ial] Mankind will decide upon the Question

Is this a Found[ati]on for Empire {It is a Copy of Cæsar’s favor[ite] adage “Si violandum jus est” &c Worse than Romulus[’s] fratricide for he was in a passion [&] worse than Cæsar’s—for then every Thing tended to a Monarchy at Rome} What an Example to other Nations to our own Posterity Punica fides {This will burn an indelible Stigma in to our Nat[iona]l Char[acte]r— No nice Dist[inction][s] in this Room— No Eloq[ui]ence within these Walls will be able to just[ify] it—}

[in left margin:] {What a Precedent— What a Doctrine for future Ambition to follow— We shall only be Pioneers for succeed[in]g Tyrants— If they [~~trav~~] {follow} our Steps, they must attain the Summit of their Wishes}

This Convenience or Necess[ity] or whatever other Name is in fact but a Plan for the Aggrand[izemen]t of some States at the Expence of others—

There is no other Conv[enience] No other Necessity

June 1787

Test of this Throw all Gov[ernmen]t & Terr[itory] into Com[mon] Stock & divide de novo Then We shall have the Eq[uity] & Equal[ity] talked of not otherwise

Let not G[entle]men think so meanly of the smaller States as to believe they will be contented while a beautiful Sign of Equal[ity] is held out with one Hand—but the Subst[ance] taken away with the other

This is a mere Nov[elty] an Experiment in Gov[ernmen]t Humbly submit if not too costly too [curious] too cruel {too useless} And how far it resembles those I have read of, where living Creatures have been cut up—{over}nicely to examine the Palpitations of their dying Hearts

Great Theatre Eyes of Europe & the World upon Us Caution

We are settling General Principles Let them be well founded Great Gen[eral]s Sagac[ious] Sages have in diff[eren]t Countries & Ages been employed also in form[ing] other Setts of **General Principles** Have succeeded ~~because~~ they have establ[ishe]d Gen[era]l Princ[iple]s ~~for~~ to which Mank[in]d [*illegible*]{[h]}as paid an univ[ersa]l a pleasing Homage because ~~right~~ {approved} [~~to~~]{[by]} the Underst[andin]g & dear to the Heart Incul[catin]g Lib[erty] Benev[olence] Justice

These wise {admired} Instr[uct]o[rs] of the World have modestly cloathed their Le[ssons] in the [*illegible*]{L}ang[uage] of Fable— I beg Leave to recite one of them

A Lamb &c

Ms (PPL-JDFP)

[illegible]

This is a very ^{useful} experiment in fact. Humbly submit if not too
common to ^{useful} be and how far it represents the be have said of them
Living creatures have been cut up ^{and} examined to examine the regeneration of them
during Hearts.

Great Theatre Eyes of Europe & the world upon us

(a. 11. 11. 11)
 We are settling General Principles Let them be well founded
 Great Genl. Sigurd Jager, have in diff Countries also been employed as
 in forming other diff. General Principles Have since died becoming
 native of the place where he died. How said an un-Englishing foreign
 because right to the land of the dead to the West. In fact that I was
 now was ^{young} father of the world have and duly devoted their lives to make
 King of the world — They began to write one of them
 a Lamb 11

20

Notes for a Speech IV, [June 30, 1787]

1 Policy	What Guilt?	Throw all into Common Stock & divide de novo
2 Justice	Benefit of Union	If old Things are to be done away Let
	Pass & prejud[udicial?]	all Things be new My Opin[ion] allways
Policy		the same & advocated the Cause of the
□		small States when I have the Honor of rep-
A Giant unwieldy slow		resenting Pennsylvania in the first Con-
heavy— A Father		gresses I speak in a public Character
surr[ounde]d by a Family of		The gen[era]l Sense of Mankind in
hearty, affectionate striv[in]g		form[in]g Conf[ederations] betw[een]
Sons—		ind[ependen]t and sov[ereign] States of
{[illegible insertion]}		the justice of all giving equal Votes to each
[E?][illegible] [tho[ugh]?]		In a Confed[eration] no Danger from the
[illegible]		smaller States
may be useful [illegible]		Their Int[eres]t is peace [Pro]tection Bal-
Slaving in the {[? &]} Ar-		ance
mies of {[illegible]} [Israel?]		Their Cond[iti]on teaches them the
Attached to him & each other		pol[itica]l Virtues of a Confed[erati]on
not by Fear or Servile De-		Suppresses the pol[itica]l Vices of a Con-
pendance—but by a		federation
gen[erous] tender Participa-		It is situation in Indiv[idual] or Societies
tion of Blessings—& a Reci-		that prompts & inflames Passion's pern-
procity of Blessings—&		cious to Mankind
Kindnesses & Advantages		A Sulla & a Cromwell [illegible] {had
		Vir}tue enough to serve their Country till
		[dur?]ation convinced & urged them to en-
		slave it
		Athens was regarded as a tutelary Angel
		by her Allies, till she thought, she could
		plunder them with Impunity
		And even Britain was the Tool of these
		States, till in the Dream of Insolence, she
		flattered herself, she could [illegible]
		them Hewers of Wood &c
		These Truths {therefore}, Reason teaches
		Experience {History} confirms

States of Greece ruined by Contests between the powerful State of Sparta & Athens—

{~~What is our own Experience~~}

The same Dissensions ruined the Achaian League—

Germany [&?] Danger from the House of Austria Prussia raised upon a Ballance

Call for opposite Instances

{I recollect not any Conf[ederati]on destroyed by smaller States unless irritated by greater— Macedon called in to oppose Sparta Denmark [*illegible*]}

What is our own Experience

Doctrine of M.^r M[adison]—

What are the Causes of our Distress

Note the Votes of the smaller States Ment[i]on Cases if any

No The Want of greater powers in Congress & a better organized Gov[ernment]—

What single Instance of the Interests of the greater States being {*illegible*} inj[ure]d by the Interests of Votes of the smaller States? None

A Majority of the States are large They therefore may erect others of competent size to prevent them from the dangerous Desires or daring Enterprizes of their weaker Associates

The smaller States must of Necessity decrease in their Importance

They are content to dye a natural Death— for States as well as Men must dye— All they ask—& when I survey this Assembly,

I may say, they ask with Confidence with [*illegible*]{*illegible*} Affection, that they may not be ~~assassinated~~ {put to Death} by their Brethren— One Empire was founded in Fratricide by Romulus, but his Brother had [pro]voked him by Insults— This a

A little Book &c

“And they said one to another, We are verily guilty concerning our Brothers in that We saw the Anguish of his Soul, when he besought Us; and we would not hear:

June 1787

therefore is this Distress
come upon Us.

And Reuben answered
them saying, spake I not unto
You, saying, Do not sin
against that Chile and you
would not hear? Therefore,
behold also, his Blood is re-
quired.”

change[ful] World This Consid[erati]on re-
minds Me of some Words I have read in
(see margin X)

I look for better Things—Yesterday’s
Vote [pro]ves that instead of {(See above
□)}

If in every small State shoul[d] arise a
Cæsar As brave as Alex[ande]r
As artful as Hannibal & as infamous as
Borgia, he could not [injure] the greater

What is their Situation—one at each Ex-
tremity

Two others separated by a very powerful a
very Commercial State

Closely connected with her by Blood by
Marriages by Friendships by every Kind of
Interest—& almost wholly dependent
upon her in Commerce The [F][illegible]
Suppliers of her Exports &—[Com?] {[&
Com?]} {[illegible]} The Consumers of
her Imports

From the first Moment of their Exist-
ence, they have been thus connected to—I
had almost said, devoted to her constantly
{& cheerfully} contribut[ing] to ~~build~~ {ex-
tend [illegible]} her [fleets] & to spread her
Sails upon the Ocean [the?] ~~Welfare~~ Un-
suspecting & affectionate they rejoice in
the Connection

These are Ties not to be dissolved but by
an imprudent an unneighbourly Attempt
on her Side to Stab them to the Heart—

She will then be esteemed {by them} as
selfish in her politics, as She is {just} lib-
eral generous & magnanimous in every
other Point of View

Ms (PPL-JDFP)

21

Notes on Representation and Slavery in the West, [July 9–14, 1787]

Contempl[ate] the Encrease of this Empire

{[Pro]port[i]on from} Numbers is allmost universally the best Rule—but our peculiar Circumst[ances] render it im[pro][per] if not unsafe

16 or 17 New States will arise—if We have not a Mon[archy] introduced All the Southern States—Penn[sylvani]a New York & Mass[achusetts] will most [pro]bably be subdiv[id]d—

The old {parts of these} will contrib[ute] greatly more to publ[ic] Uses— Is each new State instantly to start into an Equal[ity] of Power, by its Numb[er]s only?

The Inhabitants will undoubtedly be very numerous but poor in Comp[arison] with the others They will contrib[ute] little or Noth[in]g— The Laws will be slighted—{!}

They will be broken— & yet they will have & exercise a Right of legislat[in]g for the older States

The best Philos[ophy] is drawing from Experiments

The best Policy from Experience

I know a State—where the utmost Frugality was pract[ice]d while the Memb[ers] of Ass[embly] were chosen in [*illegible*] {so} me [Pro]po[rt]ion to the Taxes of each Co[un]ty— When Numb[er]s were admitted as the princ[iple] the very Reverse took Place— The Memb[er]s from Co[un]ties that paid little or Nothing disposed of the whole [Pro][per]ty of the State—

No State ever to exceed the [Pro]port[ion] of 20 to 1 to the smallest— The [pre]sent [Pro]port[ion] to be establ[ishe]d

Every new State to be put on the same foot[in]g with the smallest— Then Contrib[uti]ons to determine— provided &c [*page break*]

Acting before the World

What will be said of this new Gov[ernmen]t of found[in]g a Right to govern Freemen on a power derived from Slaves, ~~exclusive of~~ {in preference to in a D[open?]} other [Pro][per]ty} themselves incapable of gov[ernin]g—yet giving to others what they have not— The omit[in]g the Word will be regarded as an Endeavour to conceal a princ[iple] of wh[ic]h we are ashamed

Every Importa[tio]n of Slaves will encrease the Power of the State over others—

This princ[iple] I wish to avoid—

John Dickinson and the Making of the U.S. Constitution

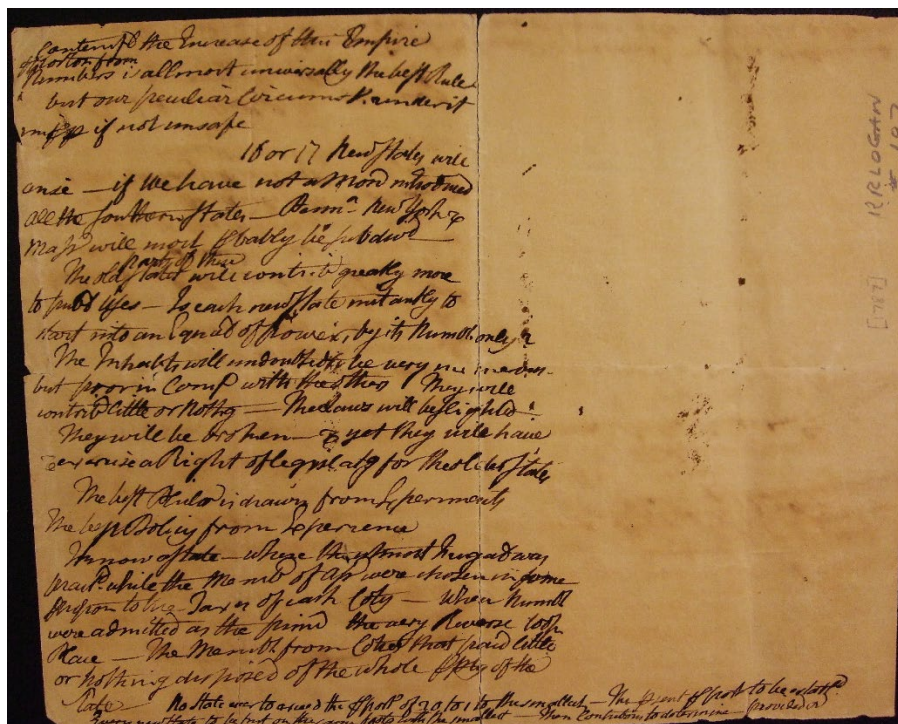
A Cal[culat]ion of the Value of [Pro]p[er]ty I acknowl[edge] to be impract[ical]— Why not admit actual Contrib[uti]ons as the Rule— Obj[ecti]on from Massach[usetts]

