

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

PHILADELPHIA, TUESDAY, November 20, 1787, P. M.

1 THIS being the day recommended by the legislature for the meeting of this
2
3 body, a number of gentlemen delegated thereto met, accordingly, at the
4
5 state-house, and adjourned to three o'clock, P. M., to-morrow.
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9 WEDNESDAY, November 21, 1787. -- Sixty of the gentlemen elected to serve in
10
11 the Convention met.
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13
14

15 The returns of the elections held for the city of Philadelphia, and the
16
17 several counties of this state, were read; by which it appears that the
18
19 following gentlemen were returned as delegates for the Convention for the
20
21 said cities and counties respectively, viz.: --
22
23
24

25 For the city of Philadelphia, George Latimer, Benjamin Rush, Hilary Baker,
26
27 James Wilson, Thos. M'Kean.
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31 For Philadelphia county. William M'Pherson, John Hunn, George Gray, Samuel
32
33 Ashmead, Enoch Edwards.
34
35
36

37 For Bucks county. Henry Wynkoop, John Barclay, Thomas Yardly, Abraham Stout.
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41 For Chester county. Thomas Ball, Anthony Wayne, William Gibbons, Richard
42
43 Downing, Thomas Cheney, John Hannum.
44
45
46

47 For Lancaster county. Stephen Chambers, Robert Coleman, Sebastian Graff,
48
49 John Hubley, Jasper Yeates, John Whitehill.
50
51
52

53 For York county. Henry Slagle, Thomas Campbell, Thomas Hartley David Grier,
54
55 John Black, Benjamin Pedan.

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4 For Cumberland county. John Harris, John Reynolds, Robert Whitehill,
5
6 Jonathan Hoge.
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10 For Berks county. Nicholas Lutz, John Ludwig, Abraham Lincoln, John Bishop,
11
12 Joseph Heister.
13
14
15
16 For North Hampton county. John Arndt, Stephen Balliott, Joseph Horsefield,
17
18 David Deshler.
19
20
21
22 For Bedford county. James Martin, Joseph Powell.
23
24
25
26 For Northumberland county. William Wilson, John Boyd.
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29
30 For Westmoreland county. William Findley, John Baird, William Todd.
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33
34 For Washington county. James Marshall, James Edgar, T. Scott, John Nevill.
35
36
37
38 For Fayette county. Nicholas Breeding, John Smilie.
39
40
41
42 For Franklin county. Richard Bard, John Allison.
43
44
45
46 For Montgomery county. Jonathan Roberts, John Richards, Frederick A.
47
48 Muhlenberg, James Morris.
49
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51
52 For Dauphin county. William Brown, Adam Orth.
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1 For Luzerne county. Timothy Pickering.

5 For Huntingdon county. Benjamin Elliott.

9 The Convention proceeded to elect a president.

13 The ballots being counted, it appeared that Frederick Augustus Muhlenberg,
15 Esq., was duly elected.

19 An invitation to the president and members of the Convention, from the
21 faculty of the University of Pennsylvania, requesting their company at a
23 commencement to be held tomorrow, was read.

27 Agreed to attend in a body, at ten o'clock to-morrow. Adjourned until nine
29 o'clock, A. M.

33 THURSDAY, November 22, 1787. -- Convention met, and proceeded to the
35 University Hall, attended commencement, and returned to their chamber.

39 On motion of Mr. WAYNE, seconded by Mr. Whitehill,

43 A committee was appointed to report rules and regulations for conducting the
45 business of the Convention.

49 The committee consisted of Benjamin Rush, James Wilson, George Gray, Anthony
51 Wayne, and Robert Whitehill.

55 Adjourned until half-past nine o'clock to-morrow, A. M.

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FRIDAY, November 23, 1787. -- Convention met pursuant to adjournment, and
proceeded to elect a secretary.

The ballots being taken, it appeared that James Campbell, Esq., was duly
elected.

The committee appointed, yesterday, to bring in rules and regulations, made
report, and the same being read, was by special order taken up, read by
paragraphs, and agreed to as follows: --

1. When the president assumes the chair, the members shall take their
seats.

2. At the opening of the Convention of each day, the minutes of the
preceding day shall be read, and are then in the power of the Convention to
be corrected; after which any business addressed to the chair may be
proceeded to.

3. Every petition, memorial, letter, or other matter of the like kind, read
in the Convention, shall be deemed as lying on the table for further
consideration, unless any special order be moved thereon.

4. A motion made and seconded shall be repeated by the president. A motion
shall be reduced to writing, if the president or any two members require
it. A motion may be withdrawn by the member making it, before any decision
is had on it.

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1
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3 5. No member speaking shall be interrupted but by a call to order by the
4 president, or by a member through the president.
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9 6. No member to be referred to, in debate, by name.
10
11

12
13 7. The president himself, or by request, may call to order any member who
14 shall transgress the rules. If the second time, the president may refer to
15 him by name. The Convention may then examine and censure the member's
16 conduct, he being allowed to extenuate or justify.
17
18
19
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21

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23 8. Every member, actually attending the Convention, shall be in his place
24 at the time to which the Convention stands adjourned, or within half an hour
25 thereof.
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27
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29

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31 9. The name of him who makes, and the name of him who seconds, a motion,
32 shall be entered on the minutes.
33
34
35

36
37 10. No member shall speak more than twice on a question without leave.
38
39

40
41 11. Every member of a committee shall attend at the call of his chairman.
42
43

44
45 12. The yeas and nays may be called and entered on the minutes when any two
46 members require it.
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49
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51 On motion of Mr. M'KEAN, seconded by Mr. Smilie, -- Ordered, That the doors
52 of the Convention be left open during the session.
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On motion of Mr. M'KEAN, seconded by Mr. Smilie, --

Ordered, That the Constitution, as proposed by the late federal Convention,
be read. It was read accordingly.

Adjourned until ten o'clock to-morrow.

SATURDAY, November 24, 1787, A. M. -- The Convention met pursuant to
adjournment.

On motion of Mr. M'KEAN, seconded by Mr. Hannum, the Constitution, as
proposed by the late Convention, was read a second time, together with a
letter from the secretary of Congress to the president of this state.

Adjourned until three o'clock on Monday next.

MONDAY, November 26, 1787, P. M. -- The Convention met pursuant to
adjournment.

Mr. M'KEAN. The subject now, Mr. President, comes fully and fairly before
us. Our first object must be to ascertain the proper mode of proceeding to
obtain a final decision.

We are without precedent to guide us; yet those forms, observed by other
public bodies, so far as they are eligible, may generally be proper for us
to adhere to. So far, therefore, as the rules of the legislature of
Pennsylvania apply with convenience to our circumstances, I acquiesce in

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1 their adoption.

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3
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5 I now think it necessary, sir, to make you a motion -- not that I apprehend
6
7 it can be determined until a full investigation of the subject before us is
8
9 had. The motion will be, sir, That this Convention do assent to, and ratify,
10
11 the Constitution agreed to on the 17th of September last, by the Convention
12
13 of the United States of America, held at Philadelphia.

14
15
16
17 Upon this motion being seconded, sir, the consideration of the Constitution
18
19 will be necessarily drawn on. Every objection that can be suggested against
20
21 the work will be listened to with attention, answered, and perhaps obviated;
22
23 and finally, after a full discussion, the ground will be ascertained, on
24
25 which we are to receive or reject the system now before you. I do not wish
26
27 this question to be decided to-day; though perhaps it may be determined this
28
29 day week. I offer you this for the sake of form, and shall hereafter trouble
30
31 you with another motion, that may bring the particular parts of this
32
33 Constitution before you, for a regular and satisfactory investigation.

34
35
36
37 In this motion, Mr. M'KEAN was seconded by Mr. Allison.

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39
40
41 Mr. WILSON. The system proposed, by the late Convention, for the government
42
43 of the United States, is now before you. Of that Convention I had the honor
44
45 to be a member. As I am the only member of that body who has the honor to be
46
47 also a member of this, it may be expected that I should prepare the way for
48
49 the deliberations of this assembly, by unfolding the difficulties which the
50
51 late Convention were obliged to encounter; by pointing out the end which
52
53 they proposed to accomplish; and by tracing the general principles which
54
55 they have adopted for the accomplishment of that end.

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4 To form a good system of government for a single city or state, however
5
6 limited as to territory, or inconsiderable as to numbers, has been thought
7
8 to require the strongest efforts of human genius. With what conscious
9
10 diffidence, then, must the members of the Convention have revolved in their
11
12 minds the immense undertaking which was before them. Their views could not
13
14 be confined to a small or a single community, but were expanded to a great
15
16 number of states; several of which contain an extent of territory, and
17
18 resources of population, equal to those of some of the most respectable
19
20 kingdoms on the other side of the Atlantic. Nor were even these the only
21
22 objects to be comprehended within their deliberations. Numerous states yet
23
24 unformed, myriads of the human race, who will inhabit regions hitherto
25
26 uncultivated, were to be affected by the result of their proceedings. It was
27
28 necessary, therefore, to form their calculations on a scale commensurate to
29
30 a large portion of the globe.

31
32
33
34 For my own part, I have been often lost in astonishment at the vastness of
35
36 the prospect before us. To open the navigation of a single river was lately
37
38 thought, in Europe, an enterprise equal to imperial glory. But could the
39
40 commercial scenes of the Scheldt be compared with those that, under a good
41
42 government, will be exhibited on the Hudson, the Delaware, the Potomac, and
43
44 the numerous other rivers, that water and are intended to enrich the
45
46 dominions of the United States?

47
48
49
50 The difficulty of the business was equal to its magnitude. No small share of
51
52 wisdom and address is requisite to combine and reconcile the jarring
53
54 interests that prevail, or seem to prevail, in a single community. The
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1 United States contain already thirteen governments mutually independent.
2
3 Those governments present to the Atlantic a front of fifteen hundred miles
4
5 in extent. Their soil, their climates, their productions, their dimensions,
6
7 their numbers, are different. In many instances, a difference, and even an
8
9 opposition, subsists among their interests; and a difference, and even an
10
11 opposition, is imagined to subsist in many more. An apparent interest
12
13 produces the same attachment as a real one, and is often pursued with no
14
15 less perseverance and vigor. When all these circumstances are seen, and
16
17 attentively considered, will any member of this honorable body be surprised
18
19 that such a diversity of things produced a proportionate diversity of
20
21 sentiment? Will he be surprised that such a diversity of sentiment rendered
22
23 a spirit of mutual forbearance and conciliation indispensably necessary to
24
25 the success of the great work? And will he be surprised that mutual
26
27 concessions and sacrifices were the consequences of mutual forbearance and
28
29 conciliation? When the springs of opposition were so numerous and strong,
30
31 and poured forth their waters in courses so varying, need we be surprised
32
33 that the stream formed by their conjunction was impelled in a direction
34
35 somewhat different from that which each of them would have taken separately?
36
37
38
39 I have reason to think that a difficulty arose in the minds of some members
40
41 of the Convention from another consideration -- their ideas of the temper
42
43 and disposition of the people for whom the Constitution is proposed. The
44
45 citizens of the United States, however different in some other respects, are
46
47 well known to agree in one strongly-marked feature of their character -- a
48
49 warm and keen sense of freedom and independence. This sense has been
50
51 heightened by the glorious result of their late struggle against all the
52
53 efforts of one of the most powerful nations of Europe. It was apprehended, I
54
55 believe, by some, that a people so highly spirited would ill brook the

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1 restraints of an efficient government. I confess that this consideration did
2
3 not influence my conduct. I knew my constituents to be high-spirited, but I
4
5 knew them also to possess sound sense. I knew that in event they would be
6
7 best pleased with that system of government which would be best, to promote
8
9 their freedom and happiness. I have also often revolved this subject in my
10
11 mind. I have supposed one of my constituents to ask me why I gave such a
12
13 vote on a particular question. I have always thought it would be a
14
15 satisfactory answer to say, Because I judged, upon the best consideration I
16
17 could give, that such a vote was right, I have thought that it would be a
18
19 very poor compliment to my constituents to say, that, in my opinion, such a
20
21 vote would have been proper, but that I supposed a contrary one would be
22
23 more agreeable to those who sent me to the Convention. I could not, even in
24
25 idea, expose myself to such a retort, as, upon the last answer, might have
26
27 been justly made to me -- Pray, sir, what reasons have you for supposing
28
29 that a right vote would displease your constituents? Is this the proper
30
31 return for the high confidence they have placed in you? If they have given
32
33 cause for such a surmise, it was by choosing a representative who could
34
35 entertain such an opinion of them. I was under no apprehension that the good
36
37 people of this state would behold with displeasure the brightness of the
38
39 rays of delegated power, when it only proved the superior splendor of the
40
41 luminary of which those rays were only the reflection.
42
43
44
45

46 A very important difficulty arose from comparing the extent of the country
47
48 to be governed with the kind of government which it would be proper to
49
50 establish in it. It has been an opinion, countenanced by high authority,
51
52 "that the natural property of small states is to be governed as a republic;
53
54 of middling ones, to be subject to a monarchy; and of large empires, to be
55

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1 swayed by a despotic prince; -- and that the consequence is, that, in order
2
3 to preserve the principles of the established government, the state must be
4
5 supported in the extent it has acquired; and that the spirit of the state
6
7 will alter in proportion as it extends or contracts its limits."

8
9 (Montesquieu, b. 8, c. 20.) This opinion seems to be supported, rather than
10
11 contradicted, by the history of the governments in the old world. Here,
12
13 then, the difficulty appeared in full view. On one hand, the United States
14
15 contain an immense extent of territory; and, according to the foregoing
16
17 opinion, a despotic government is best adapted to that extent. On the other
18
19 hand, it was well known, that, however the citizens of the United States
20
21 might with pleasure submit to the legitimate restraints of a republican
22
23 constitution, they would reject with indignation the fetters of despotism.
24
25 What, then, was to be done? The idea of a confederate republic presented
26
27 itself. This kind of constitution has been thought to have "all the internal
28
29 advantages of a republican together with the external force of a monarchical
30
31 government." (Mont. b. 9, c. 1, 2. Paley, 199, 202.)
32
33
34

35 Its description is "a convention, by which several states agree to become
36
37 members of a larger one, which they intend to establish. It is a kind of
38
39 assemblage of societies that constitute a new one, capable of increasing by
40
41 means of further association." -- (Montesquieu, b. 9, c. 1.) The expanding
42
43 quality of such government is peculiarly fitted for the United States, the
44
45 greatest part of whose territory is yet uncultivated.
46
47
48

49 But while this form of government enabled us to surmount the difficulty last
50
51 mentioned, it conducted us to another, of which I am now to take notice. It
52
53 left us almost without precedent or guide, and, consequently, without the
54
55 benefit of that instruction which, in many cases, may be derived from the

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1 constitution, and history, and experience, of other nations. Several
2
3 associations have frequently been called by the name of confederate states,
4
5 which have not, in propriety of language, deserved it. The Swiss cantons are
6
7 connected only by alliances. The United Netherlands are, indeed, an
8
9 assemblage of societies; but this assemblage constitutes no new one, and
10
11 therefore it does not correspond with the full definition of a confederate
12
13 republic. The Germanic body is composed of such disproportioned and
14
15 discordant materials, and its structure is so intricate and complex, that
16
17 little useful knowledge can be drawn from it. Ancient history discloses, and
18
19 barely discloses, to our view, some confederate republics -- the Achaean
20
21 league, the Lycian confederacy, and the Amphictyonic council. But the facts
22
23 recorded concerning their constitutions are so few and general, and their
24
25 histories are so unmarked and defective, that no satisfactory information
26
27 can be collected from them concerning many particular circumstances, from an
28
29 accurate discernment and comparison of which, alone, legitimate and
30
31 practical inferences can be made from one constitution to another. Besides,
32
33 the situation and dimensions of those confederacies, and the state of
34
35 society, manners, and habits, in them, were so different from those of the
36
37 United States, that the most correct descriptions could have supplied but a
38
39 very small fund of applicable remark. Thus, in forming this system, we were
40
41 deprived of many advantages which the history and experience of other ages
42
43 and other countries would, in other cases, have afforded us.
44
45
46
47

48 Permit me to add, in this place, that the science even of government itself
49
50 seems yet to be almost in its state of infancy. Governments, in general,
51
52 have been the result of force, of fraud, and accident. After a period of six
53
54 thousand years has elapsed since the creation, the United States exhibit to
55

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1 the world the first instance, as far as we can learn, of a nation,
2
3 unattacked by external force, unconvulsed by domestic insurrections,
4
5 assembling voluntarily, deliberating fully, and deciding calmly, concerning
6
7 that system of government under which they would wish that they and their
8
9 posterity should live. The ancients, so enlightened on other subjects, were
10
11 very uninformed with regard to this. They seem scarcely to have had any idea
12
13 of any other kinds of governments than the three simple forms designed by
14
15 the epithets monarchical, aristocratical, and democratical. I know that much
16
17 and pleasing ingenuity has been exerted, in modern times, in drawing
18
19 entertaining parallels between some of the ancient constitutions and some of
20
21 the mixed governments that have since existed in Europe. But I much suspect
22
23 that, on strict examination, the instances of resemblance will be found to
24
25 be few and weak; to be suggested by the improvements which, in subsequent
26
27 ages, have been made in government, and not to be drawn immediately from the
28
29 ancient constitutions themselves, as they were intended and understood by
30
31 those who framed them. To illustrate this, a similar observation may be made
32
33 on another subject. Admiring critics have fancied that they have discovered
34
35 in their favorite Homer the seeds of all the improvements in philosophy and
36
37 in the sciences made since his time. What induces me to be of this opinion
38
39 is, that Tacitus -- the profound politician Tacitus -- who lived towards the
40
41 latter end of those ages which are now denominated ancient, who undoubtedly
42
43 had studied the constitutions of all the states and kingdoms known before
44
45 and in his time, and who certainly was qualified, in an uncommon degree, for
46
47 understanding the full force and operation of each of them, considers, after
48
49 all he had known and read, a mixed government, composed of the three simple
50
51 forms, as a thing rather to be wished than expected. And he thinks that, if
52
53 such a government could even be instituted, its duration could not be long.
54
55 One thing is very certain -- that the doctrine of representation in

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1 government was altogether unknown to the ancients. Now, the knowledge and
2
3 practice of this doctrine is, in my opinion, essential to every system that
4
5 can possess the qualities of freedom, wisdom, and energy.
6
7
8
9
10 It is worthy of remark, and the remark may, perhaps, excite some surprise,
11
12 that representation of the people is not, even at this day, the sole
13
14 principle of any government in Europe. Great Britain boasts -- and she may
15
16 well boast -- of the improvement she has made in politics by the admission
17
18 of representation; for the improvement is important as far as it goes; but
19
20 it by no means goes far enough. Is the executive power of Great Britain
21
22 founded on representation? This is not pretended. Before the revolution,
23
24 many of the kings claimed to reign by divine right, and others by hereditary
25
26 right; and even at the revolution, nothing further was effected or attempted
27
28 than the recognition of certain parts of an original contract, (Blackstone,
29
30 233,) supposed, at some former remote period, to have been made between the
31
32 king and the people. A contract seems to exclude, rather than to imply,
33
34 delegated power. The judges of Great Britain are appointed by the crown. The
35
36 judicial authority, therefore, does not depend upon representation, even in
37
38 its most remote degree. Does representation prevail in the legislative
39
40 department of the British government? Even here it does not predominate,
41
42 though it may serve as a check. The legislature consists of three branches
43
44 -- the king, the lords, and the commons. Of these, only the latter are
45
46 supposed by the constitution to represent the authority of the people. This
47
48 short analysis clearly shows to what a narrow corner of the British
49
50 constitution the principle of representation is confined. I believe it does
51
52 not extend farther, if so far, in any other government in Europe. For the
53
54 American states were reserved the glory and the happiness of diffusing this
55

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1 vital principle throughout the constituent parts of government.
2
3 Representation is the chain of communication between the people and those to
4
5 whom they have committed the exercise of the powers of government. This
6
7 chain may consist of one or more links, but in all cases it should be
8
9 sufficiently strong and discernible.
10
11
12
13 To be left without guide or precedent was not the only difficulty in which
14
15 the Convention were involved, by proposing to their constituents a plan of a
16
17 confederate republic. They found themselves embarrassed with another, of
18
19 peculiar delicacy and importance. I mean that of drawing a proper line
20
21 between the national government and the governments of the several states.
22
23 It was easy to discover a proper and satisfactory principle on the subject.
24
25 Whatever object of government is confined, in its operation and effects,
26
27 within the bounds of a particular state, should be considered as belonging
28
29 to the government of that state; whatever object of government extends, in
30
31 its operation or effects, beyond the bounds of a particular state, should be
32
33 considered as belonging to the government of the United States. But though
34
35 this principle be sound and satisfactory, its application to particular
36
37 cases would be accompanied with much difficulty, because, in its
38
39 application, room must be allowed for great discretionary latitude of
40
41 construction of the principle. In order to lessen or remove the difficulty
42
43 arising from discretionary construction on this subject, an enumeration of
44
45 particular instances, in which the application of the principle ought to
46
47 take place, has been attempted with much industry and care. It is only in
48
49 mathematical science that a line can be described with mathematical
50
51 precision. But I flatter myself that, upon the strictest investigation, the
52
53 enumeration will be found to be safe and unexceptionable, and accurate, too,
54
55 in as great a degree as accuracy can be expected in a subject of this

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1
2 nature. Particulars under this head will be more properly explained, when we
3
4 descend to the minute view of the enumeration which is made in the proposed
5
6 Constitution.

7
8
9
10 After all, it will be necessary that, on a subject so peculiarly delicate
11
12 as this, much prudence, much candor, much moderation, and much liberality,
13
14 should be exercised and displayed both by the federal government and by the
15
16 governments of the several states. It is to be hoped that those virtues in
17
18 government will be exercised and displayed, when we consider that the powers
19
20 of the federal government and those of the state governments are drawn from
21
22 sources equally pure. If a difference can be discovered between them, it is
23
24 in favor of the federal government, because that government is founded on a
25
26 representation of the whole Union; whereas the government of any particular
27
28 state is founded only on the representation of a part, inconsiderable when
29
30 compared with the whole. Is it not more reasonable to suppose that the
31
32 counsels of the whole will embrace the interest of every part, than that the
33
34 counsels of any part will embrace the interests of the whole?

35
36
37
38 I intend not, sir, by this description of the difficulties with which the
39
40 Convention were surrounded, to magnify their skill or their merit in
41
42 surmounting them, or to insinuate that any predicament in which the
43
44 Convention stood should prevent the closest and most cautious scrutiny into
45
46 the performance which they have exhibited to their constituents and to the
47
48 world. My intention is of far other and higher aim -- to evince, by the
49
50 conflicts and difficulties which must arise from the many and powerful
51
52 causes which I have enumerated, that it is hopeless and impracticable to
53
54 form a constitution which, in every part, will be acceptable to every
55

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1 citizen, or even to every government, in the United States; and that all
2
3 which can be expected is, to form such a constitution as, upon the whole, is
4
5 the best that can possibly be obtained. Man and perfection! -- a state and
6
7 perfection! -- an assemblage of states and perfection! Can we reasonably
8
9 expect, however ardently we may wish, to behold the glorious union?

10
11
12
13 I can well recollect, though I believe I cannot convey to others, the
14
15 impression which, on many occasions, was made by the difficulties which
16
17 surrounded and pressed the Convention. The great undertaking sometimes
18
19 seemed to be at a stand; at other times, its motion seemed to be retrograde.
20
21 At the conclusion, however, of our work, many of the members expressed their
22
23 astonishment at the success with which it terminated.

24
25
26
27 Having enumerated some of the difficulties which the Convention were obliged
28
29 to encounter in the course of their proceedings, I shall next point out the
30
31 end which they proposed to accomplish. Our wants, our talents, our
32
33 affections, our passions, all tell us that we were made for a state of
34
35 society. But a state of society could not be supported long or happily
36
37 without some civil restraint. It is true that, in a state of nature, any one
38
39 individual may act uncontrolled by others; but it is equally true that, in
40
41 such a state, every other individual may act uncontrolled by him. Amidst
42
43 this universal independence, the dissensions and animosities between
44
45 interfering members of the society would be numerous and ungovernable. The
46
47 consequence would be, that each member, in such a natural state, would enjoy
48
49 less liberty, and suffer more interruption, than he would in a regulated
50
51 society. Hence the universal introduction of governments of some kind or
52
53 other into the social state. The liberty of every member is increased by
54
55 this introduction; for each gains more by the limitation of the freedom of

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1 every other member, than he loses by the limitation of his own. The result
2
3 is, that civil government is necessary to the perfection and happiness of
4
5 man. In forming this government, and carrying it into execution, it is
6
7 essential that the interest and authority of the whole community should be
8
9 binding in every part of it.
10

11
12
13 The foregoing principles and conclusions are generally admitted to be just
14
15 and sound with regard to the nature and formation of single governments, and
16
17 the duty of submission to them. In some cases, they will apply, with much
18
19 propriety and force, to states already formed. The advantages and necessity
20
21 of civil government among individuals in society, are not greater or
22
23 stronger than, in some situations and circumstances, are the advantages and
24
25 necessity of a federal government among states. A natural and very important
26
27 question now presents itself -- Is such the situation, are such the
28
29 circumstances, of the United States? A proper answer to this question will
30
31 unfold some very interesting truths.
32
33

34
35 The United States may adopt any one of four different systems. They may
36
37 become consolidated into one government, in which the separate existence of
38
39 the states shall be entirely absolved. They may reject any plan of union or
40
41 association, and act as separate and unconnected states. They may form two
42
43 or more confederacies. They may unite in one federal republic. Which of
44
45 these systems ought to have been formed by the Convention? To support, with
46
47 vigor, a single government over the whole extent of the United States, would
48
49 demand a system of the most unqualified and the most unremitted despotism.
50
51 Such a number of separate states, contiguous in situation, unconnected and
52
53 disunited in government, would be, at one time, the prey of foreign force,
54
55

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1 foreign influence, and foreign intrigue; at another, the victims of mutual
2 rage, rancor, and revenge. Neither of these systems found advocates in the
3 late Convention. I presume they will not find advocates in this. Would it be
4 proper to divide the United States into two or more confederacies? It will
5 not be unadvisable to take a more minute survey of this subject. Some
6 aspects under which it may be viewed are far from being, at first sight,
7 uninviting. Two or more confederacies would be each more compact and more
8 manageable than a single one extending over the same territory. By dividing
9 the United States into two or more confederacies, the great collision of
10 interests apparently or really different and contrary in the whole extent of
11 their dominion, would be broken, and, in a great measure, disappear, in the
12 several parts. But these advantages, which are discovered from certain
13 points of view, are greatly overbalanced by inconveniences that will appear
14 on a more accurate examination. Animosities, and perhaps wars, would arise
15 from assigning the extent, the limits, and the rights, of the different
16 confederacies. The expenses of governing would be multiplied by the number
17 of federal governments. The danger resulting from foreign influence and
18 mutual dissensions, would not, perhaps, be less great and alarming in the
19 instance of different confederacies, than in the instance of different
20 though more numerous unassociated states.