Is it to be taken for granted that no Land tax or other from Imp[osi]tions is to be laid by the National Legis[ature]— It is next to imposs[ible]— England & Holland with their vast Commerce & their Imports [*illegible*] & Ex-
cises have [*illegible*] {Land?} taxes— Tis true, their Laws extend to the Af-
fairs Expenses of the whole Nation— Here div[ide]d with the [par]ticular Legis[atures]
but this Nat[ional] Legis[ature] will cert[ain]ly comprehend especially in Time almost the whole Expenses of the Nation— The rest will be but a Drop in the Bucket— Nat[ional] Debt— & arrears [of] Expences— [*illegible*]
[*illegible*] this [*illegible*] {Prop[osition]?}

Obj[ection] from Mass[achusetts] holds not in that Case

& if even Imposts & Excise were to be computed, yet the Inconv[enience] apprehended might be totally removed by a prov[isi]on that the Repr[esentati]on of no State should rise beyond a certain [Pro]portion to its Neighbours

Ms (PPL-JDFP)



July 1787

22

On Election of the Executive, July 25, 1787

Mr. Dickinson. As far as he could judge from the discussion which had taken place during his attendance, insuperable objections lay ag[ain]st an election of the Executive by the Nat[iona]l Legislature; as also by the Legislatures or Executives of the States— He had long leaned towards an election by the people which he regarded as the best and purest source. Objections he was aware lay ag[ain]st this mode, but not so great he thought as ag[ain]st the other modes. The greatest difficulty in the opinion of the House seemed to arise from the partiality of the States to their respective Citizens. But, might not this very partiality be turned to a useful purpose. Let the people of each State chuse its best Citizen. The people will know the most eminent characters of their own States, and the people of different States will feel an emulation in selecting those of which they will have the greatest reason to be proud— Out of the thirteen names thus selected, an Executive Magistrate may be chosen either by the Nat[iona]l Legislature, or by Electors appointed by it.

Madison in [Farrand, 2:114](#)

23

On Qualifications in the Constitution, July 26, 1787

Mr. Dickenson. was ag[ain]st any recital of qualifications in the Constitution. It was impossible to make a compleat one, and a partial one would by implication tie up the hands of the Legislature from supplying the omissions, The best defence lay in the freeholders who were to elect the Legislature. Whilst this Source should remain pure, the public interest would be safe. If it ever should be corrupt, no little expedients would repel the danger. He doubted the policy of interweaving into a Republican constitution a veneration for wealth. He had always understood that a veneration for poverty & virtue, were the objects of republican encouragement. It seemed improper that any man of merit should be subjected to disabilities in a Republic where merit was understood to form the great title to public trust, honors & rewards.

Madison in [Farrand, 2:123](#)

24

On Restricting Rights in the First Branch, August 7, 1787

Mr. Dickenson. had a very different idea of the tendency of vesting the right of suffrage in the freeholders of the Country. He considered them as the best guardians of liberty; And the restriction of the right to them as a necessary defence ag[ain]st the dangerous influence of those multitudes without property & without principle, with which our Country like all others, will in time abound. As to the unpopularity of the innovation it was in his opinion chemirical. The great mass of our Citizens is composed at this time of freeholders, and will be pleased with it.

Madison in [Farrand, 2:202](#)

25

On Restricting Money Bills, August 13, 1787

Experience must be our only guide. Reason may mislead us. It was not Reason that discovered the singular & admirable mechanism of the English Constitution. It was not Reason that discovered or ever could have discovered the odd & in the eye of those who are governed by reason, the absurd mode of trial by Jury. Accidents probably produced these discoveries, and experience has given a sanction to them. This is then our guide. And has not experience verified the utility of restraining money bills to the immediate representatives of the people. Whence the effect may have proceeded he could not say; whether from the respect with which this privilege inspired the other branches of Gov[ernmen]t to the H[ouse] of Commons, or from the turn of thinking it gave to the people at large with regard to their rights, but the effect was visible & could not be doubted Shall we oppose to this long experience, the short experience of 11 years which we had ourselves, on this subject— As to disputes, they could not be avoided any way. If both Houses should originate, each would have a different bill to which it would be attached, and for which it would contend.— He observed that all the prejudices of the people would be offended by refusing this exclusive privilege to the H[ouse] of Repres[entative]s and these prejudices sh[oul]d never be disregarded by us when no essential purpose was to be served. When this plan goes forth, it will be attacked by the popular leaders. Aristocracy will be the watchword; the Shibboleth among its adversaries. Eight States have inserted in their Constitutions the exclusive right of originating money bills in favor of the popular branch of the

Legislature. Most of them however allowed the other branch to amend. This he thought would be proper for us to do.

Madison in [Farrand, 2:278](#)

26

On Wages for the National Legislature, August 14, 1787

Mr Dickenson took it for granted that all were convinced of the necessity of making the Gen[era]l Gov[ernmen]t independent of the prejudices, passions, and improper views of the State Legislatures. The contrary of This was effected by the section as it stands. On the other hand, there were objections agst taking a permanent standard as Wheat which had been suggested on a former occasion, as well as against leaving the matter to the pleasure of the Nat[iona]l Legislature. He proposed that an Act should be passed every 12 years by the Nat[ional] Legislatu[re] settling the quantum of their wages. If the Gen[era]l Gov[ernmen]t should be left dependent on the State Legislatures, it would be happy for us if we had never met in this Room.

Madison in [Farrand, 2:292](#)

27

On the Importation of Slaves, August 22, 1787

Mr. Dickenson considered it as inadmissible on every principle of honor & safety that the importation of slaves should be authorized to the States by the Constitution. The true question was whether the national happiness would be promoted or impeded by the importation, and this question ought to be left to the National Gov[ernmen]t not to the States particularly interested. If Engl[an]d & France permit slavery, slaves are at the same time excluded from both those Kingdoms. Greece and Rome were made unhappy by their slaves. He could not believe that the South[er]n States would refuse to confederate on the account apprehended; especially as the power was not likely to be immediately exercised by the Gen[era]l Government.

Madison in [Farrand, 2:372–73](#)

28

Fragment on the Division of Powers and the Electoral College, [n.d.]

The progress towards the creation of the Electoral College was arduous, evolving over the better part of the Convention between June 2, when the discussions turned towards the election of the executive, and September 4, when the Committee on Postponed Parts concluded its work. As with most ideas at the Convention, many delegates contributed to the discussion, including James Wilson, Hugh Williamson, and Luther Martin. Much of the discussion and disagreement hinged on the relative power of the large and small states and the separation of powers among the three branches. On July 25, JD made his contribution (see doc. 22, above).

Although his proposal did not come to a vote at the time, JD's presence on the Committee of Postponed Parts surely influenced its work. When the Electoral College was formed, Georgia delegate Abraham Baldwin spoke for his colleagues when he proclaimed, "the mode [of electing the president] was perfectly novel, and therefore occasioned a pause; but when explained and fully considered was universally admired, and viewed as the most pleasing feature in the Constitution."¹

Despite JD's central role in forming the Electoral College, as this note indicates, he seems to have disliked the institution, considering it little different from the state legislatures electing the president, an idea he had opposed. The note suggest that he continued to prefer his original idea of popular election of the president.

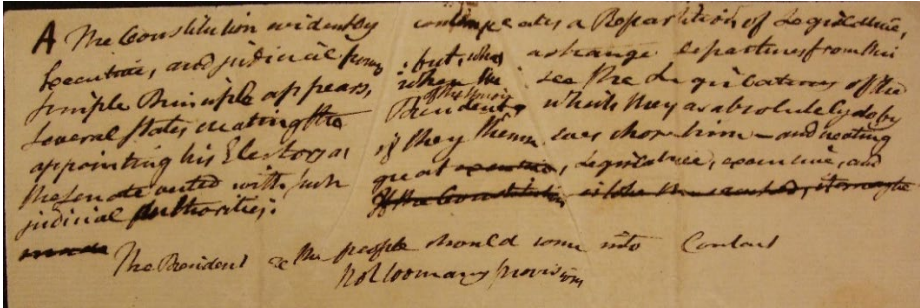
The "A" at the beginning of this fragment, scrawled on an envelope, indicates it was intended as an insertion to a longer, unidentified essay.

A The Constitution evidently contemplates a Repartition of Legislative, Executive, and judicial Powers: but, what a strange Departure[,] from this simple Principle appears, when [~~illegible~~] {We} see the Legislatures of the several States creating the President {of the Union} [;] {,} which they as absolutely do by appointing his Electors as if they themselves chose him—and creating the Senate vested with such great ~~executive~~, Legislative, executive, and judicial ~~Pe~~ {Au}thorities: ~~If the Constitution is to be thus racked?], it may be made~~

The President & the People should come into Contact
Not too many provisions

Ms (PPL-JDFP)

¹ Farrand, 3:403.



29

Note on the Constitution, [n.d.]

Written on a scrap of envelope, this fragment reads as though it is part of the *Fabius Letters*, below. The same language, however, is not found there.

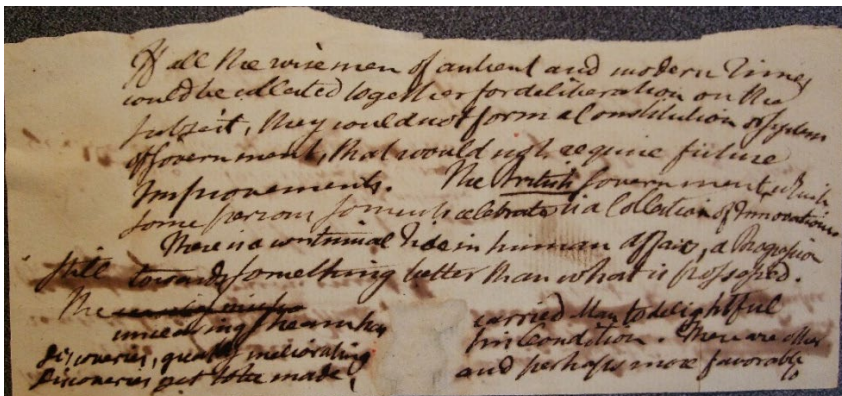
If all the wise men of antient and modern Times could be collected together for deliberation on the Subject, they could not form a Constitution or System of Government, that would not require future Improvements. The British Government, which some Persons so much celebrate is a Collection of Innovations.

There is a continual Tide in human Affairs, a Progression still towards something better than what is possessed.

The [ceaseless?] [mist?]

unceasing Stream has carried Man to delightful Discoveries, greatly meliorating his Condition. There are other Discoveries yet to be made, and perhaps more favorable to

Ms (PHi-RRL)



RATIFICATION OF THE CONSTITUTION

30

Fabius [JD], "Observations on the Constitution proposed by the Federal Convention, No. 1," *The Pennsylvania Mercury, and Universal Advertiser*, April 12, 1788

OBSERVATIONS on the CONSTITUTION proposed by the FEDERAL CONVENTION.

THE Constitution proposed by the Federal Convention now engages the fixed attention of *America*.

Every person appears to be affected. Those who wish the adoption of the plan, consider its rejection as the source of endless contests, confusions, and misfortunes; and they also consider a resolution to alter, without previously adopting it, as a rejection.

Those who oppose the plan, are influenced by different views. Some of them are friends, others of them are enemies, to the United States. The latter are of two classes; either men without principles or fortunes, who think they may have a chance to mend their circumstances, *with impunity*, under a *weak government*, or in *public convulsions*, but cannot make them worse even by the last—or men who have been always averse to the revolution; and though at first confounded by that event, yet, their hopes reviving with the declension of our affairs, have since persuaded themselves, that at length the people, tired out with their continued distresses, will return to their former connection with *Great-Britain*. To argue with these opposers, would be vain—The other opposers of the plan deserve the highest respect.

What concerns all, should be considered by all; and individuals may injure a whole society, by not declaring their sentiments. It is therefore not only their *right*, but their *duty*, to declare them. Weak advocates of a good cause or artful advocates of a bad one, may endeavour to stop such communications, or to discredit them by clamor and calumny. This, however, is not the age for such tricks of controversy. Men have suffered so severely by being deceived upon subjects of the highest import, those of religion and freedom, that *truth* becomes infinitely valuable to them, not as a matter of curious speculation, but of beneficial practice—A spirit of enquiry is excited, information diffused, judgment strengthened.

Before this tribunal, let every one freely speak, what he really thinks, but with so sincere a reverence for the cause he ventures to discuss as to

April 1788

use the utmost caution, lest he should lead into errors, upon a point of such sacred concern as *the public happiness*.

It is not the design of this address, to describe the present derangement of our affairs, the mischief that must ensue from its continuance, the horrors of a total dissolution of the union, or the division of it into partial confederacies. Nor is it intended to describe the evils that will result from pursuing the plan of another Federal Convention; as if a better temper of conciliation, or a more satisfactory harmony of decisions, could be expected from men, after their minds are agitated with disgust and disappointments, than before they were thus disturbed; though from an uncontradicted assertion it appears, that without such provocations, the difficulty of reconciling the interests of several states was so near to INSUPERABLE, in the late Convention, that after many weeks spent in the most faithful labors to promote concord, the members were upon the very point of dispersing in the utmost disorder, jealousy and resentment, and leaving the states exposed to all the tempests of passions, that have been so fatal to confederacies of democratical republics.

All these things have been laid before the public in a much better manner, than the writer of this address is capable of, and to repeat what has been said, he means not. What he wishes, is to simplify the subject, so as to facilitate the enquiries of his fellow citizens.

Many are the objections made to the system proposed. They should be distinguished. Some may be called *local*, because they spring from the supposed interests of individual states. Thus, for instance, some inhabitants of large states may desire the system to be altered, that they may possess more authority in the decisions of the government; or some inhabitants of commercial states may desire it to be so altered, that the advantages of their trade may center almost wholly among themselves; and this predilection they may think compatible with the common welfare. Their judgment being thus warped at the beginning of their deliberation, objections are accumulated as very important, that, without this prepossession, would never have obtained their approbation. Certain it is, that strong understandings may be so influenced by this insulated patriotism, as to doubt, whether general benefits can be communicated by a general government.

Probably nothing would operate so much for the correction of these errors, as a perusal of the accounts transmitted to us by the ancients, of the calamities occasioned in *Greece* by a conduct founded on similar errors. They are expressly ascribed to the cause—that *each city meditated apart in its own profit and ends—insomuch that those who seemed to contend*

for union, could never relinquish their own interests and advancement, while they deliberated for the public.

Heaven grant! that our countrymen may pause in time—duly estimate the present moment—and solemnly reflect—whether their measures may not tend to draw down the same distractions upon us, that desolated *Greece*.

They may now tolerably judge from the proceedings of the Federal Convention and of other Conventions, what are the sentiments of *America* upon her present and future prospects. Let the voice of her distress be venerated—and adhering to the generous *Virginian* declaration, let them resolve to CLING TO UNION AS THE POLITICAL ROCK OF OUR SALVATION.

FABIUS, No. I.

31

Fabius [JD], “Observations on the Constitution proposed by the Federal Convention, No. II,” *The Pennsylvania Mercury, and Universal Advertiser*, April 15, 1788

OBSERVATIONS ON THE CONSTITUTION proposed by the FEDERAL CONVENTION.

BUT besides the objections originating from the before mentioned cause, that have been called *local*, there are other objections that are supposed to arise from the maxims of liberty and policy.—

Hence it is inferred, that the proposed system has such inherent vices, as must necessarily produce a bad administration, and at length the oppression of a monarchy or an aristocracy in the federal officers.

The writer of this address being convinced by as exact an investigation as he could make, that such mistakes may lead to the perdition of his country, esteems it his indispensable duty, strenuously to contend, that—THE POWER OF THE PEOPLE pervading the proposed system, together with the STRONG CONFEDERATION OF THE STATES, forms an adequate security against *every* danger that has been apprehended.

If this single assertion can be supported by facts and arguments, there will be reason to hope, that painful anxieties will be removed from the minds of some citizens, who are truly devoted to the interests of *America*, and who have been thrown into afflictive perplexities, by the never-ending mazes of multiplied, intricate, and contrariant disquisitions. The objectors agree, that the *confederation of the states will be strong*, according to the

system proposed, and *so strong*, that many of them loudly complain of that strength. On this part of the assertion, there is no dispute: But some of the objections that have been published, strike at another part of the principle assumed, and deny, that the system is sufficiently founded on *the power of the people*.

The course of regular enquiry demands, that *these* objections should be considered in the first place. If *they* are removed, then *all the rest* of the objections, concerning unnecessary taxations, standing armies, the abolishment of trials by jury, the liberty of the press, the freedom of commerce, the judicial, executive, and legislative authorities of the several states, & the rights of citizens, and the other abuses of federal government, must, of consequence, be rejected, if the principle contains the salutary, purifying, and preserving qualities attributed to it. The question then will be—*Not what may be done, when the government shall be turned into a tyranny; but, how the government can be so turned?*

Thus unembarrassed by subordinate discussions, we may come fairly to the contemplation of *that* superior point, and be better enabled to discover, whether our attention to it will afford any lights, whereby we may be conducted to *peace, liberty, and safety*.

The objections, denying that the system proposed is sufficiently formed on *the power of the people*, state, that the *number* of the federal trustees or officers, is too *small*, and that they are to hold their *offices too long*.

One would really have supposed, that *smallness of number* could not be termed a cause of danger, as *influence* must encrease with *enlargement*. If this is a fault, it will soon be corrected, as an addition will be often made to the number of the *senators*, and, almost every year, to that of the *representatives*; and in all probability much sooner, than we shall be able and willing to bear the expence of the addition.

As to the *senate*, it never can be, and it never ought to be large, if it is to possess the powers, which almost all the objectors seem inclined to allot to it, as will be evident to every intelligent person, who considers those powers.

Tho' small, let it be remembered, that it is to be created by the *sovereignties* of the several states; that is, by the persons, whom the people of each state shall judge to be *most worthy*, and who, surely, will be religiously attentive to making a selection, in which the interest and honour of their state will be so extensively concerned. It should be remembered too, that this is *the same manner*, in which the members of Congress are now appointed; and that *herein*, the *sovereignties* of the states are so intimately involved, that however a *renunciation* of part of these powers may

be desired by *some of the states*, it NEVER will be obtained from *the rest* of them. Peaceable, paternal, and benevolent as these are, they think, the concessions *they* have made, ought to satisfy *all*.

That the *senate* may always be kept *full*, without the interference of Congress, it is provided that if vacancies happen by resignation or otherwise, during the recess of the legislature of any state, the executive thereof may make temporary appointments, until the next meeting of the legislature, which *shall* then fill up such vacancies.

As to the *house of representatives*, it is to consist of a number of persons, not exceeding one for every thirty thousand. Thus, *every* member of that house will be elected by a *majority of the electors of a whole state*; or, by a *majority of electors, among thirty thousand persons*. These electors will reside, widely dispersed, over an extensive country. Cabal and corruption will be as impracticable, as, on such occasions, human institutions can render them. *The will of freemen*, thus circumstanced, will give the *fiat*. The purity of election thus obtained, will amply compensate for the supposed defect of representation; and the members, thus chosen, will be most apt to harmonize in their proceedings, with the general interests, feelings, and sentiments of the people.

Allowing such an increase of population as, from experience and a variety of causes, may be expected, the *representatives*, in a short period, will amount to several hundreds, and most probably long before any change of manners for the worse, that might tempt or encourage our rulers to mal-administration, will take place on this continent.

That *this house* may *always* be kept *full*, without the interference of Congress, it is provided in the system, that when vacancies happen in any state, the executive authority thereof *shall* issue writs of election to fill such vacancies.

But, it seems, the number of the federal officers is not only too small: They are to hold their offices *too long*.

This objection surely applies not to the *house of representatives*, who are to be chosen *every two years*, especially if the extent of empire, and the vast variety and importance of their deliberations, be considered. In that view, *they* and the *senate* will actually be not only *legislative* but also *diplomatic* bodies, perpetually engaged in the arduous task of reconciling, in their determinations, the interest of several *sovereign* states, not to insist on the necessity of a competent knowledge of *foreign* affairs, relative to the states.

They who desire the *representatives* to be chosen *every year*, should exceed *Newton* in calculations, if they attempt to evince, that the public

April 1788

business would, in that case, be better transacted, than when they are chosen *every two years*. The idea, however, should be excused for the zeal that prompted it.

Is monarchy or aristocracy to be produced, without the consent of the people, by a *house of representatives*, thus constituted?

It has been unanimously agreed by the friends of liberty, FREQUENT ELECTIONS OF THE REPRESENTATIVES OF THE PEOPLE, ARE THE MOST SOVEREIGN REMEDY OF ALL GRIEVANCES IN A FREE GOVERNMENT. Let us pass on to the senate.

At the end of two years after the first election, *one third* is to be elected for *six* years. Of the remaining thirds, one will constantly have but *four* years, and the other but two years to continue in office. The whole number at first will amount but to *twenty-six*, must ever continue *very small*, will be regularly *renovated* by the *biennial* election of *one third*, and will be *overlooked, and overawed* by the house of *representatives*, nearly three times more numerous at the beginning, rapidly and vastly augmenting, and more enabled to overlook & overawe them, by holding *their* offices for *two* years, as thereby they will acquire better information, respecting national affairs. These *representatives* will also command the public purse, as *all bills for raising revenue*, must *originate* in their house.

As in the *Roman* armies, when the *Principes* and *Hastati* had failed, there were still the *Triarii*, who generally put things to rights, so we shall be supplied with another resource.

We are to have a *president*, to *superintend*, and if he thinks the public weal requires it, to *controul* any act of the *representatives* and *senate*.

This president is to be chosen, not by the people at large, because it may not be possible, that all the freemen of the empire should always have the necessary information, for directing their choice of such an officer; nor by Congress, lest it should disturb the national councils; nor BY ANY ONE BODY WHATEVER, for fear of undue influence.

He is to be chosen in the following manner. Each state shall appoint, as the legislature thereof may direct, a number of *electors*, equal to *the whole number of senators and representatives*, to which the state shall be entitled in Congress: but no *senator* or *representative*, or *person holding an office of trust* or profit under *the United States*, shall be appointed an elector. As these electors are to be appointed, as the legislature of each state may direct, of course they will be appointed by the people of the state, if *such be the pleasure of the people*. Thus, the fairest, freest opening is given, for each state to chuse such *electors* for this purpose, as shall be most signally qualified to fulfil the trust.

To guard against undue influence these electors, thus chosen, are to meet *in their respective states*, and vote *by ballot*; and still further to guard against it, Congress may determine the *time of chusing the electors, and the day on which they shall give their votes*—WHICH DAY SHALL BE THE SAME THROUGHOUT THE UNITED STATES. All the votes from the several states are to be transmitted to Congress, and therein counted. The president is to hold his office for *four years*.

When these electors meet in their respective states, utterly vain will be the unreasonable suggestions derived from *partiality*. The electors may throw away their votes, mark, with public disappointment, some person improperly favoured by them, or justly revering the duties of their office, dedicate their votes to the best interests of their country.

This president will be no *dictator two thirds of the representatives and the senate* may pass any law, *notwithstanding his dissent*; and he is *removable and punishable* for misbehaviour.

Can the limited, fluctuating *senate*, placed amidst such powers, if it should become willing, ever become able, to make *America* pass under its yoke? The senators will generally be inhabitants of places very distant one from another. They can scarcely be acquainted till they meet. Few of them can ever act together for any length of time, unless their good conduct recommends them to a re-election; and then there will be frequent changes in a body *dependent upon the choice of other bodies*, the legislatures of the several states, that are altering every year. *Machiavel* and *Cæsar Borgia* together could not form a conspiracy in such a senate, dangerous to any but themselves and their accomplices.

It is essential to every good government, that there should be *some council*, permanent enough to get a due knowledge of affairs internal and external; so constituted, that by some deaths or removals, the current of information should not be impeded or disturbed; and so regulated, as to be responsible to, and controulable *by the people*. Where can the authority for combining these advantages, be more *safely, beneficially or satisfactorily*, lodged, than in the senate, to be formed according to the plan proposed? Shall parts of the trust be committed to the president, with *counsellors* who shall subscribe their advices? If assaults upon liberty are to be guarded against, and surely they ought to be with sleepless vigilance, why should we depend more on *the commander in chief* of the army and navy of the United States, and of the militia of the several states, and on his counsellors, whom he may secretly influence, than on the *senate* to be appointed by the persons exercising, the *sovereign* authority of the several states? In truth, the objections against the powers of the senate originated from a desire to have them, or at least some of them, vested in a body, in

April 1788

which the several states should be represented, in proportion to the number of inhabitants, as in the house of representatives. This method is UNAT-TAINABLE, and the wish for it should be dismissed from every mind, that desires the existence of a confederation.