21
22
23 These observations, and many others that might be made on the subject, will
24 be sufficient to evince that a division of the United States into a number
25 of separate confederacies would probably be an unsatisfactory and an
26 unsuccessful experiment. The remaining system which the American states may
27 adopt, is a union of them under one confederate republic. It will not be
28 necessary to employ much time, or many arguments, to show that this is the
29 most eligible system that can be proposed. By adopting this system, the

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1
2 vigor and decision of a wide-spreading monarchy may be joined to the freedom
3
4 and beneficence of a contracted republic. The extent of territory, the
5
6 diversity of climate and soil, the number, and greatness, and connection, of
7
8 lakes and rivers with which the United States are intersected and almost
9
10 surrounded, -- all indicate an enlarged government to be fit and
11
12 advantageous for them. The principles and dispositions of their citizens
13
14 indicate that, in this government, liberty shall reign triumphant. Such,
15
16 indeed, have been the general opinions and wishes entertained since the era
17
18 of independence. If those opinions and wishes are as well founded as they
19
20 have been general, the late Convention were justified in proposing to their
21
22 constituents one confederate republic, as the best system of a national
23
24 government for the United States.

25
26
27
28 In forming this system, it was proper to give minute attention to the
29
30 interest of all the parts; but there was a duty of still higher import --
31
32 to feel and to show a predominating regard to the superior interests of the
33
34 whole. If this great principle had not prevailed, the plan before us would
35
36 never have made its appearance. The same principle that was so necessary in
37
38 forming it, is equally necessary in our deliberations, whether we should
39
40 reject or ratify it.

41
42
43
44 I make these observations with a design to prove and illustrate this great
45
46 and important truth -- that, in our decisions on the work of the late
47
48 Convention, we should not limit our views and regards to the state of
49
50 Pennsylvania. The aim of the Convention was to form a system of good and
51
52 efficient government, on the more extensive scale of the United States. In
53
54 this, and in every other instance, the work should be judged with the same
55

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1 spirit with which it was performed. A principle of duty, as well as candor,
2
3 demands this.
4

5
6
7 We have remarked that civil government is necessary to the perfection of
8
9 society; we now remark that civil liberty is necessary to the perfection of
10
11 civil government. Civil liberty is natural liberty itself, divested of only
12
13 that part which, placed in the government, produces more good and happiness
14
15 to the community than if it had remained in the individual. Hence it follows
16
17 that civil liberty, while it resigns a part of natural liberty, retains the
18
19 free and generous exercise of all the human faculties, so far as it is
20
21 compatible with the public welfare.
22

23
24
25 In considering and developing the nature and end of the system before us, it
26
27 is necessary to mention another kind of liberty, which has not yet, as far
28
29 as I know, received a name. I shall distinguish it by the appellation of
30
31 federal liberty. When a single government is instituted, the individuals of
32
33 which it is composed surrender to it a part of their natural independence,
34
35 which they before enjoyed as men, When a confederate republic is instituted,
36
37 the communities of which it is composed surrender to it a part of their
38
39 political independence, which they before enjoyed as states. The principles
40
41 which directed, in the former case, what part of the natural liberty of the
42
43 man ought to be given up, and what part ought to be retained, will give
44
45 similar directions in the latter case. The states should resign to the
46
47 national government that part, and that part only, of their political
48
49 liberty, which, placed in that government, will produce more good to the
50
51 whole than if it had remained in the several states. While they resign this
52
53 part of their political liberty, they retain the free and generous exercise
54
55 of all their other faculties, as states, so far as it is compatible with the

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welfare of the general and superintending confederacy.

Since states, as well as citizens, are represented in the Constitution before us, and form the objects on which that Constitution is proposed to operate, it was necessary to notice and define federal as well as civil liberty.

These general reflections have been made in order to introduce, with more propriety and advantage, a practical illustration of the end proposed to be accomplished by the late Convention.

It has been too well known -- it has been too severely-felt -- that the present Confederation is inadequate to the government, and to the exigencies, of the United States. The great struggle for Liberty in this country, should it be unsuccessful, will probably be the last one which she will have for her existence and prosperity in any part of the globe. And it must be confessed that this struggle has, in some of the stages of its progress, been attended with symptoms that foreboded no fortunate issue. To the iron hand of Tyranny, which was lifted up against her, she manifested, indeed, an intrepid superiority. She broke in pieces the fetters which were forged for her, and showed that she was unassailable by force. But she was environed with dangers of another kind, and springing from a very different source. While she kept her eye steadily fixed on the efforts of oppression, licentiousness was secretly undermining the rock on which she stood.

Need I call to your remembrance the contrasted scenes of which we have been witnesses? On the glorious conclusion of our conflict with Britain, what

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1 high expectations were formed concerning us by others! What high
2 expectations did we form concerning ourselves! Have those expectations been
3 realized? No. What has been the cause? Did our citizens lose their
4 perseverance and magnanimity? No. Did they become insensible of resentment
5 and indignation at any high-handed attempt that might have been made to
6 injure or enslave them? No. What, then, has been the cause? The truth is, we
7 dreaded danger only on one side: this we manfully repelled. But, on another
8 side, danger, not less formidable but more insidious, stole in upon us; and
9 our unsuspecting tempers were not sufficiently attentive either to its
10 approach or to its operations. Those whom foreign strength could not
11 overpower, have well nigh become the victims of internal anarchy.

12
13 If we become a little more particular, we shall find that the foregoing
14 representation is by no means exaggerated. When we had baffled all the
15 menaces of foreign power, we neglected to establish among ourselves a
16 government that would insure domestic vigor and stability. What was the
17 consequence? The commencement of peace was the commencement of every
18 disgrace and distress that could befall a people in a peaceful state. Devoid
19 of national power, we could not prohibit the extravagance of our
20 importations, nor could we derive a revenue from their excess. Devoid of
21 national importance, we could not procure, for our exports, a tolerable sale
22 at foreign markets. Devoid of national credit, we saw our public securities
23 melt in the hands of the holders, like snow before the sun. Devoid of
24 national dignity, we could not, in some instances, perform our treaties, on
25 our part; and, in other instances, we could neither obtain nor compel the
26 performance of them, on the part of others. Devoid of national energy, we
27 could not carry into execution our own resolutions, decisions, or laws.

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1 Shall I become more particular still? The tedious detail would disgust me.

2
3 The years of languor are now over. We have felt the dishonor with which we
4
5 have been covered -- we have seen the destruction with which we have been
6
7 threatened. We have penetrated to the causes of both, and when we have once
8
9 discovered them, we have begun to search for the means of removing them. For
10
11 the confirmation of these remarks, I need not appeal to an enumeration of
12
13 facts. The proceedings of Congress, and of the several states, are replete
14
15 with them. They all point out the weakness and insufficiency as the cause,
16
17 and an efficient general government as the only cure, of our political
18
19 distempers.
20
21
22
23

24 Under these impressions, and with these views, was the late Convention
25
26 appointed; and under these impressions, and with these views, the late
27
28 Convention met.
29
30
31

32 We now see the great end which they proposed to accomplish. It was to frame,
33
34 for the consideration of their constituents, one federal and national
35
36 constitution -- a constitution that would produce the advantages of good,
37
38 and prevent the inconveniences of bad government -- a constitution whose
39
40 beneficence and energy would pervade the whole Union, and bind and embrace
41
42 the interests of every part -- a constitution that would insure peace,
43
44 freedom, and happiness, to the states and people of America.
45
46
47

48 We are now naturally led to examine the means by which they proposed to
49
50 accomplish this end. This opens more particularly to our view the discussion
51
52 before us. But, previously to our entering upon it, it will not be improper
53
54 to state some general and leading principles of government, which will
55

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1 receive particular application in the course of our investigations.

2
3
4
5 There necessarily exists, in every government, a power from which there is
6
7 no appeal, and which, for that reason, may be termed supreme, absolute, and
8
9 uncontrollable. Where does this power reside? To this question writers on
10
11 different governments will give different answers. Sir William Blackstone
12
13 will tell you, that in Britain the power is lodged in the British
14
15 Parliament; that the Parliament may alter the form of the government; and
16
17 that its power is absolute, without control. The idea of a constitution,
18
19 limiting and superintending the operations of legislative authority, seems
20
21 not to have been accurately understood in Britain. There are, at least, no
22
23 traces of practice conformable to such a principle. The British constitution
24
25 is just what the British Parliament pleases. When the Parliament transferred
26
27 legislative authority to Henry VIII., the act transferring could not, in the
28
29 strict acceptation of the term, be called unconstitutional.

30
31
32
33 To control the power and conduct of the legislature, by an overruling
34
35 constitution, was an improvement in the science and practice of government
36
37 reserved to the American states.

38
39
40
41 Perhaps some politician, who has not considered with sufficient accuracy our
42
43 political systems, would answer that, in our governments, the supreme power
44
45 was vested in the constitutions. This opinion approaches a step nearer to
46
47 the truth, but does not reach it. The truth is, that, in our governments,
48
49 the supreme, absolute, and uncontrollable power remains in the people. As
50
51 our constitutions are superior to our legislatures, so the people are
52
53 superior to our constitutions. Indeed, the superiority, in this last
54
55 instance, is much greater; for the people possess over our constitutions

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1
2 control in act, as well as right.

3
4
5
6 The consequence is, that the people may change the constitutions whenever
7
8 and however they please. This is a right of which no positive institution
9
10 can ever deprive them.

11
12
13 These important truths, sir, are far from being merely speculative. We, at
14
15 this moment, speak and deliberate under their immediate and benign
16
17 influence. To the operation of these truths we are to ascribe the scene,
18
19 hitherto unparalleled, which America now exhibits to the world -- a gentle,
20
21 a peaceful, a voluntary, and a deliberate transition from one constitution
22
23 of government to another. In other parts of the world, the idea of
24
25 revolutions in government is, by a mournful and an indissoluble association,
26
27 connected with the idea of wars, and all the calamities attendant on wars.
28
29 But happy experience teaches us to view such revolutions in a very different
30
31 light -- to consider them only as progressive steps in improving the
32
33 knowledge of government, and increasing the happiness of society and
34
35 mankind.
36
37
38
39

40 Oft have I marked, with silent pleasure and admiration, the force and
41
42 prevalence, through the United States, of the principle that the supreme
43
44 power resides in the people, and that they never part with it. It may be
45
46 called the panacea in politics. There can be no disorder in the community
47
48 but may here receive a radical cure. If the error be in the legislature, it
49
50 may be corrected by the constitution; if in the constitution, it may be
51
52 corrected by the people. There is a remedy, therefore, for every distemper
53
54 in government, if the people are not wanting to themselves; if they are
55

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1 wanting to themselves, there is no remedy. From their power, as we have
2
3 seen, there is no appeal; of their error there is no superior principle of
4
5 correction.

6
7
8
9 There are three simple species of government -- monarchy, where the supreme
10
11 power is in a single person; aristocracy, where the supreme power is in a
12
13 select assembly, the members of which either fill up, by election, the
14
15 vacancies in their own body, or succeed to their places in it by
16
17 inheritance, property, or in respect of some personal right or
18
19 qualification; a republic or democracy, where the people at large retain the
20
21 supreme power, and act either collectively or by representation.

22
23
24
25 Each of these species of government has its advantages and disadvantages.

26
27
28
29 The advantages of a monarchy are, strength, despatch, secrecy, unity of
30
31 counsel. Its disadvantages are, tyranny, expense, ignorance of the situation
32
33 and wants of the people, insecurity, unnecessary wars, evils attending
34
35 elections or successions.

36
37
38
39 The advantages of aristocracy are, wisdom, arising from experience and
40
41 education. Its disadvantages are, dissensions among themselves, oppression
42
43 to the lower orders.

44
45
46
47 The advantages of democracy are, liberty, equality, cautious and salutary
48
49 laws, public spirit, frugality, peace, opportunities of exciting and
50
51 producing abilities of the best citizens. Its disadvantages are,
52
53 dissensions, the delay and disclosure of public counsels, the imbecility of
54
55 public measures, retarded by the necessity of a numerous consent.

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1
2
3
4 A government may be composed of two or more of the simple forms above
5
6 mentioned. Such is the British government. It would be an improper
7
8 government for the United States, because it is inadequate to such an extent
9
10 of territory, and because it is suited to an establishment of different
11
12 orders of men. A more minute comparison between some parts of the British
13
14 constitution, and some parts of the plan before us, may perhaps find a
15
16 proper place in a subsequent period of our business.
17
18
19

20 What is the nature and kind of that government which has been proposed for
21
22 the United States by the late Convention? In its principle, it is purely
23
24 democratical. But that principle is applied in different forms, in order to
25
26 obtain the advantages, and exclude the inconveniences, of the simple modes
27
28 of government.
29
30
31

32 If we take an extended and accurate view of it. we shall find the streams of
33
34 power running in different directions, in different dimensions, and at
35
36 different heights -- watering, adorning, and fertilizing, the fields and
37
38 meadows through which their courses are led; hut if we trace them, we shall
39
40 discover that they all originally flow from one abundant fountain.
41
42
43

44 In this Constitution, all authority is derived from the people.
45
46
47

48 Fit occasions will hereafter offer for particular remarks on the different
49
50 parts of the plan. I have now to ask pardon of the house for detaining them
51
52 so long.
53
54
55

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1 WEDNESDAY, November 28, 1787, A. M. -- Mr. WILSON. This will be a proper time
2
3 for making an observation or two on what may be called the preamble to this
4
5 Constitution. I had occasion, on a former day, to mention that the leading
6
7 principle in the politics, and that which pervades the American
8
9 constitutions, is, that the supreme power resides in the people. This
10
11 Constitution, Mr. President, opens with a solemn and practical recognition
12
13 of that principle: -- "We, the people of the United States, in order to form
14
15 a more perfect union, establish justice, &c., do ordain and establish this
16
17 Constitution for the United States of America." It is announced in their
18
19 name -- it receives its political existence from their authority: they
20
21 ordain and establish. What is the necessary consequence? Those who ordain
22
23 and establish have the power, if they think proper, to repeal and annul. A
24
25 proper attention to this principle may, perhaps, give ease to the minds of
26
27 some who have heard much concerning the necessity of a bill of rights.
28
29
30

31 Its establishment, I apprehend, has more force than a volume written on the
32
33 subject. It renders this truth evident -- that the people have a right to do
34
35 what they please with regard to the government. I confess I feel a kind of
36
37 pride in considering the striking difference between the foundation on which
38
39 the liberties of this country are declared to stand in this Constitution,
40
41 and the footing on which the liberties of England are said to be placed. The
42
43 Magna Charta of England is an instrument of high value to the people of that
44
45 country. But, Mr. President, from what source does that instrument derive
46
47 the liberties of the inhabitants of that kingdom? Let it speak for itself.
48
49 The king says, "We have given and granted to all archbishops, bishops,
50
51 abbots, priors, earls, barons, and to all the freemen of this our realm,
52
53 these liberties following, to be kept in our kingdom of England forever."
54
55 When this was assumed as the leading principle of that government, it was no

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1
2 wonder that the people were anxious to obtain bills of rights, and to take
3
4 every opportunity of enlarging and securing their liberties. But here, sir,
5
6 the fee-simple remains in the people at large, and by this Constitution they
7
8 do not part with it.
9

10
11
12 I am called upon to give a reason why the Convention omitted to add a bill
13
14 of rights to the work before you. I confess, sir, I did think that, in point
15
16 of propriety, the honorable gentleman ought first to have furnished some
17
18 reasons to show such an addition to be necessary; it is natural to prove the
19
20 affirmative of a proposition; and, if he had established the propriety of
21
22 this addition, he might then have asked why it was not made.
23
24
25

26 I cannot say, Mr. President, what were the reasons of every member of that
27
28 Convention for not adding a bill of rights. I believe the truth is, that
29
30 such an idea never entered the mind of many of them. I do not recollect to
31
32 have heard the subject mentioned till within about three days of the time of
33
34 our rising; and even then, there was no direct motion offered for any thing
35
36 of the kind. I may be mistaken in this; but as far as my memory serves me, I
37
38 believe it was the case. A proposition to adopt a measure that would have
39
40 supposed that we were throwing into the general government every power not
41
42 expressly reserved by the people, would have been spurned at, in that house,
43
44 with the greatest indignation. Even in a single government, if the powers of
45
46 the people rest on the same establishment as is expressed in this
47
48 Constitution, a bill of rights is by no means a necessary measure. In a
49
50 government possessed of enumerated powers, such a measure would be not only
51
52 unnecessary, but preposterous and dangerous. Whence comes this notion, that
53
54 in the United States there is no security without a bill of rights? Have the
55

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1 citizens of South Carolina no security for their liberties? They have no
2
3 bill of rights. Are the citizens on the eastern side of the Delaware less
4
5 free, or less secured in their liberties, than those on the western side?
6
7 The state of New Jersey has no bill of rights. The state of New York has no
8
9 bill of rights. The states of Connecticut and Rhode Island have no bill of
10
11 rights. I know not whether I have exactly enumerated the states who have not
12
13 thought it necessary to add a bill of rights to their constitutions; but
14
15 this enumeration, sir, will serve to show by experience, as well as
16
17 principle, that, even in single governments, a bill of rights is not an
18
19 essential or necessary measure. But in a government consisting of enumerated
20
21 powers, such as is proposed for the United States, a bill of rights would
22
23 not only be unnecessary, but, in my humble judgment, highly imprudent. In
24
25 all societies, there are many powers and rights which cannot be particularly
26
27 enumerated. A bill of rights annexed to a constitution is an enumeration of
28
29 the powers reserved. If we attempt an enumeration, every thing that is not
30
31 enumerated is presumed to be given. The consequence is, that an imperfect
32
33 enumeration would throw all implied power into the scale of the government,
34
35 and the rights of the people would be rendered incomplete. On the other
36
37 hand, an imperfect enumeration of the powers of government reserves all
38
39 implied power to the people; and by that means the constitution becomes
40
41 incomplete. But of the two, it is much safer to run the risk on the side of
42
43 the constitution; for an omission in the enumeration of the powers of
44
45 government is neither so dangerous nor important as an omission in the
46
47 enumeration of the rights of the people.

48
49
50
51 Mr. President, as we are drawn into this subject, I beg leave to pursue its
52
53 history a little farther. The doctrine and practice of declarations of
54
55 rights have been borrowed from the conduct of the people of England on some

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1
2 remarkable occasions; hut the principles and maxims, on which their
3
4 government is constituted, are widely different from those of ours. I have
5
6 already stated the language of Magna Charta. After repeated confirmations of
7
8 that instrument, and after violations of it repeated equally often, the next
9
10 step taken in this business was, when the petition of rights was presented
11
12 to Charles I.

13
14
15
16 It concludes in this manner: "All of which they most humbly pray to be
17
18 allowed, as their rights and liberties, according to the laws and statutes
19
20 of this realm." (8th Par. Hist. 150.) One of the most material statutes of
21
22 the realm was Magna Charta; so that we find they continue upon the old
23
24 ground, as to the foundation on which they rest their liberties. It was not
25
26 till the era of the revolution that the two houses assume a higher tone, and
27
28 "demand and insist upon all the premises as their undoubted rights and
29
30 liberties." (Par. Deb. 261.) But when the whole transaction is considered,
31
32 we shall find that those rights and liberties are claimed only on the
33
34 foundation of an original contract, supposed to have been made, at some
35
36 former period, between the king and the people. (1 Blackstone, 233.)
37
38
39

40 But, in this Constitution, the citizens of the United States appear
41
42 dispensing a part of their original power in what manner and what proportion
43
44 they think fit. They never part with the whole; and they retain the right of
45
46 recalling what they part with. When, therefore, they possess, as I have
47
48 already mentioned, the fee-simple of authority, why should they have
49
50 recourse to the minute and subordinate remedies, which can be necessary only
51
52 to those who pass the fee, and reserve only a rent-charge?
53
54
55

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1 To every suggestion concerning a bill of rights, the citizens of the United
2 States may always say, WE reserve the right to do what we please.

3
4
5
6
7 I concur most sincerely with the honorable gentleman who was last up in one
8 sentiment -- that if our liberties will be insecure under this system of
9 government, it will become our duty not to adopt, but to reject it. On the
10 contrary, if it will secure the liberties of the citizens of America, -- if
11 it will not only secure their liberties, but procure them happiness, -- it
12 becomes our duty, on the other hand, to assent to and ratify it. With a view
13 to conduct us safely and gradually to the determination of that important
14 question, I shall beg leave to notice some of the objections that have
15 fallen from the honorable gentleman from Cumberland, (Whitehill.) But,
16 before I proceed, permit me to make one general remark. Liberty has a
17 formidable enemy on each hand; on one there is tyranny, on the other
18 licentiousness. In order to guard against the latter, proper powers ought to
19 be given to government: in order to guard against the former, those powers
20 ought to be properly distributed. It has been mentioned, and attempts have
21 been made to establish the position, that the adoption of this Constitution
22 will necessarily be followed by the annihilation of all the state
23 governments. If this was a necessary consequence, the objection would
24 operate in my mind with exceeding great force. But, sir, I think the
25 inference is rather unnatural, that a government will produce the
26 annihilation of others, upon the very existence of which its own existence
27 depends. Let us, sir, examine this Constitution, and mark its proportions
28 and arrangements. It is composed of three great constituent parts -- the
29 legislative department, the executive department, and the judicial
30 department. The legislative department is subdivided into two branches --
31 the House of Representatives and the Senate. Can there be a House of

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Representatives in the general government, after the state governments are annihilated? Care is taken to express the character of the electors in such a manner, that even the popular branch of the general government cannot exist unless the governments of the states continue in existence.

How do I prove this? By the regulation that is made concerning the important subject of giving suffrage. Article 1, section 2: "And the electors in each state shall have the qualifications for electors of the most numerous branch of the state legislature." Now, sir, in order to know who are qualified to be electors of the House of Representatives, we are to inquire who are qualified to be electors of the legislature of each state. If there be no legislature in the states, there can be no electors of them: if there be no such electors, there is no criterion to know who are qualified to elect members of the House of Representatives. By this short, plain deduction, the existence of state legislatures is proved to be essential to the existence of the general government.

Let us proceed now to the second branch of the legislative department. In the system before you, the senators, sir, -- those tyrants that are to devour the legislatures of the states, -- are to be chosen by the state legislatures themselves. Need any thing more be said on this subject? So far is the principle of each state's retaining the power of self-preservation from being weakened or endangered by the general government, that the Convention went further, perhaps, than was strictly proper, in order to secure it; for, in this second branch of the legislature, each state, without regard to its importance, is entitled to an equal vote. And in the articles respecting amendments of this Constitution, it is provided "That no

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1 state, without its consent, shall be deprived of its equal suffrage in the
2
3 Senate."

4
5
6
7 Does it appear, then, that provision for the continuance of the state
8
9 governments was neglected, in framing this Constitution? On the contrary, it
10
11 was a favorite object in the Convention to secure them.

12
13
14
15 The President of the United States is to be chosen by electors appointed in
16
17 the different states, in such manner as the legislature shall direct. Unless
18
19 there be legislatures to appoint electors, the President cannot be chosen:
20
21 the idea, therefore, of the existing government of the states, is
22
23 presupposed in the very mode of constituting the legislative and the
24
25 executive departments of the general government. The same principle will
26
27 apply to the judicial department. The judges are to be nominated by the
28
29 President, and appointed by him, with the advice and consent of the Senate.
30
31 This shows that the judges cannot exist without the President and Senate. I
32
33 have already shown that the President and Senate cannot exist without the
34
35 existence of the state legislatures. Have I misstated any thing? Is not the
36
37 evidence indisputable, that the state governments will be preserved, or that
38
39 the general government must tumble amidst their ruins? It is true, indeed,
40
41 sir, although it presupposes the existence of state governments, yet this
42
43 Constitution does not suppose them to be the sole power to be respected.

44
45
46
47 In the Articles of Confederation, the people are unknown, but in this plan
48
49 they are represented; and in one of the branches of the legislature, they
50
51 are represented immediately by persons of their own choice.

52
53
54
55 I hope these observations on the nature and formation of this system are

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1
2 seen in their full force; many of them were so seen by some gentlemen of the
3
4 late Convention. After all this, could it have been expected that assertions
5
6 such as have been hazarded on this floor would have been made -- "that it
7
8 was the business of their deliberations to destroy the state governments;
9
10 that they employed four months to accomplish this object; and that such was
11
12 their intentions "? That honorable gentleman may be better qualified to
13
14 judge of their intentions than themselves. I know my own; and as to those of
15
16 the other members, I believe that they have been very improperly and
17
18 unwarrantably represented. Intended to destroy! Where did he obtain his
19
20 information? Let the tree be judged of by its fruit.

21
22
23
24 Mr. President, the only proof that is attempted to be drawn from the work
25
26 itself, is that which has been urged from the fourth section of the first
27
28 article. I will read it: "The times, places, and manner, of holding
29
30 elections for senators and representatives, shall be prescribed in each
31
32 state by the legislature thereof; but the Congress may at any time, by law,
33
34 make or alter such regulations, except as to the places of choosing
35
36 senators."

37
38
39
40 And is this a proof that it was intended to carry on this government after
41
42 the state governments should be dissolved and abrogated? This clause is not
43
44 only a proper, but necessary one. I have already shown what pains have been
45
46 taken in the Convention to secure the preservation of the state governments.
47
48 I hope, sir, that it was no crime to sow the seed of self-preservation in
49
50 the federal government; without this clause, it would not possess
51
52 self-preserving power. By this clause, the times, places, and manner of
53
54 holding elections, shall be prescribed in each state, by the legislature
55

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1 thereof. I think it highly proper that the federal government should throw
2
3 the exercise of this power into the hands of the state legislatures; but not
4
5 that it should be placed there entirely without control.
6
7
8

9 If the Congress had it not in their power to make regulations, what might be
10
11 the consequences? Some states might make no regulations at all on the
12
13 subject. And shall the existence of the House of Representatives, the
14
15 immediate representation of the people in Congress, depend upon the will and
16
17 pleasure of the state governments? Another thing may possibly happen; I
18
19 don't say it will; but we were obliged to guard even against possibilities,
20
21 as well as probabilities. A legislature may be willing to make the necessary
22
23 regulations; yet the minority of that legislature may, by absenting
24
25 themselves, break up the house, and prevent the execution of the intention
26
27 of the majority. I have supposed the case, that some state governments may
28
29 make no regulations at all; it is possible, also, that they may make
30
31 improper regulations. I have heard it surmised by the opponents of this
32
33 Constitution, that the Congress may order the election for Pennsylvania to
34
35 be held at Pittsburg, and thence conclude that it would be improper for them
36
37 to have the exercise of the power. But suppose, on the other hand, that the
38
39 assembly should order an election to be held at Pittsburg; ought not the
40
41 general government to have the power to alter such improper election of one
42
43 of its own constituent parts? But there is an additional reason still that
44
45 shows the necessity of this provisionary clause. The members of the Senate
46
47 are elected by the state legislatures. If those legislatures possessed,
48
49 uncontrolled, the power of prescribing the times, places, and manner, of
50
51 electing members of the House of Representatives, the members of one branch
52
53 of the general legislature would be the tenants at will of the electors of
54
55 the other branch; and the general government would lie prostrate at the

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1
2 mercy of the legislatures of the several states.