What assurance can be given, or what probability be assigned, that a board of councillors would continue honest, longer than the senate? Or, that they would possess more useful information, respecting all the states, than the senators of all the states? It appears needless to pursue this argument any further.

How varied, ballanced, concordant, and benign, is the system proposed to us? To secure the freedom, and promote the happiness of these and future states, by giving THE WILL OF THE PEOPLE a decisive influence over the whole, and over all the parts, with what a comprehensive arrangement does it embrace different modes of representation, from an election by a county to an election by an empire? What are the complicated ballot, and all the refined devices of *Venice* for maintaining her aristocracy, when compared with this plain dealing work for diffusing the blessings of *equal liberty and common prosperity* over myriads of the human race?

All the foundations before mentioned, of the federal government, are by the proposed system to be established, in the most clear, strong, positive, unequivocal expressions, of which our language is capable. *Magna charta*, or any other law, never contained clauses more decisive and emphatic. While the people of these states have sense, they will understand them; and while they have spirit, they will make them to be observed.

FABIUS, No. II.

32

Fabius [JD], "Observations on the Constitution proposed by the Federal Convention, No. III," *The Pennsylvania Mercury, and Universal Advertiser*, April 17, 1788

OBSERVATIONS on the Constitution proposed by the Federal Convention.

THE Writer of this Address hopes, that he will now be thought so disengaged from the objections against the part of the principle assumed, concerning *the power of the people*, that he may be excused for recurring to

his assertion, that—*the power of the people* pervading the proposed system, together with *the strong confederation of the states*, will form an adequate security against *every* danger that has been apprehended.

It is a mournful, but may be a useful truth, that the liberty of *single republics* has generally been destroyed by *some of the citizens*, and of *confederated republics*, by *some of the associated states*.

It is more pleasing, and may be more profitable to reflect, that, their tranquility and prosperity have commonly been promoted, in proportion to the strength of their government for protecting *the worthy* against *the licentious*.

As in forming a political society, each individual *contributes* some of his rights, in order that he may, from *a common stock* of rights, derive greater benefits, than he could from merely *his own*; so, in forming a confederation, each political society should *contribute* such a share of their rights, as will, from *a common stock* of rights, produce the largest quantity of benefits for them.

But, *what is that share?* and, *how to be managed?* Momentous questions! Here, flattery is treason; and error, destruction.

Are they unanswerable? No. Our most gracious Creator does not *condemn* us to sigh for unattainable blessedness: But one thing he *demand*s—that we should seek for it in *his* way, and not in *our own*.

Humility and *benevolence* must take place of *pride* and *overweening selfishness*. Reason, then rising above these mists, will discover to us, that we cannot be true to ourselves, without being true to others—that to be solitary, is to be wretched—that to love our neighbours as ourselves, is to love ourselves in the best manner—that to give, is to gain—and, that we never consult our own happiness more effectually, than when we most endeavour to correspond with the Divine designs, by communicating happiness, as much as we can, to our fellow-creatures. Inestimable truth! sufficient, if they do not barely ask what it is, to melt tyrants into men, and to sooth the inflamed minds of a multitude into mildness—sufficient to overflow this earth with unknown felicity—INESTIMABLE TRUTH! which our Maker, in his providence, enables us, not only to talk and write about, but to adopt in practice of vast extent, and of instructive example.

Let us now enquire, if there be not some *principle*, *simple* as the laws of nature in other instances, from which, as from a source, the many benefits of society are deduced.

We may with reverence say, that our Creator designed men for society, because otherwise they could not be happy. They cannot be happy without freedom; nor free without security; that is, without the *absence* of

fear; nor thus secure, without society. The conclusion is strictly syllogistic—that men cannot be free without society. Of course, they cannot be *equally free* without society, which freedom produces the greatest happiness.

As these premises are invincible, we have advanced a considerable way in our enquiry upon this deeply interesting subject. If we can determine, what share of his rights, every individual must contribute to the common stock of rights in forming a society, for obtaining *equal freedom*, we determine at the same time, what share of their rights each political society must contribute to the common stock of rights in forming a confederation, which is only a larger society, for obtaining *equal freedom*: For, if the deposit be not proportioned to the magnitude of the association in the latter case, it will generate the same mischief among the component parts of it, from their inequality, that would result from a defective contribution to association in the former case, among the component parts of it, from their inequality.

Each individual then must contribute such a share of his rights, as is necessary for attaining that SECURITY that is essential to freedom; and he is bound to make this contribution by the law of his nature; that is, by the command of his creator; therefore, *he must submit his will, in what concerns all, to the will of the whole society*. What does he lose by this submission? The power of doing injuries to others—the dread of suffering injuries from them—and, the incommunities of mental or bodily weakness.—What does he gain by it? The aid of those associated with him—protection against injuries from them or others—a capacity of enjoying his undelegated rights to the best advantage—a repeal of his fears—and tranquility of mind—or, in other words, that *perfect liberty* better described in the Holy Scriptures, than any where else, in these expressions—“When *every* man shall *sit* under his vine, and under his fig-tree, and NONE SHALL MAKE HIM AFRAID.”

The like submission, with a correspondent expansion and accommodation, must be made between states, for obtaining the like benefits in a confederation. Men are the materials of both. As the largest number is but a junction of units,—a confederation is but an assembly of *individuals*. The sanction of that *law* of his nature, upon which the happiness of a man depends in society, must attend him in confederation, or he becomes unhappy; for confederation should promote the happiness of *individuals*, or it does not answer the intended purpose. Herein there is a progression, not a contradiction. As man, he becomes a citizen; as a citizen, he becomes a *federalist*. The generation of one, is not the destruction of the other. He carries into society his naked rights: These thereby improved, he carries

into confederation. If that sacred law before mentioned, is not here observed, the confederation would not be *real*, but *pretended*. He would confide, and be deceived.

The dilemma is inevitable. There must either be *one* will, or *several* wills. If but *one* will, *all* the people are concerned; if *several* wills, *few* comparatively are concerned. Surprising! that this doctrine should be contended for by those, who declare, that the constitution is not founded on a *bottom broad enough*; and, though THE WHOLE PEOPLE of the United States are to be TREBLY represented in it in THREE DIFFERENT MODES of representation, and their servants will have the most advantageous situation and opportunities of acquiring all requisite information for the welfare of *the whole union*, yet insist for a privilege of *opposing*, *obstructing*, and *confounding* all their measures taken with common consent for the general weal, by the delays, negligences, rivalries, or other selfish views of *parts* of the union.

Thus, while one state should be relied upon by the union for giving aid, upon a recommendation of Congress, to another in distress, the latter might be ruined; and the state relied upon, might suppose, it would gain by such an event.

When any persons speak of a confederation, do they, or do they not acknowledge, that the *whole* is *interested* in the safety of *every* part—in the *agreement* of *parts*—in the *relation* of *parts* to *one another*—*to the whole*—or, to *other societies*? If they do—then, the *authority* of the *whole*, must be co-extensive with its *interests*—and if it is, the will of the *whole* must and *ought* in *such cases* to govern.

If they do not acknowledge, that *the whole* is *thus interested*, the conversation should cease. Such persons mean not a confederation, but something else.

As to the idea, that this superintending sovereign will must of consequence destroy the subordinate sovereignties of the several states, it is begging a concession of the question, by inferring that a manifest and great *usefulness* must necessarily end in *abuse*; and not only so, but it requires an extinction of *the principle of all society*: for, the subordinate sovereignties, or, in other words, the undelegated rights of the several states, in a confederation, stand upon the very same foundation with the undelegated rights of individuals in a society, the *federal sovereign* will being *composed* of the *subordinate sovereign wills* of the several confederated states. If as some persons seem to think, *a bill of rights* is *the best security* of rights, the sovereignties of the several states have *this* best security by the proposed constitution, & more than *this* best security, for they are not barely *declared* to be rights, but are taken into it as *component*

parts, for *their* perpetual preservation by *themselves*. In short, the government of each state is, and is to be, *sovereign* and *supreme* in *all* matters that *relate* to each state *only*. It is to be *subordinate* barely in *those* matters that *relate* to the *whole*; and it will be their own faults, if the several states suffer the *federal sovereignty* to interfere in things of their respective jurisdictions. An instance of such interference with regard to *any single state*, will be a dangerous *precedent* as to *all*, and therefore will be guarded against *by all*, as the trustees or servants of the several states will not dare, if they retain their senses, so to violate the *independent sovereignty* of their respective states, that justly darling object of *American* affections, to which they are responsible, besides being endeared by all the charities of life.

The common sense of mankind agrees to the devolution of individual wills in society; and if it has not been as universally assented to in confederation, the reasons are evident, & worthy of being retained in remembrance by *Americans*. They were, want of opportunities, or the loss of them, through defects of knowledge and virtue. The principle however has been sufficiently vindicated in imperfect combinations, as their prosperity has generally been commensurate to its operation.

How beautifully and forcibly does the inspired Apostle Saint *Paul*, argue upon a sublimer subject, with a train of reasoning strictly applicable to the present? His words are—"If the foot shall say, because I am not the hand, I am not of the body; is it therefore not of the body? and if the ear shall say, because I am not the eye, I am not of the body; is it therefore not of the body?" As plainly inferring, as could be done in that allegorical manner, the strongest censure of such partial discontents and dissensions, especially, as his meaning is enforced by his description of the *benefits* of *union* in these expressions—"But, *now* they are *many members*, yet but *one body*: and the eye CANNOT say to the hand, *I have no need of thee*; nor again, the head to the feet, *I have no need of you*."

When the commons of *Rome* upon a rupture with the senate, seceded in arms upon the *Mons sacer*, *Menenius Agrippa* used the like allusion to the human body, in his famous apologue of a quarrel among some of the members. The unpolished but honest-hearted *Romans* of that day, understood him, and were appeased. They returned to the city, and—the world was conquered.

Another comparison has been made by statesmen and the learned, between a natural and a political *body*; and no wonder indeed, when the title of the latter was borrowed from the resemblance. It has therefore been justly observed, that if a mortification takes place in one or some of the limbs, and the rest of the body is sound, remedies may be applied, and not

only the contagion prevented from spreading, but the diseased part or parts saved by the connection with the body, & restored to former usefulness. When general putrefaction prevails, death is to be expected. History sacred and prophane tells us, that, CORRUPTION OF MANNERS IS THE VERY BASIS OF SLAVERY.

FABIUS, No. III.

33

Fabius [JD], “Observations on the Constitution proposed by the Federal Convention, No. IV,” *The Pennsylvania Mercury, and Universal Advertiser*, April 19, 1788

OBSERVATIONS ON THE CONSTITUTION proposed by the FEDERAL CONVENTION.

ANOTHER question remains. *How are the contributed rights to be managed?* The resolution has been in great measure anticipated, by what has been said concerning the system proposed. Some few reflections may perhaps finish it.

If it can be considered separately, *Constitution* is the *organization of the contributed rights* in society. *Government* is certainly the *exercise* of them. It is intended for the benefit of *the governed*; of course can have no just powers but what conduce to *that end*: & the awfulness of the trust is demonstrated in this—that it is founded on the nature of man, that is, on the will of his MAKER, and is *therefore* sacred.

Let the reader be pleased to consider the writer, as treating of *equal liberty* with reference to the *people* and *states* of *United America*, and their meditated confederation.

If the organization of a constitution be defective, it may be amended.

A good constitution promotes, but not always produces a good administration.

The government must never be lodged in *a single body*. From such an one, with an unlucky composition of its parts, rash, partial, illegal, and when intoxicated with success, even cruel, insolent, & contemptible edicts, may at times be expected. By *these*, if other mischiefs do not follow, the national dignity may be impaired.

Several inconveniences might attend a division of the government into *two* bodies, that probably would be avoided in another arrangement.

April 1788

The judgment of *the most enlightened* among mankind, confirmed by *multiplied experiments*, points out the propriety of government being committed to such a number of great departments, as can be introduced *without confusion, distinct in office, and yet connected in operation*. It seems to be agreed, that *three* or *four* of these departments are a competent number.

Such a repartition appears well calculated, to encrease the safety and repose of *the governed*, which, with the advancement of their happiness in other respects, are the objects of government; as thereby there will be more obstructions interposed, against errors, feuds, and frauds, in the administration, and the interference of the people need be less frequent. Thus, wars, tumults, and uneasinesses, are avoided. The departments so constituted, may *therefore* be said to be *balanced*.