3
4
5
6 I will ask, now, Is the inference fairly drawn, that the general government
7
8 was intended to swallow up the state governments? Or was it calculated to
9
10 answer such end? Or do its framers deserve such censure from honorable
11
12 gentlemen? We find, on examining this paragraph, that it contains nothing
13
14 more than the maxims of self-preservation, so abundantly secured by this
15
16 Constitution to the individual states. Several other objections have been
17
18 mentioned. I will not, at this time, enter into a discussion of them, though
19
20 I may hereafter take notice of such as have any show of weight; but I
21
22 thought it necessary to offer, at this time, the observations I have made,
23
24 because I consider this as an important subject, and think the objection
25
26 would be a strong one, if it was well founded.

27
28
29
30 FRIDAY, November 30, 1787, A. M. -- Mr. WILSON. It is objected that the
31
32 number of members in the House of Representatives is too small. This is a
33
34 subject somewhat embarrassing, and the Convention who framed the article
35
36 felt the embarrassment. Take either side of the question, and you are
37
38 necessarily led into difficulties. A large representation, sir, draws along
39
40 with it a great expense. We all know that expense is offered as an objection
41
42 to this system of government; and certainly, had the representation been
43
44 greater, the clamor would have been on that side, and perhaps with some
45
46 degree of justice. But the expense is not the sole objection; it is the
47
48 opinion of some writers, that a deliberative body ought not to consist of
49
50 more than one hundred members. I think, however, that there might be safety
51
52 and propriety in going beyond that number; but certainly there is some
53
54 number so large that it would be improper to increase them beyond it. The
55

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1 British House of Commons consists of upwards of five hundred. The senate of
2
3 Rome consisted, it is said, at some times, of one thousand members. This
4
5 last number is certainly too great.
6
7
8

9 The Convention endeavored to steer a middle course; and, when we consider
10
11 the scale on which they formed their calculation, there are strong reasons
12
13 why the representation should not have been larger. On the ratio that they
14
15 have fixed, of one for every thirty thousand, and according to the generally
16
17 received opinion of the increase of population throughout the United States,
18
19 the present number of their inhabitants will be doubled in twenty-five
20
21 years, and according to that progressive proportion, and the ratio of one
22
23 member for thirty thousand inhabitants, the House of Representatives will,
24
25 within a single century, consist of more than six hundred members. Permit me
26
27 to add a further observation on the numbers -- that a large number is not so
28
29 necessary in this case as in the cases of state legislatures. In them there
30
31 ought to be a representation sufficient to declare the situation of every
32
33 county, town, and district; and if of every individual, so much the better,
34
35 because their legislative powers extend to the particular interest and
36
37 convenience of each. But in the general government, its objects are
38
39 enumerated, and are not confined, in their causes or operations, to a
40
41 county, or even to a single state. No one power is of such a nature as to
42
43 require the minute knowledge of situations and circumstances necessary in
44
45 state governments possessed of general legislative authority. These were the
46
47 reasons, sir, that, I believe, had influence on the Convention, to agree to
48
49 the number of thirty thousand; and when the inconveniences and conveniences,
50
51 on both sides, are compared, it would be difficult to say what would be a
52
53 number more unexceptionable.
54
55

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1
2 SATURDAY, December 1, 1787, A. M. -- Mr. WILSON. The secret is now
3
4 disclosed, and it is discovered to be a dread, that the boasted state
5
6 sovereignties will, under this system, be disrobed of part of their power.
7
8 Before I go into the examination of this point, let me ask one important
9
10 question. Upon what principle is it contended that the sovereign power
11
12 resides in the state governments? The honorable gentleman has said truly,
13
14 that there can be no subordinate sovereignty. Now, if there cannot, my
15
16 position is, that the sovereignty resides in the people; they have not
17
18 parted with it; they have only dispensed such portions of power as were
19
20 conceived necessary for the public welfare. This Constitution stands upon
21
22 this broad principle. I know very well, sir, that the people have hitherto
23
24 been shut out of the federal government; but it is not meant that they
25
26 should any longer be dispossessed of their rights. In order to recognize
27
28 this leading principle, the proposed system sets out with a declaration that
29
30 its existence depends upon the supreme authority of the people alone. We
31
32 have heard much about a consolidated government. I wish the honorable
33
34 gentleman would condescend to give us a definition of what he meant by it. I
35
36 think this the more necessary, because I apprehend that the term, in the
37
38 numerous times it has been used, has not always been used in the same sense.
39
40 It may be said, and I believe it has been said, that a consolidated
41
42 government is such as will absorb and destroy the governments of the several
43
44 states. If it is taken in this view, the plan before us is not a
45
46 consolidated government, as I showed on a former day, and may, if necessary,
47
48 show further on some future occasion. On the other hand, if it is meant that
49
50 the general government will take from the state governments their power in
51
52 some particulars, it is confessed, and evident, that this will be its
53
54 operation and effect.
55

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1
2
3 When the principle is once settled that the people are the source of
4 authority, the consequence is, that they may take from the subordinate
5 governments powers with which they have hitherto trusted them, and place
6 those powers in the general government, if it is thought that there they
7 will be productive of more good. They can distribute one portion of power to
8 the more contracted circle, called state governments; they can also furnish
9 another proportion to the government of the United States. Who will
10 undertake to say, as a state officer, that the people may not give to the
11 general government what powers, and for what purposes, they please? How
12 comes it, sir, that these state governments dictate to their superiors -- to
13 the majesty of the people? When I say the majesty of the people, I mean the
14 thing, and not a mere compliment to them. The honorable gentleman went
15 further, and said that the state governments were kept out of this
16 government altogether. The truth is, -- and it is a leading principle in
17 this system, -- that not the states only, but the people also, shall be here
18 represented. And if this is a crime, I confess the general government is
19 chargeable with it; but I have no idea that a safe system of power in the
20 government, sufficient to manage the general interest of the United States,
21 could be drawn from any other source, or vested in any other authority, than
22 that of the people at large; and I consider this authority as the rock on
23 which this structure will stand. If this principle is unfounded, the system
24 must fall. If the honorable gentlemen, before they undertake to oppose this
25 principle, will show that the people have parted with their power to the
26 state governments, then I confess I cannot support this Constitution. It is
27 asked, Can there be two taxing powers? Will the people submit to two taxing
28 powers? I think they will, when the taxes are required for the public
29 welfare, by persons appointed immediately by their fellow-citizens.

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1
2
3
4 But I believe this doctrine is a very disagreeable one to some of the state
5
6 governments. All the objects that will furnish an increase of revenue are
7
8 eagerly seized by them. Perhaps this will lead to the reason why a state
9
10 government, when she was obliged to pay only about an eighth part of the
11
12 loan-office certificates, should voluntarily undertake the payment of about
13
14 one third part of them. This power of taxation will be regulated in the
15
16 general government upon equitable principles. No state can have more than
17
18 her just proportion to discharge; no longer will government, be obliged to
19
20 assign her funds for the payment of debts she does not owe. Another
21
22 objection has been taken, that the judicial powers are coextensive with the
23
24 objects of the national government. As far as I can understand the idea of
25
26 magistracy in every government, this seems to be a proper arrangement; the
27
28 judicial department is considered as a part of the executive authority of
29
30 government. Now, I have no idea that the authority should be restricted so
31
32 as not to be able to perform its functions with full effect. I would not
33
34 have the legislature sit to make laws which cannot be executed. It is not
35
36 meant here that the laws shall be a dead letter: it is meant that they
37
38 shall be carefully and duly considered before they are enacted, and that
39
40 then they shall be honestly and faithfully executed. This observation
41
42 naturally leads to a more particular consideration of the government before
43
44 us. In order, sir, to give permanency, stability, and security to any
45
46 government, I conceive it of essential importance, that its legislature
47
48 should be restrained; that there should not only be what we call a passive,
49
50 but an active power over it, for, of all kinds of despotism, this is the
51
52 most dreadful, and the most difficult to be corrected. With how much
53
54 contempt have we seen the authority of the people treated by the legislature
55

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1 of this state! and how often have we seen it making laws in one session,
2
3 that have been repealed the next, either on account of the fluctuation of
4
5 party, or their own impropriety.
6
7
8

9 This could not have been the case in a compound legislature; it is therefore
10
11 proper to have efficient restraints upon the legislative body. These
12
13 restraints arise from different sources. I will mention some of them. In
14
15 this Constitution, they will be produced, in a very considerable degree, by
16
17 a division of the power in the legislative body itself. Under this system,
18
19 they may arise likewise from the interference of those officers who will be
20
21 introduced into the executive and judicial departments. They may spring also
22
23 from another source -- the election by the people; and finally, under this
24
25 Constitution, they may proceed from the great and last resort -- from the
26
27 people themselves. I say, under this Constitution, the legislature may be
28
29 restrained, and kept within its prescribed bounds, by the interposition of
30
31 the judicial department. This I hope, sir, to explain clearly and
32
33 satisfactorily. I had occasion, on a former day, to state that the power of
34
35 the Constitution was paramount to the power of the legislature acting under
36
37 that Constitution; for it is possible that the legislature, when acting in
38
39 that capacity, may transgress the bounds assigned to it, and an act may pass,
40
41 in the usual mode, notwithstanding that transgression; but when it comes to
42
43 be discussed before the judges, -- when they consider its principles, and
44
45 find it to be incompatible with the superior power of the Constitution, --
46
47 it is their duty to pronounce it void; and judges independent, and not
48
49 obliged to look to every session for a continuance of their salaries, will
50
51 behave with intrepidity, and refuse to the act the sanction of judicial
52
53 authority. In the same manner, the President of the United States could
54
55 shield himself, and refuse to carry into effect an act that violates the

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1
2 Constitution.

3
4
5
6 In order to secure the President from any dependence upon the legislature as
7
8 to his salary, it is provided that he shall, at stated times, receive for
9
10 his services a compensation that shall neither be increased nor diminished
11
12 during the period for which he shall have been elected, and that he shall
13
14 not receive, within that period, any other emolument from the United States,
15
16 or any of them.

17
18
19
20 To secure to the judges this independence, it is ordered that they shall
21
22 receive for their services a compensation which shall not be diminished
23
24 during their continuance in office. The Congress may be restrained by the
25
26 election of its constituent parts. If a legislature shall make a law
27
28 contrary to the Constitution, or oppressive to the people, they have it in
29
30 their power, every second year, in one branch, and every sixth year, in the
31
32 other, to displace the men who act thus inconsistently with their duty; and
33
34 if this is not sufficient, they have still a further power; they may assume
35
36 into their own hands the alteration of the Constitution itself; they may
37
38 revoke the lease when the conditions are broken by the tenant. But the most
39
40 useful restraint upon the legislature, because it operates constantly,
41
42 arises from the division of its power among two branches, and from the
43
44 qualified negative of the President upon both. As this government is formed,
45
46 there are two sources from which the representation is drawn, though they
47
48 both ultimately flow from the people. States now exist, and others will come
49
50 into existence; it was thought proper that they should be represented in the
51
52 general government. But gentlemen will please to remember this Constitution
53
54 was not framed merely for the states; it was framed for the people also; and
55

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1 the popular branch of the Congress will be the objects of their immediate
2
3 choice.

4
5
6
7 The two branches will serve as checks upon each other; they have the same
8
9 legislative authorities, except in one instance. Money bills must originate
10
11 in the House of Representatives. The Senate can pass no law without the
12
13 concurrence of the House of Representatives; nor can the House of
14
15 Representatives without the concurrence of the Senate. I believe, sir, that
16
17 the observation which I am now going to make will apply to mankind in every
18
19 situation: they will act with more caution, and perhaps more integrity, if
20
21 their proceedings are to be under the inspection and control of another,
22
23 than when they are not. From this principle, the proceedings of Congress
24
25 will be conducted with a degree of circumspection not common in single
26
27 bodies, where nothing more is necessary to be done than to carry the
28
29 business through amongst themselves, whether it be right or wrong. In
30
31 compound legislatures, every object must be submitted to a distinct body,
32
33 not influenced by the arguments, or warped by the prejudices, of the other;
34
35 and I believe that the persons who will form the Congress will be cautious
36
37 in running the risk, with a bare majority, of having the negative of the
38
39 President put on their proceedings. As there will be more circumspection in
40
41 forming the laws, so there will be more stability in the laws when made.
42
43 Indeed, one is the consequence of the other; for what has been well
44
45 considered, and founded in good sense, will in practice be useful and
46
47 salutary, and, of consequence, will not be liable to be soon repealed.
48
49 Though two bodies may not possess more wisdom or patriotism than what may be
50
51 found in a single body, yet they will necessarily introduce a greater degree
52
53 of precision. An indigested and inaccurate code of laws is one of the most
54
55 dangerous things that can be introduced into any government. The force of

THE DEBATES IN THE CONVENTION OF THE STATE OF PENNSYLVANIA,
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PHILADELPHIA, TUESDAY, November 20, 1787, P. M.

1
2 this observation is well known by every gentleman who has attended to the
3
4 laws of this state. This, sir, is a very important advantage, that will
5
6 arise from this division of the legislative authority.
7
8
9

10 I will proceed now to take some notice of a still further restraint upon the
11
12 legislature -- I mean the qualified negative of the President. I think this
13
14 will be attended with very important advantages for the security and
15
16 happiness of the people of the United States. The President, sir, will not
17
18 be a stranger to our country, to our laws, or to our wishes. He will, under
19
20 this Constitution, be placed in office as the President of the whole Union,
21
22 and will be chosen in such a manner that he may be justly styled the man of
23
24 the people. Being elected by the different parts of the United States, he
25
26 will consider himself as not particularly interested for any one of them,
27
28 but will watch over the whole with paternal care and affection. This will be
29
30 the natural conduct to recommend himself to those who placed him in that
31
32 high chair, and I consider it as a very important advantage, that such a man
33
34 must have every law presented to him, before it can become binding on the
35
36 United States. He will have before him the fullest information of our
37
38 situation; he will avail himself not only of records and official
39
40 communications, foreign and domestic, but he will have also the advice of
41
42 the executive officers in the different departments of the general
43
44 government.
45
46
47

48 If, in consequence of this information and advice, he exercise the authority
49
50 given to him, the effect will not be lost. He returns his objections,
51
52 together with the bill; and, unless two thirds of both branches of the
53
54 legislature are now found to approve it, it does not become a law. But, even
55

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1 if his objections do not prevent its passing into a law, they will not be
2
3 useless; they will be kept, together with the law, and, in the archives of
4
5 Congress, will be valuable and practical materials, to form the minds of
6
7 posterity for legislation. If it is found that the law operates
8
9 inconveniently, or oppressively, the people may discover in the President's
10
11 objections the source of that inconvenience or oppression. Further, sir,
12
13 when objections shall have been made, it is provided, in order to secure the
14
15 greatest degree of caution and responsibility, that the votes of both houses
16
17 shall be determined by yeas and nays, and the names of the persons voting
18
19 for and against the bill shall be entered in the journal of each house
20
21 respectively. This much I have thought proper to say, with regard to the
22
23 distribution of the legislative authority, and the restraints under which it
24
25 will be exercised.

26
27
28
29 The gentleman in opposition strongly insists that the general clause at the
30
31 end of the eighth section gives to Congress a power of legislating
32
33 generally; but I cannot conceive by what means he will render the words
34
35 susceptible of that expansion. Can the words, "The Congress shall have power
36
37 to make all laws which shall be necessary and proper to carry into execution
38
39 the foregoing powers," be capable of giving them general legislative power?
40
41 I hope that it is not meant to give to Congress merely an illusive show of
42
43 authority, to deceive themselves or constituents any longer. On the
44
45 contrary, I trust it is meant that they shall have the power of carrying
46
47 into effect the laws which they shall make under the powers vested in them
48
49 by this Constitution. In answer to the gentleman from Fayette, (Mr. Smilie,)
50
51 on the subject of the press, I beg leave to make an observation. It is very
52
53 true, sir, that this Constitution says nothing with regard to that subject,
54
55 nor was it necessary; because it will be found that there is given to the

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1
2 general government no power whatsoever concerning it; and no law, in
3
4 pursuance of the Constitution, can possibly be enacted to destroy that
5
6 liberty.

7
8
9
10 I heard the honorable gentleman make this general assertion, that the
11
12 Congress was certainly vested with power to make such a law; but I would be
13
14 glad to know by what part of this Constitution such a power is given? Until
15
16 that is done, I shall not enter into a minute investigation of the matter,
17
18 but shall at present satisfy myself with giving an answer to a question that
19
20 has been put. It has been asked, If a law should be made to punish libels,
21
22 and the judges should proceed under that law, what chance would the printer
23
24 have of an acquittal? And it has been said he would drop into a den of
25
26 devouring monsters!

27
28
29
30 I presume it was not in the view of the honorable gentleman to say there is
31
32 no such thing as a libel, or that the writers of such ought not to be
33
34 punished. The idea of the liberty of the press is not carried so far as this
35
36 in any country. What is meant by the liberty of the press is, that there
37
38 should be no antecedent restraint upon it; but that every author is
39
40 responsible when he attacks the security or welfare of the government, or
41
42 the safety, character, and property of the individual.

43
44
45
46 With regard to attacks upon the public, the mode of proceeding is by a
47
48 prosecution. Now, if a libel is written, it must be within some one of the
49
50 United States, or the district of Congress. With regard to that district, I
51
52 hope it will take care to preserve this as well as the other rights of
53
54 freemen; for, whatever district Congress may choose, the cession of it
55

THE DEBATES IN THE CONVENTION OF THE STATE OF PENNSYLVANIA,
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1 cannot be completed without the consent of its inhabitants. Now, sir, if
2
3 this libel is to be tried, it must be tried where the offence was committed;
4
5 for, under this Constitution, as declared in the 2d section of the 3d
6
7 article, the trial must be held in the state; therefore, on this occasion,
8
9 it must be tried where it was published, if the indictment is for
10
11 publishing; and it must be tried likewise by a jury of that state. Now, I
12
13 would ask, is the person prosecuted in a worse situation under the general
14
15 government, even if it had the power to make laws on this subject, than he
16
17 is at present under the state government? It is true, there is no particular
18
19 regulation made, to have the jury come from the body of the county in which
20
21 the offence was committed; but there are some states in which this mode of
22
23 collecting juries is contrary to their established custom, and gentlemen
24
25 ought to consider that this Constitution was not meant merely for
26
27 Pennsylvania. In some states, the juries are not taken from a single county.
28
29 In Virginia, the sheriff, I believe, is not confined even to the inhabitants
30
31 of the state, but is at liberty to take any man he pleases, and put him on
32
33 the jury. In Maryland, I think, a set of jurors serve for the whole western
34
35 shore, and another for the eastern shore.

36
37
38
39 I beg to make one remark on what one gentleman has said, with respect to
40
41 amendments being proposed to this Constitution. To whom are the Convention
42
43 to make report of such amendments? He tells you, to the present Congress. I
44
45 do not wish to report to that body, the representatives only of the state
46
47 governments; they may not be disposed to admit the people into a
48
49 participation of their power. It has also been supposed that a wonderful
50
51 unanimity subsists among those who are enemies to the proposed system. On
52
53 this point I also differ from the gentleman who made the observation. I have
54
55 taken every pains in my power, and read every publication I could meet with,

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1
2 in order to gain information; and, as far as I have been able to judge, the
3
4 opposition is inconsiderable and inconsistent. Instead of agreeing in their
5
6 objections, those who make them bring forward such as are diametrically
7
8 opposite. On one hand, it is said that the representation in Congress is too
9
10 small; on the other, it is said to be too numerous. Some think the authority
11
12 of the Senate too great; some, that of the House of Representatives; and
13
14 some, that of both. Others draw their fears from the powers of the
15
16 President; and, like the iron race of Cadmus, these opponents rise only to
17
18 destroy each other.
19
20
21

22 MONDAY, December 3, 1787, A. M. -- Mr. WILSON. Take detached parts of any
23
24 system whatsoever, in the manner these gentlemen have hitherto taken this
25
26 Constitution, and you will make it absurd and inconsistent with itself. I do
27
28 not confine this observation to human performances alone; it will apply to
29
30 divine writings. An anecdote, which I have heard, exemplifies this
31
32 observation. When Sternhold and Hopkins's version of the Psalms was usually
33
34 sung in the churches, a line was first read by the clerk, and then sung by
35
36 the congregation. A sailor had stepped in, and heard the clerk read this
37
38 line --
39
40
41

42 "The Lord will come, and he will not -- -- "
43
44
45

46 the sailor stared, and when the clerk read the next line --
47
48
49

50 "Keep silence, but speak out -- -- "
51
52
53

54 the sailor left the church, thinking the people were not in their senses.
55

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

PHILADELPHIA, TUESDAY, November 20, 1787, P. M.

1
2
3 This story may convey an idea of the treatment of the plan before you; for,
4 although it contains sound sense when connected, yet, by the detached manner
5 of considering it, it appears highly absurd.
6
7
8
9

10
11 Much fault has been found with the mode of expression used in the 1st clause
12 of the 9th section of the 1st article. I believe I can assign a reason why
13 that mode of expression was used, and why the term slave was not admitted in
14 this Constitution; and as to the manner of laying taxes, this is not the
15 first time that the subject has come into the view of the United States, and
16 of the legislatures of the several states. The gentleman, (Mr. Findley) will
17 recollect that, in the present Congress, the quota of the federal debt, and
18 general expenses, was to be in proportion to the value of land, and other
19 enumerated property, within states. After trying this for a number of years,
20 it was found, on all hands, to be a mode that could not be carried into
21 execution. Congress were satisfied of this; and, in the year 1783,
22 recommended, in conformity with the powers they possessed under the Articles
23 of Confederation, that the quota should be according to the number of free
24 people, including those bound to servitude, and excluding Indians not taxed.
25 These were the expressions used in 1783; and the fate of this recommendation
26 was similar to all their other resolutions. It was not carried into effect,
27 but it was adopted by no fewer than eleven out of thirteen states; and it
28 cannot but be matter of surprise to hear gentlemen, who agreed to this very
29 mode of expression at that time, come forward and state it as an objection
30 on the present occasion. It was natural, sir, for the late Convention to
31 adopt the mode after it had been agreed to by eleven states, and to use the
32 expression which they found had been received as unexceptionable before.
33
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THE DEBATES IN THE CONVENTION OF THE STATE OF PENNSYLVANIA,
ON THE ADOPTION OF THE FEDERAL CONSTITUTION.

PHILADELPHIA, TUESDAY, November 20, 1787, P. M.

1
2 With respect to the clause restricting Congress from prohibiting the
3
4 migration or importation of such persons as any of the states now existing
5
6 shall think proper to admit, prior to the year 1808, the honorable gentleman
7
8 says that this clause is not only dark, but intended to grant to Congress,
9
10 for that time, the power to admit the importation of slaves. No such thing
11
12 was intended. But I will tell you what was done, and it gives me high
13
14 pleasure that so much was done. Under the present Confederation, the states
15
16 may admit the importation of slaves as long as they please; but by this
17
18 article, after the year 1808, the Congress will have power to prohibit such
19
20 importation, notwithstanding the disposition of any state to the contrary. I
21
22 consider this as laying the foundation for banishing slavery out of this
23
24 country; and though the period is more distant than I could wish, yet it
25
26 will produce the same kind, gradual change, which was pursued in
27
28 Pennsylvania. It is with much satisfaction I view this power in the general
29
30 government, whereby they may lay an interdiction on this reproachful trade:
31
32 but an immediate advantage is also obtained; for a tax or duty may be
33
34 imposed on such importation, not exceeding ten dollars for each person; and
35
36 this, sir, operates as a partial prohibition; it was all that could be
37
38 obtained. I am sorry it was no more; but from this I think there is reason
39
40 to hope, that yet a few years, and it will be prohibited altogether; and in
41
42 the mean time, the new states which are to be formed will be under the
43
44 control of Congress in this particular, and slaves will never be introduced
45
46 amongst them. The gentleman says that it is unfortunate in another point of
47
48 view: it means to prohibit the introduction of white people from Europe, as
49
50 this tax may deter them from coming amongst us. A little impartiality and
51
52 attention will discover the care that the Convention took in selecting their
53
54 language. The words are, "the migration or importation of such persons, &c.,
55

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1 shall not be prohibited by Congress prior to the year 1808, but a tax or
2
3 duty may be imposed on such importation." It is observable here that the
4
5 term migration is dropped, when a tax or duty is mentioned, so that Congress
6
7 have power to impose the tax only on those imported.
8
9

10
11 TUESDAY, December 4, 1787, A. M. -- Mr. WILSON. I shall take this
12
13 opportunity of giving an answer to the objections already urged against the
14
15 Constitution; I shall then point out some of those qualities that entitle it
16
17 to the attention and approbation of this Convention; and, after having done
18
19 this, I shall take a fit opportunity of stating the consequences which, I
20
21 apprehend, will result from rejecting it, and those which will probably
22
23 result from its adoption. I have given the utmost attention to the debates,
24
25 and the objections that, from time to time, have been made by the three
26
27 gentlemen who speak in opposition. I have reduced them to some order,
28
29 perhaps not better than that in which they were introduced. I will state
30
31 them; they will be in the recollection of the house, and I will endeavor to
32
33 give an answer to them: in that answer, I will interweave some remarks, that
34
35 may tend to elucidate the subject.
36
37
38

39 A good deal has already been said concerning a bill of rights. I have
40
41 stated, according to the best of my recollection, all that passed in
42
43 Convention relating to that business. Since that time, I have spoken with a
44
45 gentleman, who has not only his memory, but full notes that he had taken in
46
47 that body, and he assures me that, upon this subject, no direct motion was
48
49 ever made at all; and certainly, before we heard this so violently supported
50
51 out of doors, some pains ought to have been taken to have tried its fate
52
53 within; but the truth is, a bill of rights would, as I have mentioned
54
55 already, have been not only unnecessary, but improper. In some governments,

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1
2 it may come within the gentleman's idea, when he says it can do no harm; but
3
4 even in these governments, you find bills of rights do not uniformly obtain;
5
6 and do those states complain who have them not? Is it a maxim in forming
7
8 governments, that not only all the powers which are given, but also that all
9
10 those which are reserved, should be enumerated? I apprehend that the powers
11
12 given and reserved form the whole rights of the people, as men and as
13
14 citizens. I consider that there are very few who understand the whole of
15
16 these rights. All the political writers, from Grotius and Puffendorf down to
17
18 Vattel, have treated on this subject; but in no one of those books, nor in
19
20 the aggregate of them all, can you find a complete enumeration of rights
21
22 appertaining to the people as men and as citizens.

23
24
25
26 There are two kinds of government -- that where general power is intended to
27
28 be given to the legislature, and that where the powers are particularly
29
30 enumerated. In the last case, the implied result is, that nothing more is
31
32 intended to be given than what is so enumerated, unless it results from the
33
34 nature of the government itself. On the other hand, when general legislative
35
36 powers are given, then the people part with their authority, and, on the
37
38 gentleman's principle of government, retain nothing. But in a government
39
40 like the proposed one, there can be no necessity for a bill of rights, for,
41
42 on my principle, the people never part with their power. Enumerate all the
43
44 rights of men! I am sure, sir, that no gentleman in the late Convention
45
46 would have attempted such a thing. I believe the honorable speakers in
47
48 opposition on this floor were members of the assembly which appointed
49
50 delegates to that Convention; if it had been thought proper to have sent
51
52 them into that body, how luminous would the dark conclave have been! -- so
53
54 the gentleman has been pleased to denominate that body. Aristocrats as they
55

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1 were, they pretended not to define the rights of those who sent them there.