But, notwithstanding, it must be granted, that a bad administration may take place. What is then to be done? The answer is instantly found—Let the *Fasces* be lowered before—not the *Majesty*, it is not a term fit for mortals—but, before the *supreme sovereignty* of the people. IT IS THEIR DUTY TO WATCH, AND THEIR RIGHT TO TAKE CARE, THAT THE CONSTITUTION BE PRESERVED; or in the *Roman* phrase on perilous occasions—TO PROVIDE, THAT THE REPUBLIC RECEIVE NO DAMAGE.

Political bodies are *properly* said to be *balanced*, with respect to this primary origination and ultimate destination, not to any intrinsic or constitutional properties. It is the power from which they *proceed*, and which they *serve*, that truly and of right *balances* them.

But, as a good constitution not always produces a good administration, a defective one not always excludes it. Thus, in governments very different from those of *United America*, general manners and customs, improvement in knowledge, and the education and disposition of princes, not unfrequently soften the features, and qualify the defects. Jewels of value are substituted, in the place of the rare and genuine orient of highest price and brightest lustre: and though the sovereigns *cannot* even in their ministers, be brought to account by the governed, yet there are instances of their conduct indicating a veneration for the rights of the people, and an internal conviction of the guilt that attends their violation. Some of them appear to be *fathers of their countries*. Revered princes! *Friends of mankind!* May peace be in their lives, and hope sit smiling in their beds of death.

By this animating, presiding will of the people, is meant a reasonable, not a distracted will. When frenzy seizes the mass, it would be madness to think of their happiness, that is, of their freedom. They will infallibly have

a *Philip* or a *Cæsar*, to bleed them into soberness of mind. At present we are cool; and let us attend to our business.

Our government under the proposed confederation, will be guarded by a repetition of the strongest cautions against excesses. In the *senate* the *sovereignities* of the several states will be *equally* represented; in the *house of representatives*, the *people* of the whole union will be *equally represented*; and, in the *president*, and the federal independent *judges*, so much concerned in the execution of the laws, and in the determination of their constitutionality, the *sovereignities* of the several states and *the people* of the whole union, will be *conjointly* represented.

Where was there ever or where is there now upon the face of the earth, a government so diversified and attempered? If a work formed with so much deliberation, so respectful and affectionate an attention to the interests, feelings, and sentiments of all United *America*, will not satisfy, what would satisfy all United *America*?

It seems highly probable, that those who would reject this labour of public love, would also have rejected the Heaven-taught institution of trial by jury, had they been consulted upon its establishment. Would they not have cried out, that there never was framed so detestable, so paltry, and so tyrannical a device for extinguishing freedom, and throwing unbounded domination into the hands of the king and barons, under a contemptible pretence of preserving it? What! Can *freedom* be preserved by *imprisoning* its *guardians*? Can *freedom* be preserved, by keeping *twelve* men *closely confined* without *meat, drink, fire, or candle*, until they *unanimously agree*, and this to be infinitely repeated? Can *freedom* be preserved, by thus delivering up a *number of freemen* to a monarch and an aristocracy, fortified by dependant and obedient judges and officers, to be shut up, *until under duress they speak as they are ordered*? Why can't the twelve jurors *separate*, after hearing the evidence, return to their *respective homes*, and there *take time*, and *think* of the matter *at their ease*? Is there not a *variety of ways*, in which causes have been, and can be tried, without this tremendous, *unprecedented* inquisition? Why then is it insisted on; but because the fabricators of it *know* that it *will*, and *intend* that it *shall* reduce the people to slavery? Away with it—Freemen will never be enthralled by so insolent, so execrable, so pitiful a contrivance.

Happily for us our ancestors thought otherwise. They were not so over-nice & curious, as to refuse blessings, because, they might possibly be abused.

They perceived, that the *uses* included were great and manifest. Perhaps they did not foresee, that from this acorn, as it were, would grow up oaks, that changing their native soil for another element, would bound

over raging mountains of waters, bestow and receive benefits around the globe, and *secure the just liberties of the nation for a long succession of ages*.^{*} As to *abuses*, they trusted to their own spirit for preventing or correcting them: And worthy is it of deep consideration by every friend of freedom, that *abuses* that seem to be but “*trifles*,”[†] may be attended by fatal consequences. What can be “*trifling*,” that diminishes or detracts from the only defence, that ever was found against “*open attacks and secret machinations*.”[‡] It originates from a knowledge of human nature. With a superior force, wisdom, and benevolence united, it rives the difficulties that have distressed, or destroyed the rest of mankind. It reconciles contradictions, immensity of power, with safety of private station. It is ever new & always the same.

Trial by jury and the dependance of taxation upon representation, those corner stones of liberty, were not obtained by a *bill of rights*, or any other records, and have not been and cannot be preserved by them. They and all other rights must be preserved, by soundness of sense and honesty of heart. Compared with *these*, what are a bill of rights, or any characters drawn upon paper or parchment, those frail remembrancers? Do we want to be reminded, that the sun enlightens, warms, invigorates, and cheers? or how horrid it would be, to have his blessed beams intercepted, by our being thrust into mines or dungeons? Liberty is the sun of freemen, and the beams are their rights.

“It is the duty which every man owes to his country, his friends, his posterity and himself, to maintain to the utmost of his power this valuable palladium in all its rights; to restore it to its antient dignity, if at all impaired by the different value of property, or otherwise deviated from its first institution; to *amend* it, wherever it is *defective*;[§] and above all, to guard with the most jealous circumspection against the new and arbitrary methods of trial, which, under a variety of plausible pretences, may in time imperceptibly undermine this best preservative of liberty.”[§] Trial by jury is our birth-right; and tempted to his own ruin, by some seducing spirit, must be the man, who in opposition to the genius of United *America*, shall dare to attempt its subversion.

^{*} Blackstone, III, 379.

[†] Idem, IV, 350.

[‡] Idem, III, 381.

[§] See an enumeration of *defects* in trials by jury, Blackstone, III, 381.

[§] Idem, III, 350.

In the proposed confederation, it is preserved inviolable in criminal cases, and cannot be altered in other respects, but when the genius of United *America* demands it.

There seems to be a disposition in men to find fault, no difficult matter, rather than to do right. The works of creation itself have been objected to: and one learned prince declared, that if *he* had been consulted, they would have been improved. With what book has so much fault been found, as with the *Bible*? Perhaps, principally, because it *so clearly and strongly enjoins men to do right*. How many, how plausible objections have been made against it, with how much ardor, with how much pains? Yet, the book has done an immensity of good in the world; would do more, if duly regarded; and might lead the objectors themselves and their posterity to perpetual happiness, if they would value it as they ought.

When objections are made to a system of high import, should they not be weighed against the benefits? Are these great, positive, immediate? Is there a chance of endangering them by rejection or delay? May they not be attained without admitting the objections, supposing the objections to be well founded? If the objections are well founded, may they not be hereafter admitted, without danger, disgust, or inconvenience? Is the system so formed, that they may be thus admitted? May they not be of less efficacy, than they are thought to be by their authors? Are they not designed to hinder evils, which are generally deemed to be sufficiently provided against? May not the admission of them prevent benefits, that might otherwise be obtained? In political affairs, is it not more safe and advantageous, for *all* to agree in measures that may not be best, than to quarrel *among themselves*, what are best?

When questions of this kind with regard to the plan proposed, are calmly considered, it seems reasonable to hope, that every faithful citizen of United *America*, will make up his mind, with much satisfaction to himself, and advantage to his country.

FABIUS, No. IV.

34

Fabius [JD], "Observations on the Constitution proposed by the Federal Convention, No. V," *The Pennsylvania Mercury, and Universal Advertiser*, April 22, 1788

OBSERVATIONS ON THE CONSTITUTION proposed by the FEDERAL CONVENTION.

IT has been considered, what are the rights to be contributed, and how they are to be managed; and it has been said, that republican tranquility and prosperity have commonly been promoted, in proportion to the strength of government for protecting *the worthy* against *the licentious*.

The protection herein mentioned, refers to cases *between* citizens and citizens, or states and states: But there is also a protection to be afforded to *all* the citizens, or states, against foreigners. It has been asserted, that *this* protection never can be afforded, but under an appropriation, collection, and application, of the general force, by the will of the whole combination. This protection is in a degree dependent on the former, as it may be weakened by internal discords and especially where the worst party prevails. Hence it is evident, that such establishments as tend most to protect *the worthy* against *the licentious*, tend most to protect *all* against foreigners. This position is found to be verified by indisputable facts, from which it appears, that when nations have been, as it were, *condemned* for their *crimes*, unless they first became *suicides*, foreigners have acted as *executioners*.

This is not all. As government is intended for the happiness of the people, the protection of the worthy against those of contrary characters, is calculated to promote the end of legitimate government, that is, the general welfare; for the government will partake of the qualities of those whose authority is prevalent. If it be asked, who are *the worthy*, we may be informed by a Heathen Poet— “Vir *bonus* est quis?”

“Qui consulta patrum, qui leges juraque servat.”

The best foundations of this protection, that can be laid by men, are a constitution and government secured, as well as can be, from the undue influence of *passions* either in the people or their servants. Then in a contest between citizens and citizens, or states and states, the standard of *laws* may be displayed, explained and strengthened by the well-remembered sentiments and examples of our fore-fathers, which will give it a sanctity far superior to that of their eagles so venerated by the former masters of the world. This circumstance will carry powerful aids to the true friends of their country, and unless counteracted by the follies of *Pharsalia*, or the accidents of *Philippi*, may secure the blessings of freedom to succeeding ages.

It has been contended, that the plan proposed to us, adequately secures us against the influence of *passions* in the federal servants. Whether it as adequately secures us against the influence of *passions* in the people, or in particular states, *time will determine*, and may the determination be propitious.

Let us now consider the tragical play of the passions in similar cases; or, in other words, the consequences of their irregularities. Duly governed, they produce happiness.

Here the reader, is respectfully requested, to assist the intentions of the writer, by keeping in mind, the ideas of a single republic with *one* democratical branch in its government, and of a confederation of republics with *one* or *several* democratical branches in the government of the confederation, or in the government of its parts, so that as he proceeds, a comparison may easily run along, between any of these and the proposed plan.

History is entertaining and instructive; but, if it be admired chiefly for amusement, it may yield little profit. If read for improvement, it is apprehended, a slight attention only will be paid to the vast variety of particular incidents, unless it be such as may meliorate the heart. A knowledge of the distinguishing features of nations, the principles of their governments, the advantages and disadvantages of their situations, the methods employed to avail themselves of the first, and to alleviate the last, their manners, customs, and institutions, the sources of events, their progresses, and determining causes, may be eminently useful, tho' obscurity may rest upon a multitude of connecting circumstances. Thus, one nation may become prudent and happy, by the errors and misfortunes of another.

In *Carthage*, and *Rome*, there was a very numerous *senate*, strengthened by prodigious attachments, and in a great degree independent of the people. So there was in *Athens*, especially as the senate of that state was supported by the court of *Areopagus*. In each of these republics, their affairs at length became convulsed, and their liberty was subverted. What cause produced these effects? Encroachments of the *senate* upon the authority of the people? No! but directly the reverse, according to the unanimous voice of historians; that is, encroachments of the people upon the authority of the senate. The people of these republics absolutely laboured for their own destruction; and never thought themselves *so free*, as when they were promoting their subjugation. Though, even after these encroachments had been made, and ruin was spreading around, yet, the remnants of senatorial authority delayed the final catastrophe.

In more modern times, the *Florentines* exhibited a memorable example. They were divided into violent parties; and the prevailing one vested exorbitant powers in the house of *Medici*, then possessed, as it was judged, of more money, than any crowned head in Europe. Though that house engaged and perserved in the attempt, yet the people were never despoiled of their liberty, until they were over-whelmed by the conjoined armies of foreign princes, to whose enterprizes their situation exposed them.

Republics of later date and various form appeared. Their institutions consist of old errors tissue with hasty inventions, somewhat excusable, as the wills of the *Romans*, made with arms in their hands. Some of them were condensed by dangers. They are still compressed by them into a sort of solidity. Their well-known transactions witness, that their connection is not enough compact and arranged. They have all suffered, or are suffering through that defect. Their existence seems to depend more upon others, than themselves.

The wretched mistake of the great men who were leaders in the long parliament of *England*, in attempting, by not filling up vacancies, to extend their power over a brave and sensible people accustomed to popular representation, and their downfall, when their victories and puissance by sea and land had thrown all Europe into astonishment and awe, shew, how difficult it is for rulers to usurp over a people who are not wanting to themselves.

Let the fortunes of confederated republics be now considered.