2
3 We ask, repeatedly, What harm could the addition of a bill of rights do? If
4 it can do no good, I think that a sufficient reason to refuse having any
5 thing to do with it. But to whom are we to report this bill of rights, if we
6
7 should adopt it? Have we authority from those who sent us here to make one?
8
9

10
11
12
13 It is true, we may propose as well as any other private persons; but how
14 shall we know the sentiments of the citizens of this state and of the other
15 states? Are we certain that any one of them will agree with our definitions
16 and enumerations?
17
18
19
20
21

22
23 In the second place, we are told that there is no check upon the government
24 but the people. It is unfortunate, sir, if their superintending authority is
25 allowed as a check; but I apprehend that, in the very construction of this
26 government, there are numerous checks. Besides those expressly enumerated,
27 the two branches of the legislature are mutual checks upon each other. But
28 this subject will be more properly discussed when we come to consider the
29 form of the government itself; and then I mean to show the reason why the
30 right of habeas corpus was secured by a particular declaration in its favor.
31
32
33
34
35
36
37
38
39
40

41 In the third place, we are told that there is no security for the rights of
42 conscience. I ask the honorable gentleman, what part of this system puts it
43 in the power of Congress to attack those rights? When there is no power to
44 attack, it is idle to prepare the means of defence.
45
46
47
48
49
50

51 After having mentioned, in a cursory manner, the foregoing objections, we
52 now arrive at the leading ones against the proposed system.
53
54
55

THE DEBATES IN THE CONVENTION OF THE STATE OF PENNSYLVANIA,
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1
2 The very manner of introducing this Constitution, by the recognition of the
3
4 authority of the people, is said to change the principle of the present
5
6 Confederation, and to introduce a consolidating and absorbing government.
7
8
9

10 In this confederated republic, the sovereignty of the states, it is said,
11
12 is not preserved. We are told that there cannot be two sovereign powers, and
13
14 that a subordinate sovereignty is no sovereignty.
15
16
17

18 It will be worth while, Mr. President, to consider this objection at large.
19
20 When I had the honor of speaking formerly on this subject, I stated, in as
21
22 concise a manner as possible, the leading ideas that occurred to me, to
23
24 ascertain where the supreme and sovereign power resides. It has not been,
25
26 nor, I presume, will it be denied, that somewhere there is, and of necessity
27
28 must be, a supreme, absolute, and uncontrollable authority. This, I believe,
29
30 may justly be termed the sovereign power; for, from that gentleman's (Mr.
31
32 Findley) account of the matter, it cannot be sovereign unless it is supreme;
33
34 for, says he, a subordinate sovereignty is no sovereignty at all. I had the
35
36 honor of observing, that, if the question was asked, where the supreme power
37
38 resided, different answers would be given by different writers. I mentioned
39
40 that Blackstone will tell you that, in Britain, it is lodged in the British
41
42 Parliament; and I believe there is no writer on this subject, on the other
43
44 side of the Atlantic, but supposed it to be vested in that body. I stated,
45
46 further, that, if the question was asked of some politician, who had not
47
48 considered the subject with sufficient accuracy, where the supreme power
49
50 resided in our governments, he would answer, that it was vested in the state
51
52 constitutions. This opinion approaches near the truth, but does not reach
53
54 it; for the truth is, that the supreme, absolute, and uncontrollable
55

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1 authority remains with the people. I mentioned, also, that the practical
2
3 recognition of this truth was reserved for the honor of this country. I
4
5 recollect no constitution founded on this principle; but we have witnessed
6
7 the improvement, and enjoy the happiness of seeing it carried into practice.
8
9 The great and penetrating mind of Locke seems to be the only one that
10
11 pointed towards even the theory of this great truth.
12
13
14

15 When I made the observation that some politicians would say the supreme
16
17 power was lodged in our state constitutions, I did not suspect that the
18
19 honorable gentleman from Westmoreland (Mr. Findley) was included in that
20
21 description;
22
23
24

25 but I find myself disappointed; for I imagined his opposition would arise
26
27 from another consideration. His position is, that the supreme power resides
28
29 in the states, as governments; and mine is, that it resides in the people,
30
31 as the fountain of government; that the people have not -- that the people
32
33 meant not -- and that the people ought not -- to part with it to any
34
35 government whatsoever. In their hands it remains secure. They can delegate
36
37 it in such proportions, to such bodies, on such terms, and under such
38
39 limitations, as they think proper. I agree with the members in opposition,
40
41 that there cannot be two sovereign powers on the same subject.
42
43
44

45 I consider the people of the United States as forming one great community;
46
47 and I consider the people of the different states as forming communities,
48
49 again, on a lesser scale. From this great division of the people into
50
51 distinct communities, it will be found necessary that different proportions
52
53 of legislative powers should be given to the governments, according to the
54
55 nature, number, and magnitude of their objects.

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1
2
3
4 Unless the people are considered in these two views, we shall never be able
5
6 to understand the principle on which this system was constructed. I view the
7
8 states as made for the people, as well as by them, and not the people as
9
10 made for the states; the people, therefore, have a right, whilst enjoying
11
12 (he undeniable powers of society, to form either a general government, or
13
14 state governments, in what manner they please, or to accommodate them to one
15
16 another, and by this means preserve them all. This, I say, is the inherent
17
18 and unalienable right of the people; and as an illustration of it, I beg to
19
20 read a few words from the Declaration of Independence, made by the
21
22 representatives of the United States, and recognized by the whole Union.
23
24
25

26 "We hold these truths to be self-evident, that all men are created
27
28 equal; that they are endowed by their Creator with certain unalienable
29
30 rights; that among these are life, liberty, and the pursuit of happiness;
31
32 that, to secure these rights, governments are instituted among men, deriving
33
34 their just powers from the consent of the governed; that, whenever any form
35
36 of government becomes destructive of these ends, it is the right of the
37
38 people to alter or abolish it, and institute new government, laying its
39
40 foundation on such principles, and organizing its powers in such forms, as
41
42 to them shall seem most likely to effect their safety and happiness."
43
44
45

46 This is the broad basis on which our independence was placed: on the same
47
48 certain and solid foundation this system is erected.
49
50
51

52 State sovereignty, as it is called, is far from being able to support its
53
54 weight. Nothing less than the authority of the people could either support
55

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

PHILADELPHIA, TUESDAY, November 20, 1787, P. M.

1 it or give it efficacy. I cannot pass over this subject without noticing the
2
3 different conduct pursued by the late federal Convention, and that observed
4
5 by the Convention which framed the Constitution of Pennsylvania. On that
6
7 occasion you find an attempt made to deprive the people of this right, so
8
9 lately and so expressly asserted in the Declaration of Independence. We are
10
11 told, in the preamble to the declaration of rights, and frame of government,
12
13 that we "do, by virtue of the authority vested in us, ordain, declare, and
14
15 establish, the following declaration of rights and frame of government, to
16
17 be the Constitution of this commonwealth, and to remain in force therein
18
19 mattered, except in such articles as shall hereafter, on experience, be
20
21 found to require improvement, and which shall, by the same authority of the
22
23 people, fairly delegated as this frame of government directs." -- An
24
25 honorable gentleman (Mr. Chambers) was well warranted in saying that all
26
27 that could be done was done, to cut off the people from the right of
28
29 amending; for it cannot be amended by any other mode than that which it
30
31 directs; then, any number more than one third may control any number less
32
33 than two thirds.

34
35
36
37 But I return to my general reasoning. My position is, sir, that, in this
38
39 country, the supreme, absolute, and uncontrollable power resides in the
40
41 people at large; that they have vested certain proportions of this power in
42
43 the state governments; but that the fee-simple continues, resides, and
44
45 remains, with the body of the people. Under the practical influence of this
46
47 great truth, we are now sitting and deliberating, and under its operation,
48
49 we can sit as calmly and deliberate as coolly, in order to change a
50
51 constitution, as a legislature can sit and deliberate under the power of a
52
53 constitution, in order to alter or amend a law. It is true, the exercise of
54
55 this power will not probably be so frequent, nor resorted to on so many

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1
2 occasions, in one case as in the other; but the recognition of the principle
3
4 cannot fail to establish it more firmly. But, because this recognition is
5
6 made in the proposed Constitution, an exception is taken to the whole of it;
7
8 for we are told it is a violation of the present Confederation -- a
9
10 Confederation of sovereign states. I shall not enter into an investigation
11
12 of the present Confederation, but shall just remark that its principle is
13
14 not the principle of free governments. The people of the United States are
15
16 not, as such, represented in the present Congress; and, considered even as
17
18 the component parts of the several states, they are not represented in
19
20 proportion to their numbers and importance.

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22
23
24 In this place I cannot help remarking on the general inconsistency which
25
26 appears between one part of the gentleman's objections and another. Upon the
27
28 principle we have now mentioned, the honorable gentleman contended that the
29
30 powers ought to flow from the states; and that all the late Convention had
31
32 to do, was to give additional powers to Congress. What is the present form
33
34 of Congress? A single body, with some legislative, but little executive, and
35
36 no effective judicial power. What are these additional powers that are to be
37
38 given? In some cases, legislative are wanting; in others, judicial; and in
39
40 others, executive. These, it is said, ought to be allotted to the general
41
42 government. But the impropriety of delegating such extensive trust to one
43
44 body of men is evident; yet in the same day, and perhaps in the same hour,
45
46 we are told by honorable gentlemen that those three branches of government
47
48 are not kept sufficiently distinct in this Constitution; we are told, also,
49
50 that the Senate, possessing some executive power, as well as legislative, is
51
52 such a monster. that it will swallow up and absorb every other body in the
53
54 general government, after having destroyed those of the particular states.
55

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2
3 Is this reasoning with consistency? Is the Senate, under the proposed
4 Constitution, so tremendous a body, when checked in their legislative
5 capacity by the House of Representatives, and in their executive authority
6
7 by the President of the United States? Can this body be so tremendous as the
8
9 present Congress, a single body of men, possessed of legislative, executive,
10
11 and judicial powers? To what purpose was Montesquieu read to show that this
12
13 was a complete tyranny? The application would have been more properly made,
14
15 by the advocates of the proposed Constitution, against the patrons of the
16
17 present Confederation.
18
19
20
21
22

23 It is mentioned that this federal government will annihilate and absorb all
24
25 the state governments. I wish to save, as much as possible, the time of the
26
27 house: I shall not, therefore, recapitulate what I had the honor of saying
28
29 last week on this subject. I hope it was then shown that, instead of being
30
31 abolished, (as insinuated,) from the very nature of things, and from the
32
33 organization of the system itself, the state governments must exist, or the
34
35 general governments must fall amidst their ruins. Indeed, so far as to the
36
37 forms, it is admitted they may remain; but the gentlemen seem to think their
38
39 power will be gone.
40
41
42

43 I shall have occasion to take notice of this power hereafter; and, I
44
45 believe, if it was necessary, it could be shown that the state governments,
46
47 as states, will enjoy as much power, and more dignity, happiness, and
48
49 security, than they have hitherto done. I admit, sir, that some of the
50
51 powers will be taken from them by the system before you; but it is, I
52
53 believe, allowed on all hands -- at least it is not among us a disputed
54
55 point -- that the late Convention was appointed with a particular view to

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1
2 give more power to the government of the Union. It is also acknowledged that
3
4 the intention was to obtain the advantage of an efficient government over
5
6 the United States. Now, if power is to be given by that government, I
7
8 apprehend it must be taken from some place. If the state governments are to
9
10 retain all the powers they held before, then, of consequence, every new
11
12 power that is given to Congress must be taken from the people at large. Is
13
14 this the gentleman's intention? I believe a strict examination of this
15
16 subject will justify me in asserting that the states, as governments, have
17
18 assumed too much power to themselves, while they left little to the people.
19
20 Let not this be called cajoling the people -- the elegant expression used by
21
22 the honorable gentleman from Westmoreland, (Mr. Findley.) It is hard to
23
24 avoid censure on one side or the other. At some time, it has been said that
25
26 I have not been at the pains to conceal my contempt of the people; but when
27
28 it suits a purpose better, it is asserted that I cajole them. I do neither
29
30 one nor the other. The voice of approbation, sir, when I think that
31
32 approbation well earned, I confess, is grateful to my ears; but I would
33
34 disdain it, if it is to be purchased by a sacrifice of my duty or the
35
36 dictates of my conscience. No, sir; I go practically into this system; I
37
38 have gone into it practically when the doors were shut, when it could not be
39
40 alleged that I cajoled the people; and I now endeavor to show that the true
41
42 and only safe principle for a free people, is a practical recognition of
43
44 their original and supreme authority.

45
46
47
48 I say, sir, that it was the design of this system to take some power from
49
50 the state governments, and to place it in the general government. It was
51
52 also the design that the people should be admitted to the exercise of some
53
54 powers which they did not exercise under the present federation. It was
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1 thought proper that the citizens, as well as the states, should be
2
3 represented. How far the representation in the Senate is a representation of
4
5 states, we shall see by and by, when we come to consider that branch of the
6
7 federal government.
8
9

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11 This system, it is said, "unhinges and eradicates the state governments, and
12
13 was systematically intended so to do." To establish the intention, an
14
15 argument is drawn from art. 1st, sect. 4th, on the subject of elections. I
16
17 have already had occasion to remark upon this, and shall therefore pass on
18
19 to the next objection --
20
21

22
23 That the last clause of the 8th section of the 1st article, gives the power
24
25 of self-preservation to the general government, independent of the states;
26
27 for, in case of their abolition, it will be alleged, in behalf of the
28
29 general government, that self-preservation is the first law, and necessary
30
31 to the exercise of all other powers.
32
33

34
35 Now, let us see what this objection amounts to. Who are to have this
36
37 self-preserving power? The Congress. Who are Congress? It is a body that
38
39 will consist of a Senate and a House of Representatives. Who compose this
40
41 Senate? Those who are elected by the legislature of the different states?
42
43 Who are the electors of the House of Representatives? Those who are
44
45 qualified to vote for the most numerous branch of the legislature in the
46
47 separate states. Suppose the state legislatures annihilated; where is the
48
49 criterion to ascertain the qualification of electors? and unless this be
50
51 ascertained, they cannot be admitted to vote; if a state legislature is not
52
53 elected, there can be no Senate, because the senators are to be chosen by
54
55 the legislatures only.

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4 This is a plain and simple deduction from the Constitution; and yet the
5
6 objection is stated as conclusive upon an argument expressly drawn from the
7
8 last clause of this section.
9

10
11
12 It is repeated with confidence, "that this is not a federal government, but
13
14 a complete one, with legislative, executive, and judicial powers: it is a
15
16 consolidating government." I have already mentioned the misuse of the term;
17
18 I wish the gentleman would indulge us with his definition of the word. If,
19
20 when he says it is a consolidation, he means so far as relates to the
21
22 general objects of the Union, -- so far it was intended to be a
23
24 consolidation, and on such a consolidation, perhaps, our very existence, as
25
26 a nation, depends. If, on the other hand, (as something which has been said
27
28 seems to indicate,) he (Mr. Findley) means that it will absorb the
29
30 governments of the individual states, -- so far is this position from being
31
32 admitted, that it is unanswerably controverted.
33
34
35

36 The existence of the state governments is one of the most prominent features
37
38 of this system. With regard to those purposes which are allowed to be for
39
40 the general welfare of the Union, I think it no objection to this plan, that
41
42 we are told it is a complete government. I think it no objection, that it is
43
44 alleged the government will possess legislative, executive, and judicial
45
46 powers. Should it have only legislative authority, we have had examples
47
48 enough of such a government to deter us from continuing it. Shall Congress
49
50 any longer continue to make requisitions from the several states, to be
51
52 treated sometimes with silent and sometimes with declared contempt? For what
53
54 purpose give the power to make laws, unless they are to be executed? and if
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1 they are to be executed, the executive and judicial powers will necessarily
2 be engaged in the business.
3

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5
6
7 Do we wish a return of those insurrections and tumults to which a sister
8 state was lately exposed? or a government of such insufficiency as the
9 present is found to be? Let me, sir, mention one circumstance in the
10 recollection of every honorable gentleman who hears me. To the determination
11 of Congress are submitted all disputes between states concerning boundary,
12 jurisdiction, or right of soil. In consequence of this power, after much
13 altercation, expense of time, and considerable expense of money, this state
14 was successful enough to obtain a decree in her favor, in a difference then
15 subsisting between her and Connecticut; but what was the consequence? The
16 Congress had no power to carry the decree into execution. Hence the
17 distraction and animosity, which have ever since prevailed, and still
18 continue in that part of the country. Ought the government, then, to remain
19 any longer incomplete? I hope not. No person can be so insensible to the
20 lessons of experience as to desire it.
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37 It is brought as an objection "that there will be a rival-ship between the
38 state governments and the general government; on each side endeavors will be
39 made to increase power."
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42
43
44

45 Let us examine a little into this subject. The gentlemen tell you, sir,
46 that they expect the states will not possess any power. But I think there is
47 reason to draw a different conclusion. Under this system, their
48 respectability and power will increase with that of the general government.
49 I believe their happiness and security will increase in a still greater
50 proportion. Let us attend a moment to the situation of this country. It is a
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1
2 maxim of every government, and it ought to be a maxim with us, that the
3
4 increase of numbers increases the dignity and security, and the
5
6 respectability, of all governments. It is the first command given by the
7
8 Deity to man, Increase and multiply. This applies with peculiar force to
9
10 this country, the smaller part of whose territory is yet inhabited. We are
11
12 representatives, sir, not merely of the present age, but of future times;
13
14 not merely of the territory along the sea-coast, but of regions immensely
15
16 extended westward. We should fill, as fast as possible, this extensive
17
18 country, with men who shall live happy, free, and secure. To accomplish this
19
20 great end ought to be the leading view of all our patriots and statesmen.
21
22 But how is it to be accomplished, but by establishing peace and harmony
23
24 among ourselves, and dignity and respectability among foreign nations? By
25
26 these means, we may draw members from the other side of the Atlantic, in
27
28 addition to the natural sources of population. Can either of these objects
29
30 be attained without a protecting head? When we examine history, we shall
31
32 find an important fact, and almost the only fact which will apply to all
33
34 confederacies: --

35
36
37
38 They have all fallen to pieces, and have not absorbed the government.
39
40
41

42 In order to keep republics together, they must have a strong binding force,
43
44 which must be either external or internal. The situation of this country
45
46 shows that no foreign force can press us together; the bonds of our union
47
48 ought therefore to be indissolubly strong.
49
50
51

52 The powers of the states, I apprehend, will increase with the population and
53
54 the happiness of their inhabitants. Unless we can establish a character
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1 abroad, we shall be unhappy from foreign restraints or internal violence.

2
3 These reasons, I think, prove sufficiently the necessity of having a federal
4 head. Under it, the advantages enjoyed by the whole Union would be
5 participated by every state. I wish honorable gentlemen would think not only
6
7 of themselves, not only of the present age, but of others, and of future
8
9 times.
10
11
12
13
14

15 It has been said "that the state governments will not be able to make head
16 against the general government;" but it might be said, with more propriety,
17 that the general government will not be able to maintain the powers given it
18 against the encroachments and combined attacks of the state governments.
19
20

21 They possess some particular advantages from which the general government is
22 restrained. By this system there is a provision made in the Constitution,
23 that no senator or representative shall be appointed to any civil office
24 under the authority of the United States, which shall have been created, or
25 the emoluments whereof shall have been increased, during the time for which
26 he was elected; and no person holding any office under the United States can
27 be a member of either house. But there is no similar security against state
28 influence, as a representative may enjoy places, and even sinecures, under
29 the state governments. On which side is the door most open to corruption? If
30 a person in the legislature is to be influenced by an office, the general
31 government can give him none unless he vacate his seat. When the influence
32 of office comes from the state government, he can retain his seat and salary
33 too. But it is added, under this head, "that state governments will lose the
34 attachment of the people, by losing the power of conferring advantages, and
35 that the people will not be at the expense of keeping them up." Perhaps the
36 state governments have already become so expensive as to alarm the gentlemen
37 on that head. I am told that the civil list of this state amounted to
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1
2 ♦40,000 in one year. Under the proposed government, I think it would be
3
4 possible to obtain, in Pennsylvania, every advantage we now possess, with a
5
6 civil list that shall not exceed one third of that sum.
7
8
9

10 How differently the same thing is talked of, if it be a favorite or
11
12 otherwise! When advantages to an officer are to be derived from the general
13
14 government, we hear them mentioned by the name of bribery; but when we are
15
16 told of the state governments' losing the power of conferring advantages, by
17
18 the disposal of offices, it is said they will lose the attachment of the
19
20 people. What is in one instance corruption and bribery, is in another the
21
22 power of conferring advantages.
23
24
25

26 We are informed "that the state elections will be ill attended, and that the
27
28 state governments will become mere boards of electors." Those who have a due
29
30 regard for their country will discharge their duty and attend; but those who
31
32 are brought only from interest or persuasion had better stay away; the
33
34 public will not suffer any disadvantage from their absence. But the honest
35
36 citizen, who knows the value of the privilege, will undoubtedly attend, to
37
38 secure the man of his choice. The power and business of the state
39
40 legislatures relate to the great objects of life, liberty and property; the
41
42 same are also objects of the general government.
43
44
45

46 Certainly, the citizens of America will be as tenacious in the one instance
47
48 as in the other. They will be interested. and I hope will exert themselves,
49
50 to secure their rights not only from being injured by the state governments,
51
52 but also from being injured by the general government.
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1
2 "The power over elections, and of judging of elections, gives absolute
3
4 sovereignty." This power is given to every state legislature; yet I see no
5
6 necessity that the power of absolute sovereignty should accompany it. My
7
8 general position is, that the absolute sovereignty never goes from the
9
10 people.

11
12
13
14 We are told "that it will be in the power of the Senate to prevent any
15
16 addition of representatives to the lower house."

17
18
19
20 I believe their power will be pretty well balanced; and though the Senate
21
22 should have a desire to do this, yet the attempt will answer no purpose, for
23
24 the House of Representatives will not let them have a farthing of public
25
26 money till they agree to it; and the latter influence will be as strong as
27
28 the other.

29
30
31
32 "Annual assemblies are necessary," it is said; and I answer, in many
33
34 instances they are very proper. In Rhode Island and Connecticut, they are
35
36 elected for six months. In larger states, that period would be found very
37
38 inconvenient; but, in a government as large as that of the United States, I
39
40 presume that annual elections would be more disproportionate than elections
41
42 for six months would be in some of our largest states.

43
44
45
46 "The British Parliament took to themselves the prolongation of their sitting
47
48 to seven years. But, even in the British Parliament, the appropriations are
49
50 annual."

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52
53
54 But, sir, how is the argument to apply here? How are the Congress to assume
55

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1 such a power? They cannot assume it under the Constitution, for that
2 expressly provides, "The members of the House of Representatives shall be
3 chosen, every two years, by the people of the several states, and the
4 senators for six years." So, if they take it at all, they must take it by
5 usurpation and force.

10
11
12 Appropriations may be made for two years, though in the British Parliament
13 they are made but for one. For some purposes, such appropriations may be
14 made annually; but for every purpose, they are not: even for a standing
15 army, they may be made for seven, ten, or fourteen years: the civil list is
16 established during the life of a prince. Another objection is, "that the
17 members of the Senate may enrich themselves; they may hold their office as
18 long as they live, and there is no power to prevent them; the Senate will
19 swallow up every thing." I am not a blind admirer of this system. Some of
20 the powers of the senators are not, with me, the favorite parts of it; but
21 as they stand connected with other parts, there is still security against
22 the efforts of that body. It was with great difficulty that security was
23 obtained, and I may risk the conjecture that, if it is not now accepted, it
24 never will be obtained again from the same states. Though the Senate was not
25 a favorite of mine, as to some of its powers, yet it was a favorite with a
26 majority in the Union; and we must submit to that majority, or we must break
27 up the Union. It is but fair to repeat those reasons that weighed with the
28 Convention: perhaps I shall not be able to do them justice; but yet I will
29 attempt to show why additional powers were given to the Senate rather than
30 to the House of Representatives. These additional powers, I believe, are,
31 that of trying impeachments, that of concurring with the President in making
32 treaties, and that of concurring in the appointment of officers. These are
33 the powers that are stated as improper. It is fortunate, that, in the extent

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1
2 of every one of them, the Senate stands controlled. If it is that monster
3
4 which it is said to be, it can only show its teeth; it is unable to bite or
5
6 devour. With regard to impeachments, the Senate can try none but such as
7
8 will be brought before them by the House of Representatives.
9

10
11
12 The Senate can make no treaties: they can approve of none, unless the
13
14 President of the United States lays it before them. With regard to the
15
16 appointment of officers, the President must nominate before they can vote;
17
18 so that, if the powers of either branch are perverted, it must be with the
19
20 approbation of some one of the other branches of government. Thus checked on
21
22 each side, they can do no one act of themselves.
23
24
25

26 "The powers of Congress extend to taxation -- to direct taxation -- to
27
28 internal taxation -- to poll taxes -- to excises -- to other state and
29
30 internal purposes." Those who possess the power to tax, possess all other
31
32 sovereign power. That their powers are thus extensive is admitted; and would
33
34 any thing short of this have been sufficient? Is it the wish of these
35
36 gentlemen -- if it is, let us hear their sentiments -- that the general
37
38 government should subsist on the bounty of the states? Shall it have the
39
40 power to contract, and no power to fulfil the contract? Shall it have the
41
42 power to borrow money, and no power to pay the principal or interest? Must
43
44 we go on in the track that we have hitherto pursued? And must we again
45
46 compel those in Europe, who lent us money in our distress, to advance the
47
48 money to pay themselves interest on the certificates of the debts due to
49
50 them?
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54 This was actually the case in Holland the last year. Like those who have
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1 shot one arrow, and cannot regain it, they have been obliged to shoot
2
3 another in the same direction, in order to recover the first. It was
4
5 absolutely necessary, sir, that this government should possess these rights;
6
7 and why should it not, as well as the state governments? Wilt this
8
9 government be fonder of the exercise of this authority than those of the
10
11 states are? Will the states, who are equally represented in one branch of
12
13 the legislature, be more opposed to the payment of what shall be required by
14
15 the future, than what has been required by the present Congress? Will the
16
17 people, who must indisputably pay the whole, have more objections to the
18
19 payment of this tax, because it is laid by persons of their own immediate
20
21 appointment, even if those taxes were to continue as oppressive as they now
22
23 are? But, under the general power of this system, that cannot be the case in
24
25 Pennsylvania. Throughout the Union, direct taxation will be lessened, at
26
27 least in proportion to the increase of the other objects of revenue. In this
28
29 Constitution, a power is given to Congress to collect imposts, which is not
30
31 given by the present Articles of the Confederation. A very considerable part
32
33 of the revenue of the United States will arise from that source; it is the
34
35 easiest, most just, and most productive mode of raising revenue; and it is a
36
37 safe one, because it is voluntary. No man is obliged to consume more than he
38
39 pleases, and each buys in proportion only to his consumption. The price of
40
41 the commodity is blended with the tax, and the person is often not sensible
42
43 of the payment. But would it have been proper to rest the matter there?
44
45 Suppose this fund should not prove sufficient; ought the public debts to
46
47 remain unpaid, or the exigencies of government be left unprovided for?
48
49 should our tranquillity be exposed to the assaults of foreign enemies, or
50
51 violence among ourselves, because the objects of commerce may not furnish a
52
53 sufficient revenue to secure them all? Certainly, Congress should possess
54
55 the power of raising revenue from their constituents, for the purpose

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1
2 mentioned in the 8th section of the 1st article; that is, "to pay the debts
3
4 and provide for the common defence and general welfare of the United
5
6 States." It has been common with the gentlemen, on this subject, to present
7
8 us with frightful pictures. We are told of the hosts of tax-gatherers that
9
10 will swarm through the land; and whenever taxes are mentioned, military
11
12 force seems to be an attending idea. I think I may venture to predict that
13
14 the taxes of the general government, if any shall be laid, will be more
15
16 equitable, and much less expensive, than those imposed by state governments.
17
18
19

20 I shall not go into an investigation of this subject; but it must be
21
22 confessed that scarcely any mode of laying and collecting taxes can be more
23
24 burdensome than the present.
25
26
27

28 Another objection is, "that Congress may borrow money, keep up standing
29
30 armies, and command the militia." The present Congress possesses the power
31
32 of borrowing money and of keeping up standing armies. Whether it will be
33
34 proper at all times to keep up a body of troops, will be a question to be
35
36 determined by Congress; but I hope the necessity will not subsist at all
37
38 times. But if it should subsist, where is the gentleman that will say that
39
40 they ought not to possess the necessary power of keeping them up?
41
42
43

44 It is urged, as a general objection to this system, that "the powers of
45
46 Congress are unlimited and undefined, and that they will be the judges, in
47
48 all cases, of what is necessary and proper for them to do." To bring this
49
50 subject to your view, I need do no more than point to the words in the
51
52 Constitution, beginning at the 8th sect. art. 1st. "The Congress (it says)
53
54 shall have power," &c. I need not read over the words, but I leave it to
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1 every gentleman to say whether the powers are not as accurately and minutely
2 defined, as can be well done on the same subject, in the same language. The
3 old Constitution is as strongly marked on this subject; and even the
4 concluding clause, with which so much fault has been found, gives no more or
5 other powers; nor does it, in any degree, go beyond the particular
6 enumeration; for, when it is said that Congress shall have power to make all
7 laws which shall be necessary and proper, those words are limited and denned
8 by the following, "for carrying into execution the foregoing powers." It is
9 saying no more than that the powers we have already particularly given,
10 shall be effectually carried into execution.
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23 I shall not detain the house, at this time, with any further observations on
24 the liberty of the press, until it is shown that Congress have any power
25 whatsoever to interfere with it. by licensing it to declare what shall be a
26 libel.
27
28
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30
31
32

33 I proceed to another objection, which was not so fully stated as I believe
34 it will be hereafter; I mean the objection against the judicial department.
35 The gentleman from Westmoreland only mentioned it to illustrate his
36 objection to the legislative department.
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42

43 He said, "that the judicial powers were coextensive with the legislative
44 powers, and extend even to capital cases." I believe they ought to be
45 coextensive; otherwise, laws would be framed that could not be executed.
46 Certainly, therefore, the executive and judicial departments ought to have
47 power commensurate to the extent of the laws; for, as I have already asked,
48 are we to give power to make laws, and no power to carry them into effect?
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1
2 I am happy to mention the punishment annexed to one crime. You will find the
3
4 current running strong in favor of humanity; for this is the first instance
5
6 in which it has not been left to the legislature to extend the crime and
7
8 punishment of treason so far as they thought proper. This punishment, and
9
10 the description of this crime, are the great sources of danger and
11
12 persecution, on the part of government, against the citizen. Crimes against
13
14 the state! and against the officers of the state! History informs us that
15
16 more wrong may be done on this subject than on any other whatsoever. But,
17
18 under this Constitution, there can be no treason against the United States,
19
20 except such as is defined in this Constitution. The manner of trial is
21
22 clearly pointed out; the positive testimony of two witnesses to the same
23
24 overt act, or a confession in open court, is required to convict any person
25
26 of treason. And, after all, the consequences of the crime shall extend no
27
28 further than the life of the criminal; for no attainder of treason shall
29
30 work corruption of blood or forfeiture, except during the life of the person
31
32 attainted.
33
34
35

36 I come now to consider the last set of objections that are offered against
37
38 this Constitution. It is urged that this is not such a system as was within
39
40 the powers of the Convention; they assumed the power of proposing. I believe
41
42 they might have made proposals without going beyond their powers. I never
43
44 heard, before, that to make a proposal was an exercise of power. But if it
45
46 is an exercise of power, they certainly did assume it; yet they did not act
47
48 as that body who framed the present Constitution of Pennsylvania acted; they
49
50 did not, by an ordinance, attempt to rivet the Constitution on the people,
51
52 before they could vote for members of Assembly under it. Yet such was the
53
54 effect of the ordinance that attended the Constitution of this commonwealth.
55

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1
2
3 I think the late Convention has done nothing beyond their powers. The fact
4 is, they have exercised no power at all, and, in point of validity, this
5 Constitution, proposed by them for the government of the United States,
6
7 claims no more than a production of the same nature would claim, flowing
8
9 from a private pen. It is laid before the citizens of the United States,
10
11 unfettered by restraint; it is laid before them to be judged by the natural,
12
13 civil, and political rights of men. By their fiat, it will become of value
14
15 and authority, without it, it will never receive the character of
16
17 authenticity and power. The business, we are told, which was intrusted to
18
19 the late Convention, was merely to amend the present Articles of
20
21 Confederation. This observation has been frequently made, and has often
22
23 brought to my mind a story that is related of Mr. Pope, who, it is well
24
25 known, was not a little deformed. It was customary with him to use this
26
27 phrase, "God mend me!" when any little accident happened. One evening, a
28
29 link-boy was lighting him along, and, coming to a gutter, the boy jumped
30
31 nimbly over it. Mr. Pope called to him to turn, adding, "God mend me!" The
32
33 arch rogue, turning to light him, looked at him, and repeated, "God mend
34
35 you! He would sooner make half-a-dozen new ones." This would apply to the
36
37 present Confederation; for it would be easier to make another than to amend
38
39 this. The gentlemen urge that this is such a government as was not expected
40
41 by the people, the legislatures, nor by the honorable gentlemen who
42
43 mentioned it. Perhaps it was not such as was expected, but it may be better;
44
45 and is that a reason why it should not be adopted? It is not worse, I trust,
46
47 than the former. So that the argument of its being a system not expected, is
48
49 an argument more strong in its favor than against it.
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55 The letter which accompanies this Constitution must strike every person with

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1 the utmost force.

2
3
4
5
6 "The friends of our country have long seen and desired that the power of
7
8 war, peace, and treaties, that of levying money and regulating commerce, and
9
10 the corresponding executive and judicial authorities, should be fully and
11
12 effectually vested in the general government of the Union; but the
13
14 impropriety of delegating such extensive trust to one body of men, is
15
16 evident. Hence results the necessity of a different organization."
17
18
19

20 I therefore do not think that it can be urged, as an objection against this
21
22 system, that it was not expected by the people. We are told, to add greater
23
24 force to these objections, that they are not on local but on general
25
26 principles, and that they are uniform throughout the United States. I
27
28 confess I am not altogether of that opinion; I think some of the objections
29
30 are inconsistent with others, arising from a different quarter, and I think
31
32 some are inconsistent even with those derived from the same source. But, on
33
34 this occasion, let us take the fact for granted, that they are all on
35
36 general principles, and uniform throughout the United States. Then we can
37
38 judge of their full amount; and what are they, but trifles light as air? We
39
40 see the whole force of them; for, according to the sentiments of opposition,
41
42 they can nowhere be stronger, or more fully stated, than here. The
43
44 conclusion, from all these objections, is reduced to a point, and the plan
45
46 is declared to be inimical to our liberties. I have said nothing, and mean
47
48 to say nothing, concerning the dispositions or characters of those that
49
50 framed the work now before you. I agree that it ought to be judged by its
51
52 own intrinsic qualities. If it has not merit, weight of character ought not
53
54 to carry it into effect. On the other hand, if it has merit, and is
55

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1 calculated to secure the blessings of liberty, and to promote the general
2 welfare, then such objections as have hitherto been made ought not to
3 influence us to reject it.
4

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6
7
8
9 I am now led to consider those qualities that this system of government
10 possesses, which will entitle it to the attention of the United States. But
11 as I have somewhat fatigued myself, as well as the patience of the honorable
12 members of this house, I shall defer what I have to add on this subject
13 until the afternoon.
14
15
16
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19
20

21 Eodem Die, P. M. -- Mr. WILSON. Before I proceed to consider those qualities
22 in the Constitution before us which I think will insure it our approbation,
23 permit me to make some remarks -- and they shall be very concise -- upon the
24 objections that were offered this forenoon, by the member from Fayette, (Mr.
25 Smilie.) I do it at this time because I think it will be better to give a
26 satisfactory answer to the whole of the objections, before I proceed to the
27 other part of my subject. I find that the doctrine of a single legislature
28 is not to be contended for in this Constitution. I shall therefore say
29 nothing on that point. I shall consider that part of the system, when we
30 come to view its excellences. Neither shall I take particular notice of his
31 observation on the qualified negative of the President; for he finds no
32 fault with it: he mentions, however, that he thinks it a vain and useless
33 power, because it can never be executed. The reason he assigns for this is,
34 that the king of Great Britain, who has an absolute negative over the laws
35 proposed by Parliament, has never exercised it, at least for many years. It
36 is true, and the reason why he did not exercise it was that, during all that
37 time, the king possessed a negative before the bill had passed through the
38 two houses -- a much stronger power than a negative after debate. I believe,
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1
2 since the revolution, at the time of William III., it was never known that a
3
4 bill disagreeable to the crown passed both houses. At one time, in the reign
5
6 of Queen Anne, when there appeared some danger of this being effected, it is
7
8 well known that she created twelve peers, and by that means effectually
9
10 defeated it. Again: there was some risk, of late years, in the present
11
12 reign, with regard to Mr. Fox's East India Bill, as it is usually called,
13
14 that passed through the House of Commons; but the king had interest enough
15
16 in the House of Peers to have it thrown out; thus it never came up for the
17
18 royal assent. But that is no reason why this negative should not be
19
20 exercised here, and exercised with great advantage. Similar powers are known
21
22 in more than one of the states. The governors of Massachusetts and New York
23
24 have a power similar to this, and it has been exercised frequently to good
25
26 effect.

27
28
29
30 I believe the governor of New York, under this power, has been known to send
31
32 back five or six bills in a week; and I well recollect that, at the time the
33
34 funding system was adopted by our legislature, the people in that state
35
36 considered the negative of the governor as a great security that their
37
38 legislature would not be able to encumber them by a similar measure. Since
39
40 that time, an alteration has been supposed in the governor's conduct, but
41
42 there has been no alteration in his power.

43
44
45
46 The honorable gentleman from Westmoreland, (Mr Findley,) by his
47
48 highly-refined critical abilities, discovers an inconsistency in this part
49
50 of the Constitution, and that which declares, in section 1, "All legislative
51
52 powers, herein granted, shall be vested in a Congress of the United States,
53
54 which shall consist of a Senate and a House of Representatives;" and yet
55

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1 here, says he, is a power of legislation given to the President of the
2 United States, because every bill, before it becomes a law, shall be
3 presented to him. Thus he is said to possess legislative powers. Sir, the
4 Convention observed, on this occasion, strict propriety of language: "If he
5 approve the bill, when it is sent, he shall sign it, but if not, he shall
6 return it;" but no bill passes in consequence of having his assent:
7 therefore, he possesses no legislative authority.
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17 The effect of this power, upon this subject, is merely this: if he
18 disapproves a bill, two thirds of the legislature become necessary to pass
19 it into a law, instead of a bare majority. And when two thirds are in favor
20 of the bill, it becomes a law, not by his, but by authority of the two
21 houses of the legislature. We are told, in the next place, by the honorable
22 gentleman from Fayette, (Mr. Smilie,) that, in the different orders of
23 mankind, there is that of a natural aristocracy On some occasions there is a
24 kind of magical expression, used to conjure up ideas that may create
25 uneasiness and apprehension. I hope the meaning of the words is understood
26 by the gentleman who used them. I have asked repeatedly of gentlemen to
27 explain, but have not been able to obtain the explanations of what they
28 meant by a consolidated government. They keep round and round about the
29 thing, but never define. I ask now what is meant by a natural aristocracy. I
30 am not at a loss for the etymological definition of the term; for, when we
31 trace it to the language from which it is derived, an aristocracy means
32 nothing more or less than a government of the best men in the community or
33 those who are recommended by the words of the Constitution of Pennsylvania,
34 where it is directed that the representatives should consist of those most
35 noted for wisdom and virtue. Is there any danger in such representation? I
36 shall never find fault that such characters are employed. How happy for us,
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1 when such characters can be obtained! If this is meant by a natural
2
3 aristocracy, -- and I know no other, -- can it be objectionable that men
4
5 should be employed that are most noted for their virtue and talents? And are
6
7 attempts made to mark out these as the most improper persons for the public
8
9 confidence?
10

11
12
13 I had the honor of giving a definition -- and I believe it was a just one --
14
15 of what is called an aristocratic government It is a government where the
16
17 supreme power is not retained by the people, but resides in a select body of
18
19 men, who either fill up the vacancies that happen, by their own choice and
20
21 election, or succeed on the principle of descent, or by virtue of
22
23 territorial possessions, or some other qualifications that are not the
24
25 result of personal properties. When I speak of personal properties, I mean
26
27 the qualities of the head and the disposition of the heart.
28
29
30
31

32 We are told that the representatives will not be known to the people, nor
33
34 the people to the representatives, because they will be taken from large
35
36 districts, where they cannot be particularly acquainted. There has been some
37
38 experience, in several of the states, upon this subject; and I believe the
39
40 experience of all who had experience, demonstrates that the larger the
41
42 district of election, the better the representation. It is only in remote
43
44 corners of a government that little demagogues arise. Nothing but real
45
46 weight of character can give a man real influence over a large district.
47
48 This is remarkably shown in the commonwealth of Massachusetts. The members
49
50 of the House of Representatives are chosen in very small districts; and such
51
52 has been the influence of party cabal, and little intrigue in them, that a
53
54 great majority seem inclined to show very little disapprobation of the
55

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1 conduct of the insurgents in that state.

2
3
4
5 The governor is chosen by the people at large, and that state is much larger
6
7 than any district need be under the proposed Constitution. In their choice
8
9 of their governor, they have had warm disputes; but, however warm the
10
11 disputes, their choice only vibrated between the most eminent characters.

12
13 Four of their candidates are well known -- Mr. Hancock, Mr. Bowdoin, General
14
15 Lincoln, and Mr. Goreham, the late president of Congress.

16
17
18
19 I apprehend it is of more consequence to be able to know the true interest
20
21 of the people than their faces, and of more consequence still to have virtue
22
23 enough to pursue the means of carrying that knowledge usefully into effect.

24
25 And surely, when it has been thought, hitherto, that a representation, in
26
27 Congress, of from five to two members, was sufficient to represent the
28
29 interest of this state, is it not more than sufficient to have ten members
30
31 in that body -- and those in a greater comparative proportion than
32
33 heretofore? The citizens of Pennsylvania will be represented by eight, and
34
35 the state by two. This, certainly, though not gaining enough, is gaining a
36
37 good deal; the members will be more distributed through the state, being the
38
39 immediate choice of the people, who hitherto have not been represented in
40
41 that body. It is said, that the House of Representatives will be subject to
42
43 corruption, and the Senate possess the means of corrupting, by the share
44
45 they have in the appointment to office. This was not spoken in the soft
46
47 language of attachment to government. It is, perhaps, impossible, with all
48
49 the caution of legislators and statesmen, to exclude corruption and undue
50
51 influence entirely from government. All that can be done, upon this subject,
52
53 is done in the Constitution before you. Yet it behoves us to call out, and
54
55 add every guard and preventive in our power. I think, sir, something very

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1
2 important, on this subject, is done in the present system; for it has been
3
4 provided, effectually, that the man that has been bribed by an office shall
5
6 have it no longer in his power to earn his wages. The moment he is engaged
7
8 to serve the Senate, in consequence of their gift, he no longer has it in
9
10 his power to sit in the House of Representatives; for "No representative
11
12 shall, during the term for which he was elected, be appointed to any civil
13
14 office, under the authority of the United States, which shall have been
15
16 created, or the emoluments whereof shall have been increased, during such
17
18 time." And the following annihilates corruption of that kind: "And no person
19
20 holding any office under the United States shall be a member of either house
21
22 during his continuance in office." So the mere acceptance of an office, as a
23
24 bribe, effectually destroys the end for which it was offered. Was this
25
26 attended to when it was mentioned that the members of the one house could be
27
28 bribed by the other? "But the members of the Senate may enrich themselves,"
29
30 was an observation made as an objection to this system.

31
32
33
34 As the mode of doing this has not been pointed out, I apprehend the
35
36 objection is not much relied upon. The Senate are incapable of receiving any
37
38 money, except what is paid them out of the public treasury. They cannot vote
39
40 to themselves a single penny, unless the proposition originates from the
41
42 other house. This objection, therefore, is visionary, like the following one
43
44 -- "that pictured group, that numerous host, and prodigious swarm of
45
46 officers, which are to be appointed under the general government." The
47
48 gentlemen tell you that there must be judges of the supreme, and judges of
49
50 the inferior courts, with all their appendages: there will be tax-gatherers
51
52 swarming throughout the land. "O!" say they, "if we could enumerate the
53
54 offices, and the numerous officers that must be employed every day in
55

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1 collecting, receiving, and comptrolling, the moneys of the United States,
2
3 the number would be almost beyond imagination."
4

5
6
7 I have been told, but I do not vouch for the fact, that there are, in one
8
9 shape or another, more than a thousand persons, in this very state, who get
10
11 their living by assessing and collecting our revenues from the other
12
13 citizens. Sir, when this business of revenue is conducted on a general plan,
14
15 we may be able to do the business of the thirteen states with an equal, nay,
16
17 with a less number: instead of thirteen comptroller-generals, one
18
19 comptroller will be sufficient. I apprehend that the number of officers,
20
21 under this system, will be greatly reduced from the number now employed;
22
23 for, as Congress can now do nothing effectually, the states are obliged to
24
25 do every thing; and in this very point I apprehend that we shall be great
26
27 gainers.
28

29
30
31 Sir, I confess I wish the powers of the Senate were not as they are. I think
32
33 it would have been better if those powers had been distributed in other
34
35 parts of the system. I mentioned some circumstances, in the forenoon, that I
36
37 had observed on this subject. I may mention now, we may think ourselves very
38
39 well off, sir, that things are as well as they are, and that that body is
40
41 even so much restricted. But surely objections of this kind come with a bad
42
43 grace from the advocates, or those who prefer the present Confederation, and
44
45 who wish only to increase the powers of the present Congress. A single body,
46
47 not constituted with checks, like the proposed one, who possess not only the
48
49 power of making treaties, but executive powers, would be a perfect
50
51 despotism; but further, these powers are, in the present Confederation,
52
53 possessed without control.
54
55

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1
2 As I mentioned before, so I will beg leave to repeat, that this Senate can
3
4 do nothing without the concurrence of some other branch of the government.
5
6 With regard to their concern in the appointment to offices, the President
7
8 must nominate before they can be chosen; the President must acquiesce in
9
10 that appointment. With regard to their power in forming treaties, they can
11
12 make none; they are only auxiliaries to the President. They must try all
13
14 impeachments but they have no power to try any until presented by the House
15
16 of Representatives; and when I consider this subject, though I wish the
17
18 regulation better, I think no danger to the liberties of this country can
19
20 arise even from that part of the system. But these objections, I say, come
21
22 with a bad grace from those who prefer the present Confederation, who think
23
24 it only necessary to add more powers to a body organized in that form. I
25
26 confess, likewise, that by combining those powers of trying impeachments,
27
28 and making treaties, in the same body, it will not be so easy, as I think it
29
30 ought to be, to call the senators to an account for any improper conduct in
31
32 that business.
33
34
35

36 Those who proposed this system were not inattentive to do all they could. I
37
38 admit the force of the observation made by the gentleman from Fayette, (Mr.
39
40 Smilie,) that, when two thirds of the Senate concur in forming a bad treaty,
41
42 it will be hard to procure a vote of two thirds against them, if they should
43
44 be impeached. I think such a thing is not to be expected; and so far they
45
46 are without that immediate degree of responsibility which I think requisite
47
48 to make this part of the work perfect. But this will not be always the case.
49
50 When a member of the Senate shall behave criminally, the criminality will
51
52 not expire with his office. The senators may be called to account after they
53
54 shall have been changed, and the body to which they belonged shall have been
55

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1 altered. There is a rotation; and every second year one third of the whole
2
3 number go out. Every fourth year two thirds of them are changed. In six
4
5 years the whole body is supplied by a new one. Considering it in this view,
6
7 responsibility is not entirely lost. There is another view in which it ought
8
9 to be considered, which will show that we have a greater degree of security.
10
11 Though they may not be convicted on impeachment before the Senate, they may
12
13 be tried by their country; and if their criminality is established, the law
14
15 will punish. A grand jury may present, a petty jury may convict, and the
16
17 judges will pronounce the punishment. This is all that can be done under the
18
19 present Confederation, for under it there is no power of impeachment; even
20
21 here, then, we gain something. Those parts that are exceptionable, in this
22
23 Constitution, are improvements on that concerning which so much pains are
24
25 taken, to persuade us that it is preferable to the other.

26
27
28
29 The last observation respects the judges. It is said that, if they are to
30
31 decide against the law, one house will impeach them, and the other will
32
33 convict them. I hope gentlemen will show how this can happen; for bare
34
35 supposition ought not to be admitted as proof. The judges are to be
36
37 impeached, because they decide an act null and void, that was made in
38
39 defiance of the Constitution! What House of Representatives would dare to
40
41 impeach, or Senate to commit, judges for the performance of their duty?
42
43 These observations are of a similar kind to those with regard to the liberty
44
45 of the press.

46
47
48
49 I will proceed to take some notice of those qualities in this Constitution
50
51 that I think entitle it to our respect and favor. I have not yet done, sir,
52
53 with the great principle on which it stands; I mean the practical
54
55 recognition of this doctrine -- that, in the United States, the people

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1
2 retain the supreme power.

3
4
5
6 In giving a definition of the simple kinds of government known throughout
7
8 the world, I had occasion to describe what I meant by a democracy; and I
9
10 think I termed it, that government in which the people retain the supreme
11
12 power, and exercise it either collectively or by representation. This
13
14 Constitution declares this principle, in its terms and in its consequences,
15
16 which is evident from the manner in which it is announced. "We, the People
17
18 of the United States." After all the examination which I am able to give the
19
20 subject, I view this as the only sufficient and most honorable basis, both
21
22 for the people and government, on which our Constitution can possibly rest.
23
24 What are all the contrivances of states, of kingdoms, and empires? What are
25
26 they all intended for? They are all intended for man; and our natural
27
28 character and natural rights are certainly to take place, in preference to
29
30 all artificial refinements that human wisdom can devise.

31
32
33
34 I am astonished to hear the ill-founded doctrine, that the states alone
35
36 ought to be represented in the federal government; these must possess
37
38 sovereign authority, forsooth, and the people be forgot. No. Let us reascend
39
40 to first principles. That expression is not strong enough to do my ideas
41
42 justice.

43
44
45
46 Let us retain first principles. The people of the United States are now in
47
48 the possession and exercise of their original rights; and while this
49
50 doctrine is known, and operates, we shall have a cure for every disease.

51
52
53
54 I shall mention another good quality belonging to this system. In it the
55

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1 legislative, executive, and judicial powers are kept nearly independent and
2 distinct. I express myself in this guarded manner, because I am aware of
3 some powers that are blended in the Senate. They are but few; and they are
4 not dangerous. It is an exception; yet that exception consists of but few
5 instances, and none of them dangerous. I believe in no constitution for any
6 country on earth is this great principle so strictly adhered to, or marked
7 with so much precision and accuracy, as this. It is much more accurate than
8 that which the honorable gentleman so highly extols: I mean, the
9 constitution of England. There, sir, one branch of the legislature can
10 appoint members of another. The king has the power of introducing members
11 into the House of Lords. I have already mentioned that, in order to obtain a
12 vote, twelve peers were poured into that house at one time. The operation is
13 the same as might be under this Constitution, if the President had a right,
14 to appoint the members of the Senate. This power of the king extends into
15 the other branch, where, though he cannot immediately introduce a member,
16 yet he can do it remotely, by virtue of his prerogative, as he may create
17 boroughs with power to send members to the House of Commons. The House of
18 Lords form a much stronger exception to this principle than the Senate in
19 this system; for the House of Lords possess judicial powers -- not only that
20 of trying impeachments, but that of trying their own members, and civil
21 causes, when brought before them from the courts of chancery and the other
22 courts in England.

23
24
25
26
27 If we therefore consider this Constitution with regard to this special
28 object, though it is not so perfect as I could wish, yet it is more perfect
29 than any government that I know.

30
31
32
33
34
35 I proceed to another property, which I think will recommend it to those who

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1
2 consider the effects of beneficence and wisdom; I mean the division of this
3
4 legislative authority into two branches. I had an opportunity of dilating
5
6 somewhat on this subject before; and as it is not likely to afford a subject
7
8 of debate, I shall take no further notice of it than barely to mention it.
9
10 The next good quality that I remark is, that the executive authority is one.
11
12 By this means we obtain very important advantages. We may discover from
13
14 history, from reason, and from experience, the security which this
15
16 furnishes. The executive power is better to be trusted when it has no
17
18 screen. Sir, we have a responsibility in the person of our President; he
19
20 cannot act improperly, and hide either his negligence or inattention; he
21
22 cannot roll upon any other person the weight of his criminality; no
23
24 appointment can take place without his nomination; and he is responsible for
25
26 every nomination he makes. We secure vigor. We well know what numerous
27
28 executives are. We know there is neither vigor, decision, nor
29
30 responsibility, in them. Add to all this, that officer is placed high, and
31
32 is possessed of power far from being contemptible; yet not a single privilege
33
34 is annexed to his character; far from being above the laws, he is amenable
35
36 to them in his private character as a citizen, and in his public character
37
38 by impeachment.

39
40
41
42 Sir, it has often been a matter of surprise, and frequently complained of
43
44 even in Pennsylvania, that the independence of the judges is not properly
45
46 secured. The servile dependence of the judges, in some of the states that
47
48 have neglected to make proper provision on this subject, endangers the
49
50 liberty and property of the citizen; and I apprehend that, whenever it has
51
52 happened that the appointment has been for a less period than during good
53
54 behavior, this object has not been sufficiently secured; for if, every five
55

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1 or seven years, the judges are obliged to make court for their appointment
2
3 to office, they cannot be styled independent. This is not the case with
4
5 regard to those appointed under the general government; for the judges here
6
7 shall hold their offices during good behavior. I hope no further objections
8
9 will be taken against this part of the Constitution, the consequence of
10
11 which will be, that private property, so far as it comes before their
12
13 courts, and personal liberty, so far as it is not forfeited by crimes, will
14
15 be guarded with firmness and watchfulness.