“*The Amphictionic council*,” or “general court of *Greece*,” claims the first regard. Its authority was very great: But, the parts were not sufficiently combined, to guard against the ambitious, avaricious, and selfish projects of some of them; or, if they had the power, they dared not to employ it, as the turbulent states were very sturdy, and made a sort of partial confederacies.

“*The Achæan league*” seems to be the next in dignity. It was at first, small, consisting of few states: afterwards, very extensive, consisting of many. In their Diet or Congress, they enacted laws, disposed of vacant employments, declared war, made peace, entered into alliances, compelled every state of the union to obey its ordinance, and managed other affairs. Not only their laws, but their magistrates, council, judges, money, weights and measures, were the same. So uniform were they, that all seemed to be but one state. Their chief officer called *Strategos* was chosen in the Congress by a majority of votes. He presided in the Congress and commanded the forces, and was vested with great power; especially in time of war: but was liable to be called to an account by the Congress, and punished, if convicted of misbehaviour.

These states had been domineered by the kings of *Macedon*, and insulted by tyrants. From their incorporation, says *Polybius*, may be dated the birth of that greatness, that by a constant augmentation, at length arrived to a marvellous height of prosperity. The fame of their wise laws and mild government reached the *Greek* colonies in *Italy*, where the *Crotoniates*; the *Sybarites*, and the *Cauloniates*, agreed to adopt them, and to govern their states conformably.

Did the delegates to *the Amphictionic council*, or to *the Congress of the Achæan league*, destroy the liberty of their country, by establishing a monarchy or an aristocracy among themselves? Quite the contrary. While the several states continued faithful to the union, they prospered. Their affairs were shattered by dissensions, emulations, and civil wars, artfully and diligently fomented by princes who thought it their interest; and in the case of *the Archæan league*, chiefly, by the folly and wickedness of *Greeks* not of the league, particularly the *Ætolians*, who repined at the glories, that constantly attended the banner of freedom, supported by virtue and conducted by prudence. Thus weakened, they all sunk together, the envied and the envying, under the domination, first of *Macedon*, and then of *Rome*.

Let any man of common sense peruse the mournful, but instructive pages of their stories, and he will be convinced, that if any nation could successfully have resisted those conquerors of the world, the illustrious deed had been atchieved by *Greece*, that cradle of republics, if the several states had been cemented by some such league as the *Achæan*, and had honestly fulfilled its obligations.

It is not pretended, that *the Achæan league* was perfect, or that there were not monarchical and aristocratical factions among the people of it. Every concession of that sort, that can be asked, shall be made. It had many defects; every one of which, however, has been avoided in the plan proposed to us. It had also inveterately monarchical and aristocratical factions; from which, happily we are clear.

With all its defects, with all its disorders, yet such was the life and vigor communicated through *the whole*, by the *popular representation* of each part, and by the *close combination* of all, that the true spirit of republicanism *predominated*, and thereby advanced the happiness and glory of the people to so pre-eminent a state, that our ideas upon the pleasing theme cannot be too elevated. Here is the proof of this assertion. When the *Romans* had laid *Carthage* in ashes; had reduced the kingdom of *Macedon* to a province; had conquered *Antiochus* the great, and got the better of all their enemies in the East; these *Romans*, masters of so much of the then known world, determined to humble *the Achæan league*, because as history expressly informs us, *their great power* began to raise *no small jealousy* at *Rome*.

What an immense weight of argument do these circumstances and facts, add to the maintenance of the principle contended for by the writer of this address?

FABIUS, No. V.

April 1788

35

Fabius [JD], "Observations on the Constitution proposed by the Federal Convention, No. VI," *The Pennsylvania Mercury, and Universal Advertiser*, April 24, 1788

OBSERVATIONS ON THE CONSTITUTION proposed by the FEDERAL CONVENTION.

SOME of our fellow-citizens have ventured to predict the future fate of United *America*, if the system proposed to us, shall be adopted.

Though, every branch of the constitution and government is to be popular, and guarded by all the balances, that until this day have occurred to mankind, yet the system will end, they say, in the oppression of a monarchy or aristocracy by the federal servants or some of them.

Such a conclusion seems not in any manner suited to the premises. It startles, yet, not so much from its novelty, as from the respectability of the characters by which it is drawn.

We must not be too much influenced by our esteem for those characters: But, should recollect, that when the fancy is warmed, and the judgment inclined, by the proximity or pressure of particular objects, very extraordinary declarations are sometimes made. Such are the frailties of our nature, that genius and integrity sometimes afford no protection against them.

Probably, there never was, and never will be, such an instance of dreadful denunciation, concerning the fate of a country, as was published while the union was in agitation between *England* and *Scotland*. The *English* were for a joint legislature, many of the *Scots* for separate legislatures, and urged, that they should be in a manner swallowed up and lost in the other, as then *they* would not possess *one eleventh* part in it.

Upon that occasion Lord *Belhaven*, one of the most distinguished orators of the age, made in the *Scottish* parliament a famous speech, of which the following extract is part.

"My Lord Chancellor,

"When I consider this affair of an *union* between the two nations, as it is expressed in the several articles thereof, and now the subject of our deliberation at this time, I find my mind crowded with a variety of *very melancholy thoughts*, and I think it my duty to disburthen myself of some of them, by laying them before and exposing them to the serious consideration of this honorable house.

"I think, I see A FREE AND INDEPENDENT KINGDOM delivering up *that*, which all the world hath been fighting for since the days of *Nimrod*; yea,

that, for which most of all the empires, kingdoms, states, principalities and dukedoms of *Europe*, are at this very time engaged in the most bloody and cruel wars that ever were; *to wit*, A POWER TO MANAGE THEIR OWN AFFAIRS BY THEMSELVES, WITHOUT THE ASSISTANCE AND COUNCIL OF ANY OTHER.

“I think, I see a NATIONAL CHURCH, founded upon a rock, secured by *a claim of right*, hedged and senced about by the strictest and pointedest legal sanction that sovereignty could contrive, voluntarily descending into a plain, upon an equal level with *Jews, Papists, Socinians, Arminians, Anabaptists*, and other Sectaries, &c.

“I think, I see the NOBLE AND HONORABLE PEERAGE OF SCOTLAND, whose valiant predecessors led armies against their enemies upon their own proper charges and expences, now divested of their followers and vassalages, and put upon such an equal foot with their vassals, that I think, I see a petty *English* Exciseman receive more homage and respect, than what was paid formerly to their *quondam Mackallamors*.

“I think, I see the PRESENT PEERS OF SCOTLAND, whose noble ancestors conquered provinces, over-run countries, reduced and subjected towns and fortified places, exacted tribute through the greatest part of *England*, now walking in *the court of requests*, like so many *English* Attornies, laying aside their walking swords when in company with the *English* Peers, lest their self-defence should be found murder.

“I think, I see THE HONORABLE ESTATE OF BARONS, the bold assertors of the nation’s rights and liberties in the worst of times, now setting A WATCH UPON THEIR LIPS and A GUARD UPON THEIR TONGUES, lest they be found guilty of SCANDALUM MAGNATUM.

“I think, I see THE ROYAL STATE OF BOROUGHs, walking their DESOLATE STREETS, hanging down their heads UNDER DISAPPOINTMENTS; wormed out of ALL THE BRANCHES OF THEIR OLD TRADE, uncertain WHAT HAND TO TURN TO, necessitated to become ’prentices to their unkind neighbours, and yet after all finding their TRADE SO FORTIFIED BY COMPANIES and secured by prescriptions, that they despair of any success therein.

“I think, I see OUR LEARNED JUDGES laying aside *their practiques & decisions*, studying the common law of *England*, gravelled with *certioraris, nisi priuses, writs of error, verdicts in dovar, ejectiones firmæ, injunctions, demurrers*, &c. and frightened with APPEALS and AVOCATIONS, because of THE NEW REGULATIONS, and RECTIFICATIONS they meet with.

“I think, I see THE VALIANT AND GALLANT SOLDIERY, either sent to learn the plantation trade abroad, or at home petitioning for A SMALL SUBSISTANCE, as the reward of their honorable exploits, while their old corps

are broken, the common soldiers left to beg, and the youngest *English* corps kept standing.

“I think, I see *the honest industrious tradesman* loaded with NEW TAXES AND IMPOSITIONS, disappointed of the equivalents, drinking water in place of ale, eating his saltless pottage, petitioning for ENCOURAGEMENT TO HIS MANUFACTORIES, and answered by counter petitions.

“In short, I think I see THE LABORIOUS PLOUGHMAN, with his corn spoiling upon his hands FOR WANT OF SALE, cursing the day of his birth; dreading the expence of his burial, and uncertain whether to marry, or do worse.

“I think, I see the incurable difficulties of LANDED MEN, fettered under the golden chain of equivalents, their pretty daughters petitioning for want of husbands, and their sons for want of employments.

“I think, I see OUR MARINERS DELIVERING UP THEIR SHIPS to their *Dutch* partners, and what through PRESSES AND NECESSITY *earning their bread as underlings* in the *English* navy. But above all, my lord, I think, I see our ANTIENT MOTHER CALEDONIA, like *Cæsar*, sitting in the midst of our senate, *ruefully looking round about her*, covering herself with her royal garment, *attending the fatal blow*, and breathing out her last with a—*Et tu quoque, mi fili*.

“Are not these, my lord, *very afflicting thoughts*? And yet they are the least part suggested to me *by these dishonorable articles*. Should not the considerations of these things vivify these *dry bones* of ours? Should not the *memory of our noble predecessors valour and constancy* rouse up our drooping spirits? Are our noble predecessors souls got so far into the *English cabbage stocks and colliflowers*, that we should shew the least indignation that way? Are our eyes *so blinded*? Are our ears *so deafened*? Are our hearts *so hardened*? Are our tongues *so faltered*? Are our hands *so fettered*? that in *this our day*, I say, my lord, *that in this our day, we should not mind the things that concern the very being and well being of our antient kingdom, before the day be hid from our eyes*.

“When I consider this treaty as it hath been explained, & spoke to, before us these three weeks by past; I see the ENGLISH constitution remaining firm, the same two houses of Parliament, the same taxes, the same customs, the same excises, the same TRADING COMPANIES, the same municipal laws and courts of judicature; and ALL OURS EITHER SUBJECT TO REGULATIONS OR ANNIHILATIONS, only *we* are to have THE HONOUR to pay THEIR OLD DEBTS, and to have *some few persons present for witnesses* to the validity of the deed, when they are pleased to contract more.”

Let any candid *American* deliberately compare that transaction with the present, and laying his hand upon his heart, solemnly answer this question to himself—Whether, he does not verily believe the eloquent Peer before mentioned, had ten fold more cause to apprehend evils from such an unequal match between the two kingdoms, than any citizen of these states has to apprehend them from the system proposed. Indeed not only that Peer, but other persons of distinction, and large numbers of the people of *Scotland* were filled with the utmost aversion to the union; and if the greatest diligence & prudence had not been employed by its friends in removing misapprehensions and refuting misrepresentations, and by the then subsisting government for preserving the public peace, there would certainly have been a rebellion.

Yet, what were the consequences to *Scotland* of that dreaded union with *England*?—The cultivation of her virtues and the correction of her errors—The emancipation of one class of her citizens from the yoke of their superiors—A relief of other classes from the injuries and insults of the great—Improvements in agriculture, science, arts, trade, and manufactures—The profits of industry and ingenuity enjoyed under the protection of laws, peace and security at home, and encrease of respectability abroad. Her *Church* is still *eminent*—Her *laws* and *courts of judicature* are safe—Her *boroughs* grown into cities—Her *mariners* and *soldiery* possessing a *larger subsistence*, than she could have afforded them, and her *tradesmen*, *ploughmen*, *landed men*, and her people of every rank, in a more flourishing condition, not only than they ever were, but in a more flourishing condition, than the clearest understanding could, at the time, have thought it possible for them to attain in so short a period, or even in many ages. *England* participated in the blessings. The *stock* of their union or ingraftment, as perhaps it may be called, being strong, and capable of drawing better nutriment and in greater abundance, than they could ever have done apart.

“Ere long, to Heaven the soaring branches shoot,
And wonder at their *height*, and *more than native fruit*.”

FABIUS, No. VI.

36

Fabius [JD], “Observations on the Constitution proposed by the Federal Convention, No. VII,” *The Pennsylvania Mercury, and Universal Advertiser*, April 26, 1788

April 1788

OBSERVATIONS ON THE CONSTITUTION proposed by the FEDERAL
CONVENTION.