16
17
18
19 It may appear too professional to descend into observations of this kind;
20
21 but I believe that public happiness, personal liberty, and private property,
22
23 depend essentially upon the able and upright determinations of independent
24
25 judges.

26
27
28
29 Permit me to make one more remark on the subject of the judicial department.
30
31 Its objects are extended beyond the bounds or power of every particular
32
33 state, and therefore must be proper objects of the general government. I do
34
35 not recollect any instance where a case can come before the judiciary of the
36
37 United States, that could possibly be determined by a particular state,
38
39 except one -- which is, where citizens of the same state claim lands under
40
41 the grant of different states; and in that instance, the power of the two
42
43 states necessarily comes in competition; wherefore there would be great
44
45 impropriety in having it determined by either.

46
47
48
49 Sir, I think there is another subject with regard to which this Constitution
50
51 deserves approbation. I mean the accuracy with which the line is drawn
52
53 between the powers of the general government and those of the particular
54
55 state governments. We have heard some general observations, on this subject,

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1
2 from the gentlemen who conduct the opposition. They have asserted that these
3
4 powers are unlimited and undefined. These words are as easily pronounced as
5
6 limited and defined. They have already been answered by my honorable
7
8 colleague, (Mr. M'Kean;) therefore I shall not enter into an explanation.
9

10 But it is not pretended that the line is drawn with mathematical precision;
11
12 the inaccuracy of language must, to a certain degree, prevent the
13
14 accomplishment of such a desire. Whoever views the matter in a true light,
15
16 will see that the powers are as minutely enumerated and defined as was
17
18 possible, and will also discover that the general clause, against which so
19
20 much exception is taken, is nothing more than what was necessary to render
21
22 effectual the particular powers that are granted.
23
24
25

26 But let us suppose -- and the supposition is very easy in the minds of the
27
28 gentlemen on the other side -- that. there is some difficulty in
29
30 ascertaining where the true line lies. Are we therefore thrown into despair?
31
32 Are disputes between the general government and the state governments to be
33
34 necessarily the consequence of inaccuracy? I hope, sir, they will not be the
35
36 enemies of each other, or resemble comets in conflicting orbits, mutually
37
38 operating destruction; but that their motion will be better represented by
39
40 that of the planetary system, where each part moves harmoniously within its
41
42 proper sphere, and no injury arises by interference or opposition. Every
43
44 part, I trust, will be considered as a part of the United States. Can any
45
46 cause of distrust arise here? Is there any increase of risk? Or, rather, are
47
48 not the enumerated powers as well denned here, as in the present Articles of
49
50 Confederation?
51
52
53

54 Permit me to proceed to what I deem another excellency of this system: all
55

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1 authority, of every kind, is derived by REPRESENTATION from the PEOPLE, and
2
3 the DEMOCRATIC principle is carried into every part of the government. I had
4
5 an opportunity, when I spoke first, of going fully into an elucidation of
6
7 this subject. I mean not now to repeat what I then said.
8
9

10
11 I proceed to another quality, that I think estimable in this system: it
12
13 secures, in the strongest manner, the right of suffrage. Montesquieu, book
14
15 2d, chap. 2d, speaking of laws relative to democracy, says, --
16
17

18
19 "When the body of the people is possessed of the supreme power, this is
20
21 called a democracy. When the supreme power is lodged in the hands of a part
22
23 of the people, it is then an aristocracy.
24
25

26
27 "In a democracy the people are in some respects the sovereign, and in
28
29 others the subject.
30
31

32
33 "There can be no exercise of sovereignty but by their suffrages, which
34
35 are their own will. Now, the sovereign's will is the sovereign himself. The
36
37 laws, therefore, which establish the right of suffrage, are fundamental to
38
39 this government. And, indeed, it is as important to regulate, in a republic,
40
41 in what manner, by whom, to whom, and concerning what, suffrages are to be
42
43 given, as it is, in a monarchy, to know who is the prince, and after what
44
45 manner he ought to govern."
46
47

48
49 In this system, it is declared that the electors in each state shall have
50
51 the qualifications requisite for electors of the most numerous branch of the
52
53 state legislature. This being made the criterion of the right of suffrage,
54
55 it is consequently secured, because the same Constitution guaranties to every

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1
2 state in the Union a republican form of government. The right of suffrage is
3
4 fundamental to republics.
5

6
7
8 Sir, there is another principle that I beg leave to mention. Representation
9
10 and direct taxation, under this Constitution, are to be according to
11
12 numbers. As this is a subject which I believe has not been gone into in this
13
14 house, it will be worth while to show the sentiments of some respectable
15
16 writers thereon. Montesquieu, in considering the requisites in a confederate
17
18 republic, book 9th, chap. 3d, speaking of Holland, observes, "It is
19
20 difficult for the united states to be all of equal power and extent. The
21
22 Lycian (Strabo, lib. 14) republic was an association of twenty-three towns;
23
24 the large ones had three votes in the common council, the middling ones two,
25
26 and the small towns one. The Dutch republic consists of seven provinces, of
27
28 different extent of territory, which have each one voice.
29

30
31
32 "The cities of Lycia (Strabo, lib. 14) contributed to the expenses of the
33
34 state, according to the proportion of suffrages. The provinces of the United
35
36 Netherlands cannot follow this proportion; they must be directed by that of
37
38 their power.
39

40
41
42 "In Lycia, (Strabo, lib. 14,) the judges and town magistrates were elected
43
44 by the common council, and according to the proportion already mentioned. In
45
46 the republic of Holland, they are not chosen by the common council, but each
47
48 town names its magistrates. Were I to give a model of an excellent
49
50 confederate republic, I should pitch upon that of Lycia."
51

52
53
54 I have endeavored, in all the books that I have access to, to acquire some
55

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1 information relative to the Lycian republic; but its history is not to be
2
3 found; the few facts that relate to it are mentioned only by Strabo; and
4
5 however excellent the model it might present, we were reduced to the
6
7 necessity of working without it. Give me leave to quote the sentiments of
8
9 another author, whose peculiar situation and extensive worth throw a lustre
10
11 on all he says. I mean Mr. Necker, whose ideas are very exalted, both in
12
13 theory and practical knowledge, on this subject. He approaches the nearest
14
15 to the truth in his calculations from experience, and it is very remarkable
16
17 that he makes use of that expression. His words are, (Necker on Finance,
18
19 vol. 1. p. 308,) --
20
21
22

23 "Population can therefore be only looked on as an exact measure of
24
25 comparison when the provinces have resources nearly equal; but even this
26
27 imperfect rule of proportion ought not to be neglected; and of all the
28
29 objects which may be subjected to a determined and positive calculation,
30
31 that of the taxes, to the population, approaches nearest to the truth."
32
33
34

35 Another good quality in this Constitution is, that the members of the
36
37 legislature cannot hold offices under the authority of this government. The
38
39 operation of this, I apprehend, would be found to be very extensive, and
40
41 very salutary, in this country, to prevent those intrigues, those factions,
42
43 that corruption, that would otherwise rise here, and have risen so
44
45 plentifully in every other country. The reason why it is necessary in
46
47 England to continue such influence, is, that the crown, in order to secure
48
49 its own influence against two other branches of the legislature, must
50
51 continue to bestow places; but those places produce the opposition which
52
53 frequently runs so strong in the British Parliament.
54
55

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1
2 Members who do not enjoy offices combine against those who do enjoy them. It
3
4 is not from principle that they thwart the ministry in all its operations.
5
6 No; their language is, Let us turn them out, and succeed to their places.
7
8 The great source of corruption, in that country, is, that persons may hold
9
10 offices under the crown, and seats in the legislature, at the same time.
11
12
13

14 I shall conclude, at present, -- and I have endeavored to be as concise as
15
16 possible, -- with mentioning that, in my humble opinion, the powers of the
17
18 general government are necessary and well denned; that the restraints
19
20 imposed on it, and those imposed on the state governments, are rational and
21
22 salutary; and that it is entitled to the approbation of those for whom it
23
24 was intended.
25
26
27

28 I recollect, on a former day, the honorable gentleman from Westmoreland,
29
30 (Mr. Findley,) and the honorable gentleman from Cumberland, (Mr. Whitehill,)
31
32 took exceptions against the 1st clause of the 9th sect., art. 1, arguing,
33
34 very unfairly, that, because Congress might impose a tax or duty of ten
35
36 dollars on the importation of slaves, within any of the United States,
37
38 Congress might therefore permit slaves to be imported within this state,
39
40 contrary to its laws. I confess, I little thought that this part of the
41
42 system would be excepted to.
43
44
45

46 I am sorry that it could be extended no farther; but so far as it operates,
47
48 it presents us with the pleasing prospect that the rights of mankind will be
49
50 acknowledged and established throughout the Union.
51
52
53

54 If there was no other lovely feature in the Constitution but this one, it
55

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1 would diffuse a beauty over its whole countenance. Yet the lapse of a few
2
3 years, and Congress will have power to exterminate slavery from within our
4
5 borders.

6
7
8
9 How would such a delightful prospect expand the breast of a benevolent and
10
11 philanthropic European! Would he cavil at an expression? catch at a phrase?
12
13 No, sir, that is only reserved for the gentleman on the other side of your
14
15 chair to do. What would be the exultation of that great man whose name I
16
17 have just now mentioned, we may learn from the following sentiments on this
18
19 subject; they cannot be expressed so well as in his own words (vol. 1, page
20
21 329.)

22
23
24
25 "The colonies of France contain, as we have seen, near five hundred
26
27 thousand slaves; and it is from the number of these wretches the inhabitants
28
29 set a value on their plantations. What a fatal prospect, and how profound a
30
31 subject for reflection! Alas! how inconsequent we are, both in our morality
32
33 and our principles! We preach up humanity, and yet go every year to bind in
34
35 chains twenty thousand natives of Africa. We call the Moors barbarians and
36
37 ruffians, because they attack the liberty of Europeans at the risk of their
38
39 own; yet these Europeans go, without danger, and as mere speculators, to
40
41 purchase slaves, by gratifying the cupidity of their masters, and excite all
42
43 those bloody scenes which are the usual preliminaries of this traffic! In
44
45 short, we pride ourselves on the superiority of man, and it is with reason
46
47 that we discover this superiority in the wonderful and mysterious unfolding
48
49 of the intellectual faculties; and yet the trifling difference in the hair of
50
51 the head, or in the color of the epidermis, is sufficient to change our
52
53 respect into contempt, and to engage us to place beings like ourselves in
54
55 the rank of those animals devoid of reason, whom we subject to the yoke, that

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1
2 we may make use of their strength and of their instinct at command.

3
4
5
6 "I am sensible, and I grieve at it, that these reflections, which
7
8 others have made much better than I, are unfortunately of very little use!
9
10 The necessity of supporting sovereign power has its peculiar laws, and the
11
12 wealth of nations is one of the foundations of this power: thus the sovereign
13
14 who should be the most thoroughly convinced of what is due to humanity,
15
16 would not singly renounce the service of slaves in his colonies: time alone
17
18 could furnish a population of free people to replace them, and the great
19
20 difference that would exist in the price of labor would give so great an
21
22 advantage to the nation that should adhere to the old custom, that the
23
24 others would soon be discouraged in wishing to be more virtuous. And yet,
25
26 would it be a chimerical project to propose a general compact, by which all
27
28 the European nations should unanimously agree to abandon the traffic of
29
30 African slaves! they would, in that case, find themselves exactly in the same
31
32 proportion, relative to each other, as at present; for it is only on
33
34 comparative riches that the calculations of power are founded.

35
36
37
38 "We cannot as yet indulge such hopes; statesmen in general think that
39
40 every common idea must be a low one; and since the morals of private people
41
42 stand in need of being curbed and maintained by the laws, we ought not to
43
44 wonder if those of sovereigns conform to their independence.

45
46
47
48 "The time may nevertheless arrive, when, fatigued of that ambition
49
50 which agitates them, and of the continual rotation of the same anxieties and
51
52 the same plans, they may turn their views to the great principles of
53
54 humanity; and if the present generation is to be witness of this happy
55

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1 revolution, they may at least be allowed to be unanimous in offering up
2
3 their vows for the perfection of the social virtues, and for the progress of
4
5 public beneficial institutions."

6
7
8
9 These are the enlarged sentiments of that great man.

10
11
12
13 Permit me to make a single observation, in this place, on the restraints
14
15 placed on the state governments. If only the following lines were inserted
16
17 in this Constitution, I think it would be worth our adoption: "No state
18
19 shall hereafter emit bills of credit; make any thing but gold and silver
20
21 coin a tender in payment of debts; pass any bills of attainder, ex post
22
23 facto law, or law impairing the obligation of contracts." Fatal experience
24
25 has taught us, dearly taught us, the value of these restraints. What is the
26
27 consequence even at this moment? It is true, we have no tender law in
28
29 Pennsylvania; but the moment you are conveyed across the Delaware, you find
30
31 it haunt your journey, and follow close upon your heels. The paper passes
32
33 commonly at twenty-five or thirty per cent. discount. How insecure is
34
35 property!

36
37
38
39 These are a few of those properties in this system, that, I think, recommend
40
41 it to our serious attention, and will entitle it to receive the adoption of
42
43 the United States. Others might be enumerated, and others still will
44
45 probably be disclosed by experience.

46
47
48
49 FRIDAY, December 7, 1787, A. M. -- Mr. WILSON. This is the first time that
50
51 the article respecting the judicial department has come directly before us.
52
53 I shall therefore take the liberty of making such observations as will
54
55 enable honorable gentlemen to see the extent of the views of the Convention

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1
2 in forming this article, and the extent of its probable operation.

3
4
5
6 This will enable gentlemen to bring before this house their objections more
7
8 pointedly than, without any explanation, could be done. Upon a distinct
9
10 examination of the different powers, I presume it will be found that not one
11
12 of them is unnecessary. I will go farther -- there is not one of them but
13
14 will be discovered to be of such a nature as to be attended with very
15
16 important advantages. I shall beg leave to premise one remark -- that the
17
18 Convention, when they formed this system, did not expect they were to
19
20 deliver themselves, their relations, and their posterity, into the hands of
21
22 such men as are described by the honorable gentlemen in opposition. They did
23
24 not suppose that the legislature, under this Constitution, would be an
25
26 association of demons They thought that a proper attention would be given,
27
28 by the citizens of the United States, at the general election for members to
29
30 the House of Representatives; they also believed that the particular states
31
32 would nominate as good men as they have heretofore done, to represent them in
33
34 the Senate. If they should now do otherwise, the fault will not be in
35
36 Congress, but in the people or states themselves. I have mentioned, oftener
37
38 than once, that for a people wanting to themselves there is no remedy.

39
40
41
42 The Convention thought further, (for on this very subject there will appear
43
44 caution, instead of imprudence, in their transactions;) they considered,
45
46 that, if suspicions are to be entertained, they are to be entertained with
47
48 regard to the objects in which government have separate interests and
49
50 separate views from the interest and views of the people. To say that
51
52 officers of government will oppress, when nothing can be got by oppression,
53
54 is making an inference, bad as human nature is, that cannot be allowed. When
55

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1 persons can derive no advantage from it, it can never be expected they will
2
3 sacrifice either their duty or their popularity.
4

5
6
7 Whenever the general government can be a party against a citizen, the trial
8
9 is guarded and secured in the Constitution itself, and therefore it is not
10
11 in its power to oppress the citizen. In the case of treason, for example,
12
13 though the prosecution is on the part of the United States, yet the Congress
14
15 can neither define nor try the crime. If we have recourse to the history of
16
17 the different governments that have hitherto subsisted, we shall find that a
18
19 very great part of their tyranny over the people has arisen from the
20
21 extension of the definition of treason. Some very remarkable instances have
22
23 occurred, even in so free a country as England. If I recollect right, there
24
25 is one instance that puts this matter in a very strong point of view. A
26
27 person possessed a favorite buck, and, on finding it killed, wished the
28
29 horns in the belly of the person who killed it. This happened to be the
30
31 king: the injured complainant was tried, and convicted of treason for
32
33 wishing the king's death.
34
35

36
37 I speak only of free governments; for, in despotic ones, (reason depends
38
39 entirely upon the will of the prince. Let this subject be attended to, and
40
41 it will be discovered where the dangerous power of the government operates
42
43 on the oppression of the people. Sensible of this, the Convention has
44
45 guarded the people against it, by a particular and accurate definition of
46
47 treason.
48
49

50
51 It is very true that trial by jury is not mentioned in civil cases; but I
52
53 take it that it is very improper to infer from hence that it was not meant
54
55 to exist under this government. Where the people are represented, where the

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1
2 interest of government cannot be separate from that of the people, (and this
3
4 is the case in trial between citizen and citizen,) the power of making
5
6 regulations with respect to the mode of trial may certainly be placed in the
7
8 legislature; for I apprehend that the legislature will not do wrong in an
9
10 instance from which they can derive no advantage. These were not all the
11
12 reasons that influenced the Convention to leave it to the future Congress to
13
14 make regulations on this head.
15

16
17
18 By the Constitution of the different states, it will be found that no
19
20 particular mode of trial by jury could be discovered that would suit them
21
22 all. The manner of summoning jurors, their qualifications, of whom they
23
24 should consist, and the course of their proceedings, are all different in
25
26 the different states; and I presume it will be allowed a good general
27
28 principle, that, in carrying into effect the laws of the general government
29
30 by the judicial department, it will be proper to make the regulations as
31
32 agreeable to the habits and wishes of the particular states as possible; and
33
34 it is easily discovered that it would have been impracticable, by any
35
36 general regulation, to give satisfaction to all. We must have thwarted the
37
38 custom of eleven or twelve to have accommodated any one. Why do this when
39
40 there was no danger to be apprehended from the omission? We could not go
41
42 into a particular detail of the manner that would have suited each state.
43
44

45
46 Time, reflection, and experience, will be necessary to suggest and mature
47
48 the proper regulations on this subject; time and experience were not
49
50 possessed by the Convention; they left it therefore to be particularly
51
52 organized by the legislature -- the representatives of the United States --
53
54 from time to time, as should be most eligible and proper. Could they have
55

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1 done better?

2
3
4
5 I know, in every part where opposition has arisen, what a handle has been
6
7 made to this objection; but I trust, upon examination, it will be seen that
8
9 more could not have been done with propriety. Gentlemen talk of bills of
10
11 rights. What is the meaning of this continual clamor, after what has been
12
13 urged? Though it may be proper, in a single state, whose legislature calls
14
15 itself the sovereign and supreme power, yet it would be absurd in the body
16
17 of the people, when they are delegating from among themselves persons to
18
19 transact certain business, to add an enumeration of those things which they
20
21 are not to do. "But trial by jury is secured in the bill of rights of
22
23 Pennsylvania; the parties have a right to trials by jury, which ought to be
24
25 held sacred." And what is the consequence? There have been more violations
26
27 of this right in Pennsylvania, since the revolution, than are to be found in
28
29 England in the course of a century.

30
31
32
33 I hear no objection made to the tenure by which the judges hold their
34
35 offices; it is declared that the judges shall hold them during good
36
37 behavior; -- nor to the security which they will have for their salaries;
38
39 they shall, at stated times, receive for their services a compensation which
40
41 shall not be diminished during their continuance in office.

42
43
44
45 The article respecting the judicial department is objected to as going too
46
47 far, and is supposed to carry a very indefinite meaning. Let us examine
48
49 this: "The judicial power shall extend to all cases, in law and equity,
50
51 arising under this Constitution and the laws of the United States."
52
53 Controversies may certainly arise under this Constitution and the laws of
54
55 the United States, and is it not proper that there should be judges to

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1
2 decide them? The honorable gentleman from Cumberland (Mr. Whitehill) says
3
4 that laws may be made inconsistent with the Constitution; and that therefore
5
6 the powers given to the judges are dangerous. For my part, Mr. President, I
7
8 think the contrary inference true. If a law should be made inconsistent with
9
10 those powers vested by this instrument in Congress, the judges, as a
11
12 consequence. of their independence, and the particular powers of government
13
14 being defined, will declare such law to be null and void; for the power of
15
16 the Constitution predominates. Any thing, therefore, that shall be enacted by
17
18 Congress contrary thereto, will not have the force of law.
19
20
21

22 The judicial power extends to all cases arising under treaties made, or
23
24 which shall be made, by the United States. I shall not repeat, at this time,
25
26 what has been said with regard to the power of the states to make treaties;
27
28 it cannot be controverted, that, when made, they ought to be observed. But
29
30 it is highly proper that this regulation should be made; for the truth is,
31
32 -- and I am sorry to say it, -- that, in order to prevent the payment of
33
34 British debts, and from other causes, our treaties have been violated, and
35
36 violated, too, by the express laws of several states in the Union.
37

38 Pennsylvania -- to her honor be it spoken -- has hitherto done no act of
39
40 this kind; but it is acknowledged on all sides, that many states in the
41
42 Union have infringed the treaty; and it is well known that, when the
43
44 minister of the United States made a demand of Lord Carmarthen of a
45
46 surrender of the western posts, he told the minister, with truth and
47
48 justice, "The treaty under which you claim those possessions has not been
49
50 performed on your part; until that is done, those possessions will not be
51
52 delivered up." This clause, sir, will show the world that we make the faith
53
54 of treaties a constitutional part of the character of the United States;
55

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1 that we secure its performance no longer nominally, for the judges of the
2 United States will be enabled to carry it into effect, let the legislatures
3 of the different states do what they may.
4

5
6
7
8
9 The power of judges extends to all cases affecting ambassadors, other public
10 ministers, and consuls. I presume very little objection will be offered to
11 this clause; on the contrary, it will be allowed proper and unexceptionable.
12

13
14
15
16
17 This will also be allowed with regard to the following clause: "all cases of
18 admiralty and maritime jurisdiction."
19

20
21
22
23 The next is, "to controversies to which the United States shall be a party."
24 Now, I apprehend it is something very incongruous, that, because the United
25 States are a party, it should be urged, as an objection, that their judges
26 ought not to decide, when the universal practice of all nations has, and
27 unavoidably must have, admitted of this power. But, say the gentlemen, the
28 sovereignty of the states is destroyed, if they should be engaged in a
29 controversy with the United States, because a suiter in a court must
30 acknowledge the jurisdiction of that court, and it is not the custom of
31 sovereigns to suffer their names to be made use of in this manner. The
32 answer is plain and easy: the government of each state ought to be
33 subordinate to the government of the United States.
34
35
36
37
38
39
40
41
42
43
44

45
46
47 "To controversies between two or more states." This power is vested in the
48 present Congress; but they are unable, as I have already shown, to enforce
49 their decisions. The additional power of carrying their decree into
50 execution, we find, is therefore necessary, and I presume no exception will
51 be taken to it.
52
53
54
55

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1
2
3
4 "Between a state and citizens of another state." When this power is attended
5
6 to, it will be found to be a necessary one. Impartiality is the leading
7
8 feature in this Constitution; it pervades the whole. When a citizen has a
9
10 controversy with another state, there ought to be a tribunal where both
11
12 parties may stand on a just and equal footing.
13

14
15
16 "Between citizens of different states, and between a state, or the citizens
17
18 thereof, and foreign states, citizens, or subjects." This part of the
19
20 jurisdiction, I presume, will occasion more doubt than any other part; and,
21
22 at first view, it may seem exposed to objections well founded and of great
23
24 weight; but I apprehend this can be the case only at first view. Permit me
25
26 to observe here, with regard to this power, or any other of the foregoing
27
28 powers given to the federal court, that they are not exclusively given. In
29
30 all instances, the parties may commence suits in the courts of the several
31
32 states. Even the United States may submit to such decision if they think
33
34 proper. Though the citizens of a state, and the citizens or subjects of
35
36 foreign states, may sue in the federal court, it does not follow that they
37
38 must sue. These are the instances in which the jurisdiction of the United
39
40 States may be exercised; and we have all the reason in the world to believe
41
42 that it will be exercised impartially; for it would be improper to infer
43
44 that the judges would abandon their duty, the rather for being independent.
45
46 Such a sentiment is contrary to experience, and ought not to be hazarded. If
47
48 the people of the United States are fairly represented, and the President
49
50 and Senate are wise enough to choose men of abilities and integrity for
51
52 judges, there can be no apprehension, because, as I mentioned before, the
53
54 government can have no interest in injuring the citizens.
55

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1
2
3 But when we consider the matter a little further, is it not necessary, if we
4 mean to restore either public or private credit, that foreigners, as well as
5 ourselves, have a just and impartial tribunal to which they may resort? I
6
7 would ask how a merchant must feel to have his property lie at the mercy of
8
9 the laws of Rhode Island. I ask, further, How will a creditor feel who has
10
11 his debts at the mercy of tender laws in other states? It is true that,
12
13 under this Constitution, these particular iniquities may be restrained in
14
15 future; but, sir, there are other ways of avoiding payment of debts. There
16
17 have been instalment acts, and other acts of a similar effect. Such things,
18
19 sir, destroy the very sources of credit.
20
21
22
23
24

25 Is it not an important object to extend our manufactures and our commerce?
26
27 This cannot be done, unless a proper security is provided for the regular
28
29 discharge of contracts. This security cannot be obtained, unless we give the
30
31 power of deciding upon those contracts to the general government.
32
33
34

35 I will mention, further, an object that I take to be of particular
36
37 magnitude, and I conceive these regulations will produce its accomplishment.
38
39 The object, Mr. President, that I allude to, is the improvement of our
40
41 domestic navigation, the instrument of trade between the several states.
42
43 Private credit, which fell to decay from the destruction of public credit,
44
45 by a too inefficient general government, will be restored; and this valuable
46
47 intercourse among ourselves must give an increase to those useful
48
49 improvements that will astonish the world. At present, how are we
50
51 circumstanced! Merchants of eminence will tell you that they cannot trust
52
53 their property to the laws of the state in which their correspondents live.
54
55 Their friend may die, and may be succeeded by a representative of a very

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1
2 different character. If there is any particular objection that did not occur
3
4 to me on this part of the Constitution, gentlemen will mention it; and I
5
6 hope, when this article is examined, it will be found to contain nothing but
7
8 what is proper to be annexed to the general government. The next clause, so
9
10 far as it gives original jurisdiction in cases affecting ambassadors, I
11
12 apprehend, is perfectly unexceptionable.
13
14
15

16 It was thought proper to give the citizens of foreign states full
17
18 opportunity of obtaining justice in the general courts, and this they have
19
20 by its appellate jurisdiction; therefore, in order to restore credit with
21
22 those foreign states, that part of the article is necessary. I believe the
23
24 alteration that will take place in their minds when they learn the operation
25
26 of this clause, will be a great and important advantage to our country; nor
27
28 is it any thing but justice: they ought to have the same security against
29
30 the state laws that may be made, that the citizens have; because regulations
31
32 ought to be equally just in the one case as in the other. Further, it is
33
34 necessary in order to preserve peace with foreign nations. Let. us suppose
35
36 the case, that a wicked law is made in some one of the states, enabling a
37
38 debtor to pay his creditor with the fourth, fifth, or sixth part of the real
39
40 value of the debt, and this creditor, a foreigner, complains to his prince
41
42 or sovereign, of the injustice that has been done him. What can that prince
43
44 or sovereign do? Bound by inclination, as well as duty, to redress the wrong
45
46 his subject sustains from the hand of perfidy, he cannot apply to the
47
48 particular guilty state, because he knows that, by the Articles of
49
50 Confederation, it is declared that no state shall enter into treaties. He
51
52 must therefore apply to the United States; the United States must be
53
54 accountable. "My subject has received a flagrant injury: do me justice, or I
55

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1 will do myself justice." If the United States are answerable for the injury,
2
3 ought they not to possess the means of compelling the faulty state to repair
4
5 it? They ought; and this is what is done here. For now, if complaint is made
6
7 in consequence of such injustice, Congress can answer, "Why did not your
8
9 subject apply to the General Court, where the unequal and partial laws of a
10
11 particular state would have had no force?"
12
13
14

15 In two cases the Supreme Court has original jurisdiction -- that affecting
16
17 ambassadors, and when a state shall be a party. It is true it has appellate
18
19 jurisdiction in more, but it will have it under such restrictions as the
20
21 Congress shall ordain. I believe that any gentleman, possessed of experience
22
23 or knowledge on this subject, will agree that it was impossible to go
24
25 further with any safety or propriety, and that it was best left in the
26
27 manner in which it now stands.
28
29
30

31 "In all the other cases before mentioned, the Supreme Court shall have
32
33 appellate jurisdiction, both as to law and fact." The jurisdiction as to
34
35 fact may be thought improper; but those possessed of information on this
36
37 head see that it is necessary. We find it essentially necessary from the
38
39 ample experience we have had in the courts of admiralty with regard to
40
41 captures. Those gentlemen who, during the late war, had their vessels
42
43 retaken, know well what a poor chance they would have had when those vessels
44
45 were taken in their states and tried by juries, and in what a situation they
46
47 would have been if the Court of Appeals had not been possessed of authority
48
49 to reconsider and set aside the verdicts of those juries. Attempts were made
50
51 by some of the states to destroy this power; but it has been confirmed in
52
53 every instance.
54
55

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1
2 There are other cases in which it will be necessary; and will not Congress
3
4 better regulate them, as they rise from time to time, than could have been
5
6 done by the Convention? Besides, if the regulations shall be attended with
7
8 inconvenience, the Congress can alter them as soon as discovered. But any
9
10 thing done in Convention must remain unalterable but by the power of the
11
12 citizens of the United States at large.