THUS happily mistaken was the ingenious, learned, and patriotic Lord *Belhaven*, in his prediction concerning the fate of his country; and thus happily mistaken, it is hoped, that some of our fellow-citizens will be, in their prediction concerning the fate of their country.

Had they taken larger scope, and assumed in their proposition the vicissitude of human affairs, and the passions that so often confound them, their prediction might have been a tolerably good guess. Amidst the mutabilities of terrestrial things, the liberty of United *America* may be destroyed. As to that point, it is our duty, humbly, constantly, fervently, to implore the protection of our most gracious maker, “who doth not afflict willingly nor grieve the children of men,” and incessantly to strive, as we are commanded, to recommend ourselves to that protection, by “doing his will,” diligently exercising our reason in fulfilling the purposes for which that and our existence were given to us.

How the liberty of this country is to be destroyed, is another question. Here, the gentlemen assign a cause, in no manner proportioned, as it is apprehended, to the effect.

The uniform tenor of history is against them. That holds up the *licentiousness* of the people, and *turbulent temper* of some of the states, as the only causes to be dreaded, not the conspiracies of *federal officers*. Therefore, it is highly probable, that, if our liberty is ever subverted, it will be by one of the two causes first mentioned. Our tragedy will then have the same acts, with those of the nations that have gone before us; and we shall add one more example to the number already too great, of a people that would not take warning, nor “know the things which belong to their peace.” But, we ought not to pass such a sentence against our country, & the interests of freedom: Though, no sentence whatever can be equal to the atrocity of our guilt, if through enormity of obstinacy or baseness, we betray the cause of our posterity and of mankind, by providence committed to our parental and fraternal care. “*Detur venia verbis*”—The calamities of nations are the punishments of their sins.

As to the first mentioned cause, it seems unnecessary to say any more upon it.

As to the second, we find, that the misbehaviour of the *constituent parts* acting separately, or in partial confederacies, debilitated the *Greeks* under “*the Amphictionic Council*,” and under *the Achæan League*, and that this misbehaviour ruined *Greece*. As to the former, it was not entirely an

assembly of strictly democratical republics. Besides, it wanted a sufficiently *close connection* of its parts. Tyrants and aristocracies sprung up. After these observations, we may call our attention from it.

'Tis true, *the Achæan League* was disturbed, by the misconduct of *some parts*, but, it is as true, that it surmounted these difficulties, and wonderfully prospered, until it was dissolved in the manner that has been described.

The glorious operations of its principles bear the clearest testimony to this distant age and people, that the wit of man never invented such an antidote against monarchical and aristocratial projects, as a *strong combination* of truly *democratical* republics. By strictly or truly democratical republics, the writer means republics, in which all the officers are from time to time chosen by the people.

The reason is plain. As *liberty* and *equality*, or as termed by *Polybius*, *benignity*, were the foundations of their institutions, and the *energy* of the government pervaded *all the parts* in things relating to the whole, it counteracted for the common welfare, the designs hatched by selfishness in separate councils.

If folly or wickedness prevailed in any *parts*, friendly offices and salutary measures restored tranquility. Thus the public good was maintained. In its very formation, tyrannies and aristocracies submitted, by consent or compulsion. *Thus*, the *Ceraunians*, *Trezenians*, *Epidaurians*, *Megalopolitans*, *Argives*, *Hermionians*, and *Phlyarians*, were received into the league. A happy exchange! For history informs us, that so true were they to their noble and benevolent principles, that, in their diet, "no resolutions were taken, but what were equally advantageous to the whole confederacy, and the interest of each part so consulted, as to leave no room for complaints."

How degrading would be the thought to a citizen of United *America*, that the people of these states, with institutions beyond comparison preferable to those of *the Achæan league*, and so vast a superiority in other respects, should not have wisdom & virtue enough, to manage their affairs, with as much prudence and affection of one for another, as these antients did.

Would this be doing justice to our country? The composition of her temper is excellent, and seems to be acknowledged equal to that of any nation in the world. Her prudence will guard its warmth against two faults, to which it may be exposed—The one an imitation of foreign fashions, which from small things may lead to great. May her citizens aspire at a national dignity in every part of conduct, private as well as public. This

will be influenced by the former. May *simplicity* be the characteristic feature of their manners, which inlaid in their other virtues and their forms of government, may then indeed be compared, in the eastern stile, to “apples of gold in pictures of silver.” Thus will they long, and may they, while their rivers run, escape the curse of *luxury*—the issue of innocence debauched by folly, and the lineal predecessor of tyranny generated in rape and incest. The other fault, of which, as yet, there are no symptoms among us, is the thirst of empire. This is a vice, that ever has been, and from the nature of things, ever must be, fatal to republican forms of government. Our wants, are sources of happiness: our desires, of misery. The abuse of prosperity, is rebellion against Heaven; and succeeds accordingly.

Do the propositions of gentlemen who object, offer to our view, any of the great points upon which, the fate, fame, or freedom of nations has turned, excepting what some of them have said about trial by jury, which has been frequently and fully answered? Is there one of them calculated to regulate, and if needful, to controul, those tempers and measures of constituent parts of an union, that have been so baneful to the weal of every confederacy that has existed? Do not some of them tend to enervate the authority evidently designed thus to regulate and controul? Do not others of them discover a bias in their advocates to particular connections, that if indulged to them, would enable persons of less understanding and virtue, to repeat the disorders, that have so often violated public peace and honor? Taking them altogether, would they afford as strong a security to our liberty, as the frequent election of the federal officers by the people, and the repartition of power among those officers, according to the proposed system?

It may be answered, that, they would be an additional security. In reply, let the writer be permitted at present to refer to what has been said.

The principal argument of gentlemen who object, involves a direct proof of the point contended for by the writer of this address, and as far as it may be supposed to be founded, a plain confirmation of Historic evidence.

They generally agree, that the great danger of a monarchy or aristocracy among us, will arise from the federal *senate*.

The members of this *senate*, are to be chosen by men exercising the sovereignty of their respective states. These men therefore, must be monarchically or aristocratically disposed, before they will chuse federal senators thus disposed; and what merits particular attention, is, that these men must have obtained an overbearing influence in their respective states, be-

fore they could with such disposition arrive at the exercise of the sovereignty in them: or else, the like disposition must be prevalent among the people of such states.

Taking the case either way, is not this a disorder in *parts* of the union, and ought it not to be rectified by *the rest*? Is it reasonable to expect, that the disease will seize *all* at the same time? If it is not, ought not the sound to possess a right and power, by which they may prevent the infection from spreading.

From the annals of mankind, these conclusions are deducible—that states together may act prudently and honestly, and apart foolishly and knavishly; but, that it is a defiance of all probability, to suppose, that states conjointly shall act with folly and wickedness, and yet separately with wisdom and virtue.

FABIUS, No. VII.

No. I. Errata— 1 st col. l. 13 from the bottom, add the word “the” before “several”—2d col. l. 8 from the top, add the word “so” before “altered”—ditto l. 28 for “the” read “this”—and in the next for “in” read “on.”

No. II. 2d col. at the top for “formed” read “founded,”—l. 32 from the top for “paternal” read “fraternal”—3d col. l. 5 from the top, for “interest” read “interests”—l. 19 before “frequent” add the word “that”—4th col. after word “dictator” put a stop thus.

37

Fabius [JD], “Observations on the Constitution proposed by the Federal Convention, No. VIII,” *The Pennsylvania Mercury, and Universal Advertiser*, April 29, 1788

OBSERVATIONS ON THE CONSTITUTION proposed by the FEDERAL CONVENTION.

THE proposed confederation offers to us a system of diversified representation in the legislative, executive, and judicial departments, as essentially necessary to the good government of an extensive republican empire. Every argument to recommend it, receives new force, by contemplating events, that must take place. The number of states in *America* will encrease. If not united to the present, the consequences are evident. If united, it must be by a plan that will communicate *equal liberty* and assure *just protection* to them. These ends can never be attained, but by *a close combination* of the several states.

It has been asserted, that a very extensive territory cannot be ruled by a government of republican form. What is meant by this proposition? Is it intended to abolish all ideas of connection, and to precipitate us into the miseries of division, either as single states, or partial confederacies? To stupify us into despondence, that destruction may certainly seize us? The fancy of poets never feign'd so dire a *Metamorphosis*, as is now held up to us. The *Ægis* of their *Minerva* was only said to turn men into stones. This spell is to turn "a band of brethren," into a monster; preying upon itself, and prey'd upon by all its enemies.

If hope is not to be abandoned, common sense teaches us to attempt the best means of preservation. This is all that men can do, and this they ought to do. Will it be said, that any kind of disunion, or a connection tending to it, is preferable to a firm union? Or, is there any charm in that despotism, which is said, to be alone competent to the rule of such an empire? There is no evidence of fact, nor any deduction of reason, that justifies the assertion. It is true, that extensive territory has in general been arbitrarily governed; and it is as true, that a number of republics, in such territory, *loosely connected*, must inevitably rot into despotism. Such territory has never been governed by a confederacy of republics. Granted. But, where was there ever a confederacy of republics, in such territory, united, as these states are to be by the proposed constitution? Where was there ever a confederacy, in which, the sovereignty of each state was *equally represented* in one legislative body, the people of each state *equally represented* in another, and the sovereignties & people of all the states *conjointly represented* in a third branch? Or, in which, no law could be made, but by the agreement of three such branches? Or, in which, the appointment to federal offices was vested in a chief magistrate chosen as our president is to be, with the concurrence of a senate elected by the sovereignties of each state? Or, in which, the other acts of the executive department were regulated, as they are to be with us? Or, in which, the fœderal judges were to hold their offices independently and *during good behaviour*? Or, in which, the authority over the militia and troops was so distributed and controuled, as it is to be with us? Or, in which, the people were so drawn together by religion, blood, language, manners and customs, undisturbed by former feuds or prejudices? Or, in which, the affairs relating to the whole union, were to be managed by an assembly of several representative bodies, invested with different powers that became efficient only in concert, without their being embarrassed by attention to other business? Or, in which, a provision was made for the fœderal revenue, without recurring to coercion, the miserable expedient of every other confederacy that has existed, an expedient always attended with odium, & often with a

delay productive of irreparable damage? Where was there ever a confederacy, that thus adhered to *the first principle of society*, obliging by its direct authority every individual, to contribute, when the public good necessarily required it, a just proportion of aid to the support of the commonwealth protecting him—without disturbing him in the discharge of the duties owing by him to the state of which he is an inhabitant; and at the same time so amply, so anxiously provided, for bringing the interests, and even the wishes of *every sovereignty* and of *every person* of the union, under all their various modifications and impressions, into their full operation and efficacy in the national councils? The instance never existed. The conclusion ought not to be made. It is without premises.

It has been said, that the varied representation of sovereignties and people in the legislature, was a mere compromise.

This is a great and dangerous mistake. The equal representation of each state in one branch of the legislature, was an original substantive proposition, as the writer is instructed, made in Convention, very soon after the draft offered by *Virginia*, to which state *United America* is much indebted not only in other respects, but for her merit in the origination and prosecution of this momentous business.

The proposition was expressly made upon this principle, that a territory of such extent as that of *United America*, could not *be safely and advantageously governed*, but by a combination of republics, each retaining all the rights of supreme sovereignty, excepting such as ought to be contributed to the union; that for the securer preservation of these sovereignties, they ought to be represented in a body by themselves, and with equal suffrage; and that they would be annihilated, if both branches of the legislature were to be formed of representatives of the people, in proportion to the number of inhabitants in each state.

The principle appears to be well founded in reason. Why cannot a very extensive territory be ruled by a government of republican form? Because, its power must languish through distance of parts. Granted, if it be not a “body by joints and bands having nourishment ministered and knit together.” If it be such a body, the objection is removed. Instead of such a perfect body, framed upon the principle that commands men to associate, and societies to confederate; that which by communicating and extending happiness, corresponds with the gracious intentions of our maker towards us his creatures; what is proposed? Truly, that the natural legs and arms of this body should be cut off, because they are too weak, and their places supplied by stronger limbs of wood and iron.

Arbitrary princes rule extensive territories, by sending viceroys to govern certain districts.

April 1788

America is, and will be, divided into several sovereign states, each possessing every power proper for governing within its own limits for its own purposes, and also for acting as a member of the union.

They will be civil and military stations, conveniently planted throughout the empire, with lively and regular communications. A stroke, a touch upon any part, will be immediately felt by the whole. *Rome* famed for imperial arts, had a glimpse of this great truth; and endeavoured, as well as her hard hearted policy would permit, to realize it in her COLONIES. They were miniatures of the capital: But wanted the vital principle of sovereignty, and were too small. They were melted down into, or overwhelmed by the nations around them. Were they now existing, they might be called, little statues—something like to our living originals. *These* will bear a remarkable resemblance to the mild features of patriarchal government, in which each son ruled his own household, and in other matters the whole family was directed by the common ancestor.

Will a people thus happily situated, and attached as they will naturally be, with an ardor of affection to their own state, ever desire to exchange their condition, for subjection to an absolute ruler, or can they ever look but with veneration, or act but with deference to that union, that alone can, under providence, preserve them from such subjection?

Can any government be devised, that will be more suited to citizens, who wish for equal freedom and common prosperity? better calculated for preventing corruption of manners? for advancing the improvements that endear or adorn life? or that can be more conformed to the nature and understanding, to the best and the last end of man? What harvests of happiness may grow from the seeds of liberty that are now sowing? The cultivation will indeed demand continual care, unceasing diligence, and frequent conflicts with difficulties. This too is consonant to the laws of our nature. As we pass through night into day, so we do through trouble into joy. Generally, the higher the prize, the deeper the suffering. We die into immortality. To object against the benefits offered to us by our Creator, by excepting to the terms annexed, is a crime to be equalled only by its folly.

Delightful are the prospects that will open to the view of United *America*—her sons well prepared to defend their own happiness, and ready to relieve the misery of others—her fleets formidable, but only to the unjust—her revenue sufficient, yet unoppressive—her commerce affluent, without debasing—peace and plenty within her borders—and the glory that arises from a proper use of power, encircling them.

Whatever regions may be destined for servitude, let us hope, that some portions of this land may be blessed with liberty; let us be convinced, that

nothing short of such an union as has been proposed, can preserve the blessing; and therefore let us be resolved to adopt it.

As to alterations, a little experience will cast more light upon the subject, than a multitude of debates. Whatever qualities are possessed by those who object, they will have the candor to confess, that they will be encountered by opponents, not in any respect inferior, and yet differing from them in judgment, upon every point they have mentioned.

Such untired industry to serve their country, did the delegates to the federal convention exert, that they not only laboured to form the best plan they could, but, provided for making at any time amendments on the authority of the people, without shaking the stability of the government. For this end, the Congress, whenever two thirds of both houses shall deem it necessary, shall propose amendments to the constitution, or, on the application of the legislatures of two thirds of the several states, SHALL call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of the constitution, when ratified by the legislatures of three-fourths of the several states, or by conventions in three-fourths thereof, as one or the other mode of ratification may be proposed by Congress.

Thus, by a gradual progress, as has been done in *England*, we may from time to time introduce every improvement in our constitution, that shall be suitable to our situation. For this purpose, it may perhaps be advisable, for every state, as it sees occasion, to form with the utmost deliberation, drafts of alterations respectively required by them, and to enjoin their representatives, to employ every proper method to obtain a ratification.

In this way of proceeding the undoubted sense of every state, collected in the coolest manner, not the sense of individuals, will be laid before the whole union in Congress, and that body will be enabled with the clearest light that can be afforded by every part of it, and with the least occasion of irritation, to compare and weigh the sentiments of all United *America*; forthwith to adopt such alterations as are recommended by general unanimity; by degrees to devise modes of conciliation upon contradictory propositions; and to give the revered advice of our common country, upon those, if any such there should be, that in her judgment are inadmissible, because they are incompatible with the happiness of these states.

It cannot be with reason apprehended, that Congress will refuse to act upon any articles calculated to promote the *common welfare*, tho' they may be unwilling to act upon such as are designed to advance PARTIAL

May 1788

interests: but, whatever their sentiments may be, they must call a Convention for proposing amendments, on applications of two-thirds of the legislatures of the several states.

May those good citizens, who have sometimes turned their thoughts towards a second Convention, be pleased to consider, that there are men who speak as they do, yet do not mean as they do. These borrow the sanction of their respected names, to conceal desperate designs. May they also consider, whether persisting in the suggested plan, in preference to the constitutional provision, may not kindle flames of jealousy and discord, which all their abilities and virtues can never extinguish.

FABIUS, No. VIII.

Erratum—In No. IV. 2d col. and 23d line from the bottom, for “in” read “on.”

38

Fabius [JD], “Observations on the Constitution proposed by the Federal Convention, No. IX,” *The Pennsylvania Mercury, and Universal Advertiser*, May 1, 1788

OBSERVATIONS ON THE CONSTITUTION proposed by the FEDERAL CONVENTION.

WHEN the sentiments of some objectors, concerning the *British* constitution, are considered, it is surprizing, that they should apprehend so much danger to United *America*, as they say, will attend the ratification of the plan proposed to us, by the late fœderal convention.

These gentlemen will acknowledge, that *Britain* has sustained many internal convulsions, and many foreign wars, with a gradual advancement in freedom, power and prosperity. They will acknowledge, that no nation that has existed, ever so perfectly united those distant extremes, *private security* of life, liberty and property, with exertion of *public force*; so advantageously combined the various powers of militia, troops, and fleets; or so happily blended together arms, arts, commerce, and agriculture. From what spring has flowed this stream of happiness? The gentlemen will acknowledge, that these advantages are derived from *a single* democratical branch in her legislature. They will also acknowledge, that in this branch, called the house of commons, only 131 are members for counties, that nearly one half of the whole house is chosen by about 5700 persons mostly of no property, that 56 members are elected by about 370 persons,

and the * rest in an enormous disproportion to the numbers of inhabitants who ought to vote.†

Thus are all the millions of people in that kingdom, said to be represented in the house of commons.

Let the gentlemen be so good, on a subject so familiar to them, as to make a comparison between the *British* constitution, and that proposed to us. Questions like these will then probably present themselves. Is there more danger to our liberty, from such a president as we are to have, than to that of *Britons*, from an hereditary monarch, with a vast revenue; *absolute* in the erection and disposal of offices, and in the exercise of the whole executive power; in the command of the militia, fleets, and armies, and the direction of their operations; in the establishment of fairs and markets, the regulation of weights and measures, and coining of money; who can call parliaments with a breath, and dissolve them with a nod; who can at his will, make war, peace, and treaties irrevocably binding the nation; and who can grant pardons or titles of nobility, as it pleases him? Is there more danger to us, from 26 senators, or double the number, than to *Britons*, from an hereditary aristocratic body, consisting of many hundreds, possessed of immense wealth in lands and money, strengthened by a host of dependents, and who availing themselves of defects in the constitution, send many of these into the house of commons; who hold a third part of the legislative power in their own hands; and, who form the highest court of judicature in the nation? Is there more danger to us, from a house of representatives to be chosen by ALL THE FREE MEN OF THE UNION EVERY TWO YEARS, than to *Britons*, from such a sort of representation as they have in the house of commons, the members of which, too, are chosen but every *seven* years? Is there more danger to us from the intended federal officers, than to *Britons*, from such a monarch, aristocracy, and house of commons together? What bodies are there in *Britain*, vested with such capacities for enquiring into, checking, and regulating the conduct of national affairs, as our sovereign states? What proportion does the number of freeholders in *Britain* bear to the number of people? And what is the proportion in United *America*?

(*) No member of parliament ought to be elected by fewer than the majority of 800, upon the most moderate calculation, according to Doctor Price.

(†) By the constitution proposed to us, a *majority* of the house of representatives, and of the senate, makes a quorum to do business: But, if the writer is not mistaken, about a *fourteenth* part of the members of the house of commons, makes a quorum to do business.

May 1788

If any person, after considering such questions, shall say, there will be more danger to our freedom under the proposed plan, than to that of *Britons* under their constitution, he must mean, that *Americans* are, or will be, beyond all comparison inferior to *Britons* in understanding and virtue; otherwise with a constitution and government, every branch of which is so extremely popular, they certainly might guard their rights, at least as well, as *Britons* can guard their rights, under such political institutions as they have; unless, the person has some inclination to an opinion, that monarchy and aristocracy are favourable to the preservation of their rights. If he has, he cannot too soon recover himself. If ever monarchy or aristocracy appear in this country, it must be in the hideous forms of despotism.

What an infatuated, depraved people must *Americans* become, if with such unequalled advantages, committed to their trust in a manner almost miraculous, they lose their liberty? Through a single diseased organ of representation, *in the legislature only*, of the kingdom just mentioned, such portions of popular sense and integrity, have been conveyed into the national councils, as have purified other parts, and preserved the whole in its present state of healthfulness. To their own vigor and attention, therefore, is that people, under providence, indebted for the blessings they enjoy. They have held, and now hold *the true balance* in their government. While they retain their enlightened spirit, they will continue to hold it, and, if they regard what they owe to others *as well* as what they owe to themselves, most probably, to be happy.

They know, that there are powers that cannot be expressly limited, without injury to themselves, and their magnanimity scorns any fear of such powers. This magnanimity taught *Charles* the first, that he was but a royal servant; and this magnanimity caused *James* the second's army, raised, paid and kept up by himself, to confound him with huzzas for liberty.

They ask not for compacts, of which the national welfare, and in some cases its existence, may demand violations. They despise such dangerous provisions against danger.

They know, that *all powers* whatever, even those that according to the forms of the constitution are irresistible and absolute, of which there are very many, *ought to be exercised for the public good; and that when they are used to the public detriment, they are unconstitutionally exerted.*

This plain text, commented upon by their experienced intelligence, has led them safe through hazards of every kind, and they now are, what we see them. Upon the review, one is almost tempted to believe, that their

insular situation, soil, climate, and some other circumstances, have compounded a peculiarity of temperature—uncommonly favourable to the union of reason and passion.

Certainly, 'tis very memorable with what life, impartiality, and prudence, they have interposed on great occasions; have by their patriotism communicated temporary soundness to their disordered representation; and have bid public confusions to cease. Two instances out of many may suffice. The excellent *William* the third, was distressed by a house of commons. He dissolved the parliament, and appealed to the people. They relieved him. His successor, the present king, in the like distress, made the same appeal; and received equal relief.

Thus *they* have acted: but, *Americans*, who have the same blood in their veins, have, it seems, very different heads and hearts. We shall be enslaved by a president senators and representatives, chosen by ourselves, and continually rotating within the period of time assigned for the continuance in office of members, in the house of commons? 'Tis strange. But, we are told, 'tis true. It may be so. As we have our *all* at stake, let us enquire, in what way this event is to be brought about. Is it to be before or after a general corruption of manners? If after, it is not worth attention. The loss of happiness then following of course. If before, how is it to be accomplished? Will a virtuous and sensible people chuse villains or fools for their officers? Or, if they should chuse men of wisdom and integrity, will these lose both or either, by taking their seats? If they should, will not their places be quickly supplied by another choice? Is the like derangement again, and again, and again, to be expected? Can any man believe, that such astonishing phœnomena are to be looked for? Was there ever an instance, where rulers thus selected by the people from their own body, have in the manner apprehended, outraged their own tender connections, and the interests, feelings, and sentiments of their affectionate and confiding countrymen? Is such a conduct more likely to prevail in this age of mankind, than in the darker periods that have preceded? Are men more disposed now than formerly, to prefer uncertainties to certainties, things perilous and infamous, to those that are safe and honourable? Can all the mysteries of such iniquity, be so wonderfully managed by treacherous rulers, that none of their enlightened constituents, nor any of their honest associates acting with them in public bodies, shall ever be able to discover the conspiracy, till at last it shall burst with destruction to the whole federal constitution? Is it not ten thousand times less probable, that such transactions will happen, than it is, that we shall be exposed to innumerable calamities, by rejecting the plan proposed, or even by delaying to accept it?

May 1788

Let us consider our affairs in another light, and take council from those who cannot love us, any farther than as we may be subservient to their views.

Not a monarch or sovereignty in *Europe*, can desire to see these states formed into one flourishing empire. Difference of government, participation in commerce, improvement in policy, and magnitude of power, can be no favourite objects of their attention. Our loss will be their gain—Our fall, their rise—Our shame, their triumph. Divided, they may distract, dictate, and destroy. United, their efforts will be waves dashing themselves into foam against a rock. May our national character be—an animated moderation, that seeks only its own, and will not be satisfied with less.

To his beloved fellow-citizens of United *America*, the writer dedicates this imperfect testimony of his affection, with fervent prayers, for a perpetuity of freedom, virtue, piety, and felicity, to them and their posterity.

FABIUS, No. IX.