13
14
15
16 I think these reasons will show that the powers given to the Supreme Court
17
18 are not only safe, but constitute a wise and valuable part of the system.
19
20

21
22 TUESDAY, December 11, 1787, A. M. -- Mr. WILSON Three weeks have now elapsed
23
24 since this Convention met. Some of the delegates attended on Tuesday, the
25
26 20th November; a great majority within a day or two afterwards; and all but
27
28 one on the 4th day. We have been since employed in discussing the business
29
30 for which we are sent here. I think it will now become evident to every
31
32 person who takes a candid view of our discussions, that it is high time our
33
34 proceedings should draw towards a conclusion.

35
36
37
38 Perhaps our debates have already continued as long, nay, longer than is
39
40 sufficient for every good purpose. The business which we were intended to
41
42 perform is necessarily reduced to a very narrow compass. The single question
43
44 to be determined is, Shall we assent to and ratify the Constitution
45
46 proposed?

47
48
49
50 As this is the first state whose Convention has met on the subject, and as
51
52 the subject itself is of very great importance, not only to Pennsylvania,
53
54 but to the United States, it was thought proper fairly, openly, and candidly
55

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1 to canvass it. This has been done. You have heard, Mr. President, from day
2
3 to day, and from week to week, the objections that could be offered from any
4
5 quarter. We have heard these objections once: we have heard a great number
6
7 of them repeated much oftener than once. Will it answer any valuable end,
8
9 sir, to protract these debates longer? I suppose it will not. I apprehend it
10
11 may serve to promote very pernicious and destructive purposes. It may,
12
13 perhaps, be insinuated to other states, and even to distant parts of this
14
15 state, by people in opposition to this system, that the expediency of
16
17 adopting is at most very doubtful, and that the business lingers among the
18
19 members of the Convention
20
21
22

23 This would not be a true representation of the fact; for there is the
24
25 greatest reason to believe that there is a very considerable majority who do
26
27 not hesitate to ratify the Constitution. We were sent here to express the
28
29 voice of our constituents on the subject, and I believe that. many of them
30
31 expected to hear the echo of that voice before this time.
32
33
34

35 When I consider the attempts that have been made on this floor, and the many
36
37 misrepresentations of what has been said among us that have appeared in the
38
39 public papers, printed in this city, I confess that I am induced to suspect
40
41 that opportunity may be taken to pervert and abuse the principles on which
42
43 the friends of this Constitution act. If attempts are made here, will they
44
45 not be repeated when the distance is greater, and the means of information
46
47 fewer? Will they not at length produce an uneasiness, for which there is, in
48
49 fact, no cause? Ought we not to prohibit any such uses being made of the
50
51 continuance of our deliberations? We do not wish to preclude debate: of this
52
53 our conduct has furnished the most ample testimony. The members in
54
55 opposition have not been prevented a repetition of all their objections that

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1 they could urge against this plan.

2
3
4
5
6 The honorable gentleman from Fayette, (Mr. Smilie,) the other evening,
7
8 claimed for the minority the merit of contending for the rights of mankind;
9
10 and he told us that it has been the practice of all ages to treat such
11
12 minorities with contempt; he further took the liberty of observing, that, if
13
14 the majority had the power, they do not want the inclination, to consign the
15
16 minority to punishment. I know that claims, self-made, form no small part of
17
18 the merit to which we have heard undisguised pretences; but it is one thing
19
20 to claim, and it is another thing, very different indeed, to support that
21
22 claim. The minority, sir, are contending for the rights of mankind; what,
23
24 then, are the majority contending for? If the minority are contending for
25
26 the rights of mankind, the majority must be contending for the doctrines of
27
28 tyranny and slavery. Is it probable that that is the case? Who are the
29
30 majority in this assembly? -- Are they not the people? are they not the
31
32 representatives of the people, as well as the minority? Were they not
33
34 elected by the people, as well as the minority? Were they not elected by the
35
36 greater part of the people? Have we a single right separate from the rights
37
38 of the people? Can we forge fetters for others that will not be clasped
39
40 round our own limbs? Can we make heavy chains that shall not cramp the
41
42 growth of our own posterity? On what fancied distinction shall the minority
43
44 assume to themselves the merit of contending for the rights of mankind?
45
46
47

48 Sir, if the system proposed by the late Convention, and the conduct of its
49
50 advocates who have appeared in this house, deserve the declarations and
51
52 insinuations that have been made concerning them, well may we exclaim,
53
54 "Ill-fated America! thy crisis was approaching! perhaps it was come! Thy
55

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1 various interests were neglected -- thy most sacred rights were insecure.
2
3 Without a government, without energy, without confidence internally, without
4
5 respect externally, the advantages of society were lost to thee! In such a
6
7 situation, distressed, but not despairing, thou desiredst to reassume thy
8
9 native vigor, and to lay the foundation of future empire. Thou selectedst a
10
11 number of thy sons, to meet together for the purpose. The selected and
12
13 honored characters met; but, horrid to tell, they not only consented, but
14
15 they combined in an aristocratic system, calculated and intended to enslave
16
17 their country! Unhappy Pennsylvania! thou, as a part of the Union, must
18
19 share in its unfortunate fate; for when this system, after being laid before
20
21 thy citizens, comes before the delegates selected by them for its
22
23 consideration, there are found but three of the numerous members that have
24
25 virtue enough to raise their voices in support of the rights of mankind!"
26
27 America, particularly Pennsylvania, must be ill-starred, indeed, if this is
28
29 a true state of the case. I trust we may address our country in far other
30
31 language.

32
33
34
35 "Happy America! thy crisis was indeed alarming, but thy situation was not
36
37 desperate. We had confidence in our country; though, on whichever side we
38
39 turned, we were presented with scenes of distress. Though the jarring
40
41 interests of the various states, and the different habits and inclinations
42
43 of their inhabitants, all lay in the way, and rendered our prospect gloomy
44
45 and discouraging indeed, yet such were the generous and mutual sacrifices
46
47 offered up, that, amidst forty-two members, who represented twelve of (he
48
49 United States, there were only three who did not attest the instrument, as a
50
51 confirmation of its goodness. Happy Pennsylvania! this plan has been laid
52
53 before thy citizens for consideration; they have sent delegates to express
54
55 their voice; and listen -- with rapture listen! -- from only three

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1
2 opposition has been heard against it."

3
4
5
6 The singular unanimity that has attended the whole progress of their
7
8 business, will, in the minds of those considerate men who have not had
9
10 opportunity to examine the general and particular interest of their country,
11
12 prove, to their satisfaction, that it is an excellent Constitution, and
13
14 worthy to be adopted, ordained, and established, by the people of the United
15
16 States.

17
18
19
20 After having viewed the arguments drawn from probability, whether this is a
21
22 good or a bad system, whether those who contend for it, or those who contend
23
24 against it, contend for the rights of mankind, let us step forward and
25
26 examine the fact.

27
28
29
30 We were told, some days ago, by the honorable gentle man from Westmoreland,
31
32 (Mr. Findley,) when speaking of this system and its objects, that the
33
34 Convention, no doubt, thought they were forming a compact, or contract, of
35
36 the greatest importance. Sir, I confess I was much surprised, at so late a
37
38 stage of the debate, to hear such principles maintained. It was a matter of
39
40 surprise to see the great leading principle of this system still so very
41
42 much misunderstood. "The Convention, no doubt, thought they were forming a
43
44 contract!" I cannot answer for what every member thought; but I believe it
45
46 cannot be said that they thought they were making a contract, because I
47
48 cannot discover the least trace of a compact in that system. There can be no
49
50 compact unless there are more parties than one. It is a new doctrine that
51
52 one can make a compact with himself. "The Convention were forming compacts!"
53
54 With whom? I know no bargains that were made there. I am unable to conceive
55

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1 who the parties could be. The state governments make a bargain with one
2
3 another; that is the doctrine that is endeavored to be established by
4
5 gentlemen in opposition, -- that state sovereignties wish to be represented!
6
7 But far other were the ideas of the Convention, and far other are those
8
9 conveyed in the system itself.

10
11
12
13 As this subject has been often mentioned, and as often misunderstood, it may
14
15 not be improper to take some further notice of it. This, Mr. President, is
16
17 not a government founded upon compact; it is founded upon the power of the
18
19 people They express in their name and their authority -- "We, the people, do
20
21 ordain and establish," &c.; from their ratification alone it is to take its
22
23 constitutional authenticity; without that, it is no more than tabula rasa.

24
25
26
27 I know very well all the common-place rant of state sovereignties, and that
28
29 government is founded in original compact. If that position was examined, it
30
31 will be found not to accede very well with the true principle of free
32
33 government. It does not suit the language or genius of the system before us.
34
35 I think it does not accord with experience, so far as I have been able to
36
37 obtain information from history.

38
39
40
41 The greatest part of governments have been founded on conquest: perhaps a
42
43 few early ones may have had their origin in paternal authority. Sometimes a
44
45 family united, and that family afterwards extended itself into a community.
46
47 But the greatest governments which have appeared on the face of the globe
48
49 have been founded in conquest. The great empires of Assyria, Persia,
50
51 Macedonia, and Rome, were all of this kind. I know well that in Great
52
53 Britain, since the revolution, it has become a principle that the
54
55 constitution is founded in contract; but the form and time of that contract,

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1
2 no writer has yet attempted to discover. It was, however, recognized at the
3
4 time of the revolution, therefore is politically true. But we should act
5
6 very imprudently to consider our liberties as placed on such foundation.
7
8
9

10 If we go a little further on this subject, I think we shall see that the
11
12 doctrine of original compact cannot be supported consistently with the best
13
14 principles of government. If we admit it, we exclude the idea of amendment;
15
16 because a contract once entered into between the governor and governed
17
18 becomes obligatory, and cannot be altered but by the mutual consent of both
19
20 parties. The citizens of united America, I presume, do not wish to stand on
21
22 that footing with those to whom, from convenience, they please to delegate
23
24 the exercise of the general powers necessary for sustaining and preserving
25
26 the Union. They wish a principle established, by the operation of which the
27
28 legislatures may feel the direct authority of the people. The people,
29
30 possessing that authority, will continue to exercise it by amending and
31
32 improving their own work. This Constitution may be found to have defects in
33
34 it; hence amendments may become necessary; but the idea of a government
35
36 founded on contract destroys the means of improvement. We heal it every time
37
38 the gentlemen are up, "Shall we violate the Confederation, which directs
39
40 every alteration that is thought necessary to be established by the state
41
42 legislatures only!" Sir, those gentlemen must ascend to a higher source:
43
44 the people fetter themselves by no contract. If your state legislatures have
45
46 cramped themselves by compact, it was done without the authority of the
47
48 people, who alone possess the supreme power.
49
50
51

52 I have already shown that this system is not a compact, or contract; the
53
54 system itself tells you what it is; it is an ordinance and establishment of
55

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1 the people. I think that the force of the introduction to the work must by
2 this time have been felt. It is not an unmeaning nourish. The expressions
3 declare, in a practical manner, the principle of this Constitution. It is
4 ordained and established by the people themselves; and we, who give our
5 votes for it, are merely the proxies of our constituents. We sign it as
6 their attorneys, and, as to ourselves, we agree to it as individuals.

15 We are told, by honorable gentlemen in opposition, "that the present
16 Confederation should have been continued, but that additional powers should
17 have been given to it; that such was the business of the late Convention,
18 and that they had assumed to themselves the power of proposing another in
19 its stead; and that which is proposed is such a one as was not expected by
20 the legislature nor by the people." I apprehend this would have been a very
21 insecure, very inadequate, and a very pernicious mode of proceeding. Under
22 the present Confederation, Congress certainly do not possess sufficient
23 power; but one body of men we know they are; and were they invested with
24 additional powers, they must become dangerous. Did not the honorable
25 gentleman himself tell us that the powers of government, vested either in
26 one man or one body of men, formed the very description of tyranny? To have
27 placed in the present the legislative, the executive, and judicial
28 authority, all of which are essential to the general government, would
29 indubitably have produced the severest despotism. From this short deduction,
30 one of these two things must have appeared to the Convention, and must appear
31 to every man who is at the pains of thinking on the subject. It was
32 indispensably necessary either to make a new distribution of the powers of
33 government, or to give such powers to one body of men as would constitute a
34 tyranny. If it is proper to avoid tyranny, it becomes requisite to avoid
35 placing additional powers in the hands of a Congress constituted like the

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1
2 present; hence the conclusion is warranted, that a different organization
3
4 ought to take place.
5
6
7

8 Our next inquiry ought to be, whether this is the most proper disposition
9
10 and organization of the necessary powers. But before I consider this
11
12 subject, I think it proper to notice one sentiment, expressed by an
13
14 honorable gentleman from the county of Cumberland, (Mr. Whitehill.) He
15
16 asserts that the extent of the government is too great, and this system
17
18 cannot be executed. What is the consequence, if this assertion is true? It
19
20 strikes directly at the root of the Union.
21
22
23

24 I admit, Mr. President, there are great difficulties in adapting a system of
25
26 good and free government to the extent of our country. But I am sure that
27
28 our interests, as citizens, as states, and as a nation, depend essentially
29
30 upon a union. This Constitution is proposed to accomplish that great and
31
32 desirable end. Let the experiment be made; let the system be fairly and
33
34 candidly tried, before it is determined that it cannot be executed.
35
36
37

38 I proceed to another objection; for I mean to answer those that have been
39
40 suggested since I had the honor of addressing you last week. It has been
41
42 alleged, by honorable gentlemen, that this general government possesses
43
44 powers for internal purposes, and that the general government cannot
45
46 exercise internal powers. The honorable member from Westmoreland (Mr.
47
48 Findley) dilates on this subject, and instances the opposition that was made
49
50 by the colonies against Great Britain, to prevent her imposing internal
51
52 taxes or excises. And before the federal government will be able to impose
53
54 the one, or obtain the other, he considers it necessary that it should
55

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1 possess power for every internal purpose.

2
3
4
5 Let us examine these objections: If this government does not possess
6
7 internal as well as external power, and that power for internal as well as
8
9 external purposes, I apprehend that all that has hitherto been done must go
10
11 for nothing. I apprehend a government that cannot answer the purposes for
12
13 which it was intended is not a government for this country. I know that
14
15 Congress, under the present Articles of Confederation, possess no internal
16
17 power, and we see the consequences: they can recommend -- they can go
18
19 further, they can make requisitions; but there they must stop; for, as far
20
21 as I recollect, after making a law, they cannot take a single step towards
22
23 carrying it into execution. I believe it will be found, in experience, that,
24
25 with regard to the exercise of internal powers, the general government will
26
27 not be unnecessarily rigorous. The future collection of the duties and
28
29 imposts will, in the opinion of some, supersede the necessity of having
30
31 recourse to internal taxation. The United States will not, perhaps, be often
32
33 under the necessity of using this power at all; but if they should, it will
34
35 be exercised only in a moderate degree. The good sense of the citizens of
36
37 the United States is not to be alarmed by the picture of taxes collected at
38
39 the point of the bayonet. There is no more reason to suppose that the
40
41 delegates and representatives in Congress, any more than the legislature of
42
43 Pennsylvania, or any other state, will act in this manner. Insinuations of
44
45 this kind, made against one body of men, and not against another, though
46
47 both the representatives of the people, are not made with propriety; nor
48
49 will they have the weight of argument. I apprehend the greatest part of the
50
51 revenue will arise from external taxation. But certainly it would have been
52
53 very unwise in the late Convention to have omitted the addition of the other
54
55 powers; and I think it would be very unwise in this Convention to refuse to

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1
2 adopt this Constitution, because it grants Congress power to lay and collect
3
4 taxes, for the purpose of providing for the common defence and general
5
6 welfare of the United States.
7
8
9

10 What is to be done to effect these great purposes, if an impost should be
11
12 found insufficient? Suppose a war was suddenly declared against us by a
13
14 foreign power, possessed of a formidable navy; our navigation would be laid
15
16 prostrate, our imposts must cease; and shall our existence as a nation
17
18 depend upon the peaceful navigation of our seas? A strong exertion of
19
20 maritime power, on the part of an enemy, might deprive us of these sources
21
22 of revenue in a few months. It may suit honorable gentlemen, who live at the
23
24 western extremity of this state, that they should contribute nothing, by
25
26 internal taxes, to the support of the general government. They care not what
27
28 restraints are laid upon our commerce; for what is the commerce of
29
30 Philadelphia to the inhabitants on the other side of the Alleghany
31
32 Mountains? But though it may suit them, it does not suit those in the lower
33
34 part of the state, who are by far the most numerous. Nor can we agree that
35
36 our safety should depend altogether upon a revenue arising from commerce.
37
38
39

40 Excise may be a necessary mode of taxation; it takes place in most states
41
42 already.
43
44
45

46 The capitation tax is mentioned as one of those that are exceptionable. In
47
48 some states, that mode of taxation is used; but I believe, in many, it would
49
50 be received with great reluctance; there are one or two states where it is
51
52 constantly in use, and without any difficulties and inconveniences arising
53
54 from it. An excise, in its very principles, is an improper tax, if it could
55

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1 be avoided; but yet it has been a source of revenue in Pennsylvania, both
2
3 before the revolution and since; during all which time we have enjoyed the
4
5 benefit of free government.
6
7
8

9 I presume, sir, that the executive powers of government ought to be
10
11 commensurate with the government itself, and that a government which cannot
12
13 act in every part is, so far, defective. Consequently, it is necessary that
14
15 Congress possess powers to tax internally, as well as externally.
16
17
18

19 It is objected to this system, that under it there is no sovereignty left
20
21 in the state governments. I have had occasion to reply to this already; but I
22
23 should be very glad to know at what period the state governments became
24
25 possessed of the supreme power. On the principle on which I found my
26
27 arguments, -- and that is, the principle of this Constitution, -- the
28
29 supreme power resides in the people. If they choose to indulge a part of
30
31 their sovereign power to be exercised by the state governments, they may. If
32
33 they have done it, the states were right in exercising it; but if they think
34
35 it no longer safe or convenient, they will resume it, or make a new
36
37 distribution, more likely to be productive of that good which ought to be
38
39 our constant aim.
40
41
42

43 The powers both of the general government and the state governments, under
44
45 this system, are acknowledged to be so many emanations of power from the
46
47 people. The great object now to be attended to, instead of disagreeing about
48
49 who shall possess the supreme power, is, to consider whether the present
50
51 arrangement is well calculated to promote and secure the tranquillity and
52
53 happiness of our common country. These are the dictates of sound and
54
55 unsophisticated sense, and what ought to employ the attention and judgment

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1
2 of this honorable body.

3
4
5
6 We are next told by the honorable gentleman in opposition, (as indeed we
7
8 have been, from the beginning of the debates in this Convention, to the
9
10 conclusion of their speeches yesterday,) that this is a consolidated
11
12 government, and will abolish the state governments.

13
14
15
16 Definitions of a consolidated government have been called for; the gentlemen
17
18 gave us what they termed definition, but it does not seem to me, at least,
19
20 that they have as yet expressed clear ideas upon that subject. I will
21
22 endeavor to state their different ideas upon this point. The gentleman from
23
24 Westmoreland, (Mr. Findley,) when speaking on this subject, says that he
25
26 means, by a consolidation, that government which puts the thirteen states
27
28 into one.

29
30
31
32 The honorable gentleman from Fayette (Mr. Smilie) gives you this definition:
33
34 "What I mean by a consolidated government, is one that will transfer the
35
36 sovereignty from the slate governments to the general government."

37
38
39
40 The honorable member from Cumberland, (Mr. Whitehill,) instead of giving you
41
42 a definition, sir, tells you again, that "it is a consolidated government,
43
44 and we have proved it so."

45
46
47
48 These, I think, sir, are the different descriptions given to us of a
49
50 consolidated government. As to the first, that it is a consolidated
51
52 government, that puts the thirteen United States into one, -- if it is meant
53
54 that the general government will destroy the governments of the states, I
55

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1 will admit that such a government would not suit the people of America. It
2
3 would be improper for this country, because it could not be proportioned to
4
5 its extent, on the principles of freedom. But that description does not
6
7 apply to the system before you. This, instead of placing the state
8
9 governments in jeopardy, is founded on their existence. On this principle
10
11 its organization depends; it must stand or fall, as the state governments
12
13 are secured or ruined. Therefore, though this may be a very proper
14
15 description of a consolidated government, yet it must be disregarded, as
16
17 inapplicable to the pro posed Constitution. It is not treated with decency
18
19 when such insinuations are offered against it.
20
21
22

23 The honorable gentleman (Mr. Smilie) tells you that a consolidated
24
25 government "is one that will transfer the sovereignty from the state
26
27 governments to the general government." Under this system, the sovereignty
28
29 is not in the possession of the governments, therefore it cannot be
30
31 transferred from them to the general government; so that in no point of view
32
33 of this definition can we discover that it applies to the present system.
34
35
36

37 In the exercise of its powers will be insured the exercise of their powers
38
39 to the state governments; it will insure peace and stability to them; their
40
41 strength will increase with its strength; their growth will extend with its
42
43 growth.
44
45
46

47 Indeed, narrow minds -- and some such there are in every government --
48
49 narrow minds and intriguing spirits will be active in sowing dissensions and
50
51 promoting discord between them. But those whose understandings and whose
52
53 hearts are good enough to pursue the general welfare, will find that what is
54
55 the interest of the whole, must, on the great scale, be the interest of

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1
2 every part. It will be the duty of a state, as of an individual, to
3
4 sacrifice her own convenience to the general good of the Union.
5
6
7

8 The next objection that I mean to take notice of is, that the powers of the
9
10 several parts of this government are not kept as distinct and independent as
11
12 they ought to be. I admit the truth of this general sentiment. I do not
13
14 think that, in the powers of the Senate, the distinction is marked with so
15
16 much accuracy as I wished, and still wish; but yet I am of opinion that real
17
18 and effectual security is obtained, which is saying a great deal. I do not
19
20 consider this part as wholly unexceptionable; but even where there are
21
22 defects in this system, they are improvements upon the old. I will go a
23
24 little further; though, in this system, the distinction and independence of
25
26 power is not adhered to with entire theoretical precision, yet it is more
27
28 strictly adhered to than in any other system of government in the world. In
29
30 the Constitution of Pennsylvania, the executive department exercises
31
32 judicial powers in the trial of public officers; yet a similar power, in
33
34 this system, is complained of; at the same time, the Constitution of
35
36 Pennsylvania is referred to as an example for the late Convention to have
37
38 taken a lesson by.
39
40
41

42 In New Jersey, in Georgia, in South Carolina, and North Carolina, the
43
44 executive power is blended with the legislative. Turn to their
45
46 constitutions, and see in how many instances.
47
48
49

50 In North Carolina, the Senate and House of Commons elect the governor
51
52 himself: they likewise elect seven persons to be a council of state, to
53
54 advise the governor in the execution of his office. Here we find the whole
55

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1 executive department under the nomination of the legislature, at least the
2
3 most important part of it.
4
5
6

7 In South Carolina, the legislature appoints the governor and
8
9 commander-in-chief, lieutenant-governor and privy council. "Justices of the
10
11 peace shall be nominated by the legislature, and commissioned by the
12
13 governor;" and what is more, they are appointed during pleasure. All other
14
15 judicial officers are to be appointed by the Senate and House of
16
17 Representatives. I might go further, and detail a great multitude of
18
19 instances, in which the legislative, executive, and judicial powers are
20
21 blended; but it is unnecessary; I only mention these to show, that, though
22
23 this Constitution does not arrive at what is called perfection, yet it
24
25 contains great improvements, and its powers are distributed with a degree of
26
27 accuracy superior to what is termed accuracy in particular states.
28
29
30

31 There are four instances in which improper powers are said to be blended in
32
33 the Senate. We are told that this government is imperfect, because the
34
35 Senate possess the power of trying impeachments; but here, sir, the Senate
36
37 are under a check, as no impeachment can be tried until it is made; and the
38
39 House of Representatives possess the sole power of making impeachments. We
40
41 are told that the share which the Senate have in making treaties is
42
43 exceptionable; but here they are also under a check, by a constituent part
44
45 of the government, and nearly the immediate representative of the people --
46
47 I mean the President of the United States. They can make no treaty without
48
49 his concurrence. The same observation applies in the appointment of
50
51 officers. Every officer must be nominated solely and exclusively by the
52
53 President.
54
55

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1
2 Much has been said on the subject of treaties; and this power is denominated
3
4 a blending of the legislative and executive powers in the Senate. It is but
5
6 justice to represent the favorable, as well as unfavorable, side of a
7
8 question, and from thence determine whether the objectionable parts are of a
9
10 sufficient weight to induce a rejection of this Constitution.

11
12
13
14 There is no doubt, sir, but, under this Constitution, treaties will become
15
16 the supreme law of the land; nor is there any doubt but the Senate and
17
18 President possess the power of making them. But though the treaties are to
19
20 have the force of laws, they are in some important respects very different
21
22 from other acts of legislation. In making laws, our own consent alone is
23
24 necessary. In forming treaties, the concurrence of another power becomes
25
26 necessary. Treaties, sir, are truly contracts, or compacts, between the
27
28 different states, nations, or princes, who find it convenient or necessary
29
30 to enter into them. Some gentlemen are of opinion that the power of making
31
32 treaties should have been placed in the legislature at large; there are,
33
34 however, reasons that operate with great force on the other side. Treaties
35
36 are frequently (especially in time of war) of such a nature, that it would
37
38 be extremely improper to publish them, or even commit the secret of their
39
40 negotiation to any great number of persons. For my part, I am not an
41
42 advocate for secrecy in transactions relating to the public; not generally
43
44 even in forming treaties, because I think that the history of the diplomatic
45
46 corps will evince, even in that great department of politics, the truth of
47
48 an old adage, that "honesty is the best policy," and this is the conduct of
49
50 the most able negotiators; yet sometimes secrecy may be necessary, and
51
52 therefore it becomes an argument against committing the knowledge of these
53
54 transactions to too many persons. But in their nature treaties originate
55

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1 differently from laws. They are made by equal parties, and each side has
2
3 half of the bargain to make; they will be made between us and powers at the
4
5 distance of three thousand miles. A long series of negotiation will
6
7 frequently precede them; and can it be the opinion of these gentlemen that
8
9 the legislature should be in session during this whole time? It well
10
11 deserves to be remarked, that, though the House of Representatives possess
12
13 no active part in making treaties, yet their legislative authority will be
14
15 found to have strong restraining influences upon both President and Senate.
16
17 In England, if the king and his ministers find themselves, during their
18
19 negotiation, to be embarrassed because an existing law is not repealed, or a
20
21 new law is not enacted, they give notice to the legislature of their
22
23 situation, and inform them that it will be necessary, before the treaty can
24
25 operate, that some law be repealed, or some be made. And will not the same
26
27 thing take place here? Shall less prudence, less caution, less moderation,
28
29 take place among those who negotiate treaties for the United States, than
30
31 among those who negotiate them for the other nations of the earth? And let
32
33 it be attended to, that, even in the making of treaties, the states are
34
35 immediately represented, and the people mediately represented; two of the
36
37 constituent parts of government must concur in making them. Neither the
38
39 President nor the Senate, solely, can complete a treaty; they are checks
40
41 upon each other, and are so balanced as to produce security to the people.
42
43
44
45 I might suggest other reasons, to add weight to what has already been
46
47 offered; but I believe it is not necessary; yet let me, however, add one
48
49 thing -- the Senate is a favorite with many of the states, and it was with
50
51 difficulty that these checks could be procured; it was one of the last
52
53 exertions of conciliation, in the late Convention, that obtained them.
54
55

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1
2 It has been alleged, as a consequence of the small number of
3
4 representatives, that they will not know, as intimately as they ought, the
5
6 interests, inclinations, or habits, of their constituents.
7
8
9

10 We find, on an examination of all its parts, that the objects of this
11
12 government are such as extend beyond the bounds of the particular states.
13
14 This is the line of distinction between this government and the particular
15
16 state governments.
17
18
19

20 This principle I had an opportunity of illustrating on a former occasion.
21
22 Now, when we come to consider the objects of this government, we shall find
23
24 that, in making our choice of a proper character to be a member of the House
25
26 of Representatives, we ought to fix on one whose mind and heart are
27
28 enlarged; who possesses a general knowledge of the interests of America, and
29
30 a disposition to make use of that knowledge for the advantage and welfare of
31
32 his country. It belongs not to this government to make an act for a
33
34 particular township, county, or state.
35
36
37

38 A defect in minute information has not certainly been an objection in the
39
40 management of the business of the United States; but the want of enlarged
41
42 ideas has hitherto been chargeable on our councils; yet, even with regard to
43
44 minute knowledge, I do not conceive it impossible to find eight characters
45
46 that may be very well informed as to the situation, interests, and views, of
47
48 every part of this state, and who may have a concomitant interest with their
49
50 fellow-citizens; they could not materially injure others without affecting
51
52 their own fortunes.
53
54
55

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1 I did say that, in order to obtain that enlarged information in our
2 representatives, a large district for election would be more proper than a
3 small one. When I speak of large districts, it is not agreeably to the idea
4 entertained by the honorable member from Fayette, (Mr. Smilie,) who tells
5 you that elections for large districts must be ill attended, because the
6 people will not choose to go very far on this business. It is not meant,
7 sir, by me, that the votes should be taken at one place; no, sir; the
8 elections may be held through this state in the same manner as elections for
9 members of the General Assembly; and this may be done, too, without any
10 additional inconvenience or expense.

11
12
13 If it could be effected, all the people of the same society ought to meet in
14 one place, and communicate freely with each other on the great business of
15 representation. Though this cannot be done in fact, yet. we find that it is
16 the most favorite and constitutional idea. It is supported by this principle
17 too, that every member is the representative of the whole community, and not
18 of a particular part. The larger, therefore, the district is, the greater is
19 the probability of selecting wise and virtuous characters, and the more
20 agreeable it is to the constitutional principle of representation.

21
22
23 As to the objection that the House of Representatives may be bribed by the
24 Senate, I confess I do not see that bribery is an objection against this
25 system; it is rather an objection against human nature. I am afraid that
26 bribes in every government may be offered and received; but let me ask of
27 the gentlemen who urge this objection to point out where any power is given
28 to bribe under this Constitution. Every species of influence is guarded
29 against as much as possible. Can the Senate procure money to effect such
30 design? All public moneys must be disposed of by law, and it is necessary

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1
2 that the House of Representatives originate such law. Before the money can
3
4 be got out of the treasury, it must be appropriated by law. If the
5
6 legislature had the effrontery to set aside three or four hundred thousand
7
8 pounds for this purpose, and the people would tamely suffer it, I grant it
9
10 might be done; and in Pennsylvania the legislature might do the same; for,
11
12 by a law, and that conformably to the Constitution, they might divide among
13
14 themselves what portion of the public money they pleased. I shall just
15
16 remark, sir, that the objections which have repeatedly been made with regard
17
18 to "the number of representatives being too small, and that they may
19
20 possibly be made smaller; that the districts are too large, and not within
21
22 the reach of the people; and that the House of Representatives may be bribed
23
24 by the Senate," come with an uncommon degree of impropriety from those who
25
26 would refer us back to the Articles of Confederation; for, under these, the
27
28 representation of this state cannot exceed seven members, and may consist of
29
30 only two; and these are wholly without the reach or control of the people.
31
32 Is there not also greater danger that the majority of such a body might be
33
34 more easily bribed than the majority of one not only more numerous, but
35
36 checked by a division of two or three distinct and independent parts? The
37
38 danger is certainly better guarded against in the proposed system than in
39
40 any other yet devised.

41
42
43
44 The next objections, which I shall notice, are, "that the powers of the
45
46 Senate are too great; that the representation therein is unequal; and that
47
48 the Senate, from the smallness of its number, may be bribed." Is there any
49
50 propriety in referring us to the Confederation on this subject? Because, in
51
52 one or two instances, the Senate possess more power than the House of
53
54 Representatives, are these gentlemen supported in their remarks, when they
55

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1 tell you they wished and expected more powers to be given to the present
2 Congress -- a body certainly much more exceptionable than any instituted
3 under this system?
4

5
6
7
8 That "the representation in the Senate is unequal," I regret, because I am
9 of opinion that the states ought to be represented according to their
10 importance; but in this system there is a considerable improvement; for the
11 true principle of representation is carried into the House of
12 Representatives, and into the choice of the President; and without the
13 assistance of one or the other of these, the Senate is inactive, and can do
14 neither good nor evil.
15
16
17
18
19
20
21
22
23
24

25 It is repeated, again and again, by the honorable gentleman, that "the power
26 over elections, which is given to the general government in this system, is
27 a dangerous power." I must own I feel, myself, surprised that an objection
28 of this kind should be persisted in, after what has been said by the
29 honorable colleague in reply. I think it has appeared, by a minute
30 investigation of the subject, that it would have been not only unwise, but
31 highly improper, in the late Convention, to have omitted this clause, or
32 given less power than it does over elections. Such powers, sir, are enjoyed
33 by every state government in the United States. In some they are of a much
34 greater magnitude; and why should this be the only one deprived of them?
35 Ought not these, as well as every other legislative body, to have the power
36 of judging of the qualifications of its own members? "The times, places, and
37 manner of holding elections for representatives, may be altered by
38 Congress." This power, sir, has been shown to be necessary, not only on some
39 particular occasions, but even to the very existence of the federal
40 government. I have heard some very improbable suspicions indeed suggested
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1
2 with regard to the manner in which it will be exercised. Let us suppose it
3
4 may be improperly exercised; is it not more likely so to be by the
5
6 particular states than by the government of the United States? -- because
7
8 the general government will be more studious of the good of the whole than a
9
10 particular state will be; and therefore, when the power of regulating the
11
12 time, place, or manner of holding elections, is exercised by the Congress,
13
14 it will be to correct the improper regulations of a particular state.
15
16
17

18 I now proceed to the second article of this Constitution, which relates to
19
20 the executive department.
21
22
23

24 I find, sir, from an attention to the arguments used by the gentlemen on the
25
26 other side of the house, that there are but few exceptions taken to this
27
28 part of the system. I shall take notice of them, and afterwards point out
29
30 some valuable qualifications, which I think this part possesses in an
31
32 eminent degree.
33
34
35

36 The objection against the powers of the President is not that they are too
37
38 many or too great; but, to state it in the gentlemen's own language, they
39
40 are so trifling, that the President is no more than the tool of the Senate.
41
42
43

44 Now, sir, I do not apprehend this to be the case, because I see that he may
45
46 do a great many things independently of the Senate; and, with respect to the
47
48 executive powers of government in which the Senate participate, they can do
49
50 nothing without him. Now, I would ask, which is most likely to be the tool
51
52 of the other? Clearly, sir, he holds the helm, and the vessel can proceed
53
54 neither in one direction nor another, without his concurrence. It was
55

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1 expected by many, that the cry would have been against the powers of the
2
3 President as a monarchical power; indeed, the echo of such sound was heard
4
5 some time before the rise of the late Convention. There were men, at that
6
7 time, determined to make an attack upon whatever system should be proposed;
8
9 but they mistook the point of direction. Had the President possessed those
10
11 powers, which the opposition on this floor are willing to consign him, of
12
13 making treaties and appointing officers, with the advice of a council of
14
15 state, the clamor would have been, that the House of Representatives and the
16
17 Senate were the tools of the monarch. This, sir, is but conjecture; but I
18
19 leave it to those who are acquainted with the current of the politics
20
21 pursued by the enemies of this system, to determine whether it is a
22
23 reasonable conjecture or not.
24
25
26

27 The manner of appointing the President of the United States, I find, is not
28
29 objected to; therefore I shall say little on that point. But I think it well
30
31 worth while to state to this house how little the difficulties, even in the
32
33 most difficult part of this system, appear to have been noticed by the
34
35 honorable gentlemen in opposition. The Convention, sir, were perplexed with
36
37 no part of this plan so much as with the mode of choosing the President of
38
39 the United States. For my own part, I think the most unexceptionable mode,
40
41 next after the one prescribed in this Constitution, would be that practised
42
43 by the Eastern States and the state of New York; yet, if gentlemen object
44
45 that an eighth part of our country forms a district too large for election,
46
47 how much more would they object, if it was extended to the whole Union! On
48
49 this subject, it was the opinion of a great majority in Convention, that the
50
51 thing was impracticable; other embarrassments presented themselves.
52
53
54

55 Was the President to be appointed by the legislature? Was he to continue a

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1
2 certain time in office, and afterwards was be to become ineligible?

3
4
5
6 To have the executive officers dependent upon the legislative, would
7
8 certainly be a violation of that principle, so necessary to preserve the
9
10 freedom of republics, that the legislative and executive powers should be
11
12 separate and independent. Would it have been proper that he should be
13
14 appointed by the Senate? I apprehend that still stronger objections could be
15
16 urged against that: cabal -- intrigue -- corruption -- every thing bad,
17
18 would have been the necessary concomitant of every election.
19
20
21

22 To avoid the inconveniences already enumerated, and many others that might
23
24 be suggested, the mode before us was adopted. By it we avoid corruption; and
25
26 we are little exposed to the lesser evils of party intrigue; and when the
27
28 government shall be organized, proper care will undoubtedly be taken to
29
30 counteract influence even of that nature. The Constitution, with the same
31
32 view, has directed, that the day on which the electors shall give their
33
34 votes shall be the same throughout the United States. I flatter myself the
35
36 experiment will be a happy one for our country.
37
38
39

40 The choice of this officer is brought as nearly home to the people as is
41
42 practicable. With the approbation of the state legislatures, the people may
43
44 elect with only one remove; for "each state shall appoint, in such manner as
45
46 the legislature thereof may direct, a number of electors equal to the whole
47
48 number of senators and representatives to which the state may be entitled in
49
50 Congress." Under this regulation, it will not be easy to corrupt the
51
52 electors, and there will be little time or opportunity for tumult or
53
54 intrigue. This, sir, will not be like the elections of a Polish diet, begun
55

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1 in noise and ending in bloodshed.

2
3
4
5 If gentlemen will look into this article, and read for themselves, they
6
7 will find that there is no well-grounded reason to suspect the President
8
9 will be the tool of the Senate. "The President shall be commander-in-chief of
10
11 the army and navy of the United States, and of the militia of the several
12
13 states, when called into the actual service of the United States. He may
14
15 require the opinion, in writing, of the principal officers in each of the
16
17 executive departments, upon any subject relative to the duties of their
18
19 respective offices; and he shall have power to grant reprieves and pardons
20
21 for offences against the United States." Must the President, after all, be
22
23 called the tool of the Senate? I do not mean to insinuate that he has more
24
25 powers than he ought to have, but merely to declare that they are of such a
26
27 nature as to place him above expression of contempt.

28
29
30
31 There is another power of no small magnitude intrusted to this officer. "He
32
33 shall take care that the laws be faithfully executed."

34
35
36
37 I apprehend that, in the administration of this government, it will not be
38
39 found necessary for the Senate always to sit. I know some gentlemen have
40
41 insinuated and conjectured that this will be the case; but I am inclined to
42
43 a contrary opinion. If they had employment every day, no doubt but it might
44
45 be the wish of the Senate to continue their session; but, from the nature of
46
47 their business, I do not think it will be necessary for them to attend
48
49 longer than the House of Representatives. Besides their legislative powers,
50
51 they possess three others, viz., trying impeachments, concurring in making
52
53 treaties, and in appointing officers. With regard to their power in making
54
55 treaties, it is of importance that it should be very seldom exercised. We

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1
2 are happily removed from the vortex of European politics, and the fewer and
3
4 the more simple our negotiations with European powers, the better they will
5
6 be. If such be the case, it will be but once in a number of years that a
7
8 single treaty will come before the Senate. I think, therefore, that on this
9
10 account it will be unnecessary to sit constantly. With regard to the trial
11
12 of impeachments, I hope it is what will seldom happen. In this observation,
13
14 the experience of the ten last years supports me. Now, there is only left
15
16 the power of concurring in the appointment of officers; but care is taken,
17
18 in this Constitution, that this branch of business may be done without their
19
20 presence. The president is authorized to fill up all vacancies that may
21
22 happen, during the recess of the Senate, by granting commissions, which
23
24 shall expire at the end of their next session; so that, on the whole, the
25
26 Senate need not sit longer than the House of Representatives, at the public
27
28 expense; and no doubt, if apprehensions are entertained of the Senate, the
29
30 House of Representatives will not provide pay for them one day longer than
31
32 is necessary. But what (it will be asked) is this great power of the
33
34 President? He can fill the offices only by temporary appointments. True; but
35
36 every person knows the advantage of being once introduced into an office; it
37
38 is often of more importance than the highest recommendation.

39
40
41
42 Having now done with the legislative and executive branches of this
43
44 government, I shall just remark, that, upon the whole question of the
45
46 executive, it appears that the gentlemen in opposition state nothing as
47
48 exceptionable but the deficiency of powers in the President; but rather seem
49
50 to allow some degree of political merit in this department of government.

51
52
53
54 I now proceed to the judicial department; and here, Mr. President, I meet an
55

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1 objection, I confess, I had not expected; and it seems it did not occur to
2
3 the honorable gentleman (Mr. Findley) who made it until a few days ago.
4
5
6
7 He alleges that the judges, under this Constitution, are not rendered
8
9 sufficiently independent, because they may hold other offices; and though
10
11 they may be independent as judges, yet their other office may depend upon
12
13 the legislature. I confess, sir, this objection appears to me to be a little
14
15 wire-drawn. In the first place, the legislature can appoint to no office;
16
17 therefore, the dependence could not be on them for the office, but rather on
18
19 the President and Senate; but then these cannot add the salary, because no
20
21 money can be appropriated but in consequence of a law of the United States.
22
23 No sinecure can be bestowed on any judge but by the concurrence of the whole
24
25 legislature and the President; and I do not think this an event that will
26
27 probably happen.
28
29
30
31 It is true that there is a provision made in the Constitution of
32
33 Pennsylvania, that the judges shall not be allowed to hold any other office
34
35 whatsoever; and I believe they are expressly forbidden to sit in Congress;
36
37 but this, sir, is not introduced as a principle into this Constitution.
38
39 There are many states in the Union, whose constitutions do not limit the
40
41 usefulness of their best men, or exclude them from rendering those services
42
43 to their country for which they are found eminently qualified. New York, far
44
45 from restricting their chancellor, or judges of the Supreme Court, from a
46
47 seat in Congress, expressly provide for sending them there on extraordinary
48
49 occasions. In Connecticut, the judges are not precluded from enjoying other
50
51 offices. Judges from many states have sat in Congress. Now, it is not to be
52
53 expected that eleven or twelve states are to change their sentiments and
54
55 practice, on this subject, to accommodate themselves to Pennsylvania.

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1
2
3
4 It is again alleged, against this system, that the powers of the judges are
5
6 too extensive; but I will not trouble you, sir, with a repetition of what I
7
8 had the honor of delivering the other day. I hope the result of those
9
10 arguments gave satisfaction, and proved that the judicial were commensurate
11
12 with the legislative powers; that they went no farther, and that they ought
13
14 to go so far.

15
16
17
18 The laws of Congress being made for the Union, no particular state can be
19
20 alone affected; and as they are to provide for the general purposes of the
21
22 Union, so ought they to have the means of making the provisions effectual
23
24 over all that country included within the Union.

25
26
27
28 Eodem die, 1787, P. M. -- Mr. WILSON. I shall now proceed, Mr. President, to
29
30 notice the remainder of the objections that have been suggested by the
31
32 honorable gentlemen who oppose the system now before you.

33
34
35
36 We have been told, sir, by the honorable member from Fayette, (Mr. Smilie,)
37
38 "that the trial by jury was intended to be given up, and the civil law was
39
40 intended to be introduced into its place, in civil cases."

41
42
43
44 Before a sentiment of this kind was hazarded, I think, sir, the gentleman
45
46 ought to be prepared with better proof in its support than any he has yet
47
48 attempted to produce. It is a charge, sir, not only unwarrantable, but
49
50 cruel: the idea of such a thing, I believe, never entered into the mind of a
51
52 single member of that Convention; and I believe further, that they never
53
54 suspected there would be found, within the United States, a single person
55

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1 that was capable of making such a charge. If it should be well founded, sir,
2
3 they must abide by the consequences; but if (as I trust it will fully
4
5 appear) it is ill founded, then he or they who make it ought to abide by the
6
7 consequences.
8
9

10
11 Trial by jury forms a large field for investigation, and numerous volumes
12
13 are written on the subject; those who are well acquainted with it may employ
14
15 much time in its discussion; but in a country where its excellences are so
16
17 well understood, it may not be necessary to be very prolix in pointing them
18
19 out. For my part, I shall confine myself to a few observations in reply to
20
21 the objections that have been suggested.
22
23
24

25 The member from Fayette (Mr. Smilie) has labored to infer that, under the
26
27 Articles of Confederation, the Congress possessed no appellate jurisdiction;
28
29 but this being decided against him by the words of that instrument, by which
30
31 is granted to Congress the power of "establishing courts for receiving, and
32
33 determining finally, appeals in all cases of capture, he next attempts a
34
35 distinction, and allows the power of appealing from the decisions of the
36
37 judges, but not from the verdict of a jury; but this is determined against
38
39 him also by the practice of the states; for, in every instance which has
40
41 occurred, this power has been claimed by Congress, and exercised by the
42
43 Courts of Appeals. But what would be the consequence of allowing the
44
45 doctrine for which he contends? Would it not be in the power of a jury, by
46
47 their verdict, to involve the whole Union in a war? They may condemn the
48
49 property of a neutral, or otherwise infringe the law of nations; in this
50
51 case, ought their verdict to be without revisal? Nothing can be inferred
52
53 from this to prove that trials by jury were intended to be given up. In
54
55 Massachusetts, and all the Eastern States, their causes are tried by juries,

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1
2 though they acknowledge the appellate jurisdiction of Congress.

3
4
5
6 I think I am not now to learn the advantages of a trial by jury. It has
7
8 excellences that entitle it to a superiority over any other mode, in cases
9
10 to which it is applicable.

11
12
13
14 Where jurors can be acquainted with the characters of the parties and the
15
16 witnesses, -- where the whole cause can be brought within their knowledge
17
18 and their view, -- I know no mode of investigation equal to that by a jury:
19
20 they hear every thing that is alleged; they not only hear the words, but
21
22 they see and mark the features of the countenance; they can judge of weight
23
24 due to such testimony; and moreover, it is a cheap and expeditious manner of
25
26 distributing justice. There is another advantage annexed to the trial by
27
28 jury; the jurors may indeed return a mistaken or ill-founded verdict, but
29
30 their errors cannot be systematical.

31
32
33
34 Let us apply these observations to the objects of the judicial department,
35
36 under this Constitution. I think it has been shown, already, that they all
37
38 extend beyond the bounds of any particular state; but further, a great
39
40 number of the civil causes there enumerated depend either upon the law of
41
42 nations, or the marine law, that is, the general law of mercantile
43
44 countries. Now, sir, in such cases, I presume it will not be pretended that
45
46 this mode of decision ought to be adopted; for the law with regard to them
47
48 is the same here as in every other country, and ought to be administered in
49
50 the same manner. There are instances in which I think it highly probable
51
52 that the trial by jury will be found proper; and if it is highly probable
53
54 that it will be found proper, is it not equally probable that it will be
55

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1 adopted? There may be causes depending between citizens of different states;
2
3 and as trial by jury is known and regarded in all the states, they will
4
5 certainly prefer that mode of trial before any other. The Congress will have
6
7 the power of making proper regulations on this subject, but it was
8
9 impossible for the Convention to have gone minutely into it; but if they
10
11 could, it must have been very improper, because alterations, as I observed
12
13 before, might have been necessary; and whatever the Convention might have
14
15 done would have continued unaltered, unless by an alteration of the
16
17 Constitution. Besides, there was another difficulty with regard to this
18
19 subject. In some of the states they have courts of chancery, and other
20
21 appellate jurisdictions, and those states are as attached to that mode of
22
23 distributing justice as those that have none are to theirs.

24
25
26
27 I have desired, repeatedly, that honorable gentlemen, who find fault, would
28
29 be good enough to point out what they deem to be an improvement. The member
30
31 from Westmoreland (Mr. Findley) tells us that the trial between citizens of
32
33 different states ought to be by a jury of that state in which the cause of
34
35 action rose. Now, it is easy to see that, in many instances, this would be
36
37 very improper and very partial; for, besides the different manner of
38
39 collecting and forming juries in the several states, the plaintiff comes
40
41 from another state; he comes a stranger, unknown as to his character or mode
42
43 of life, while the other party is in the midst of his friends, or perhaps
44
45 his dependants. Would a trial by jury, in such a case, insure justice to the
46
47 stranger? But again: I would ask that gentleman whether, if a great part of
48
49 his fortune was in the hands of some person in Rhode Island, he would wish
50
51 that his action to recover it should be determined by a jury of that
52
53 country, under its present circumstances.

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1
2 The gentleman from Fayette (Mr. Smilie) says that, if the Convention found
3
4 themselves embarrassed, at least they might have done thus much -- they
5
6 should have declared that the substance should be secured by Congress. This
7
8 would be saying nothing unless the cases were particularized.
9

10
11
12 Mr. SMILIE. I said the Convention ought to have declared that the
13
14 legislature should establish the trial by jury by proper regulations.
15

16
17
18 Mr. WILSON. The legislature shall establish it by proper regulations! So,
19
20 after all, the gentleman has landed us at the very point from which we set
21
22 out. He wishes them to do the very thing they have done -- to leave it to
23
24 the discretion of Congress. The fact, sir, is, nothing more could be done.
25

26
27
28 It is well known that there are some cases that should not come before
29
30 juries; there are others, that, in some of the states, never come before
31
32 juries, and in those states where they do come before them, appeals are
33
34 found necessary, the facts re~~x~~amined, and the verdict of the jury sometimes
35
36 is set aside; but I think, in all cases where the cause has come originally
37
38 before a jury, that the last examination ought to be before a jury likewise.
39

40
41
42 The power of having appellate jurisdiction, as to facts, has been insisted
43
44 upon as a proof, "that the Convention intended to give up the trial by jury
45
46 in civil cases, and to introduce the civil law." I have already declared my
47
48 own opinion on this point, and have shown not merely that it is founded on
49
50 reason and authority; -- the express declaration of Congress (Journals of
51
52 Congress, March 6, 1779) is to the same purpose. They insist upon this
53
54 power, as requisite to preserve the peace of the Union; certainly,

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1 therefore, it ought always to be possessed by the head of the confederacy.
2
3 We are told, as an additional proof, that the trial by jury was intended to
4
5 be given up; "that appeals are unknown to the common law; that the term is a
6
7 civil-law term, and with it the civil law is intended to be introduced." I
8
9 confess I was a good deal surprised at this observation being made; for
10
11 Blackstone, in the very volume which the honorable member (Mr. Smilie) had
12
13 in his hand, and read us several extracts from, has a chapter entitled "Of
14
15 Proceeding in the Nature of Appeals," -- and in that chapter says, that the
16
17 principal method of redress for erroneous judgments, in the king's courts of
18
19 record, is by writ of error to some superior "court of appeal." (3
20
21 Blackstone, 406.) Now, it is well known that his book is a commentary upon
22
23 the common law. Here, then, is a strong refutation of the assertion, "that
24
25 appeals are unknown to the common law."
26
27
28
29

30 I think these were all the circumstances adduced to show the truth of the
31
32 assertion, that, in this Constitution, the trial by jury was intended to be
33
34 given up by the late Convention in framing it. Has the assertion been
35
36 proved? I say not: and the allegations offered, if they apply at all, apply
37
38 in a contrary direction. I am glad that this objection has been stated,
39
40 because it is a subject upon which the enemies of this Constitution have
41
42 much insisted. We have now had an opportunity of investigating it fully; and
43
44 the result is, that there is no foundation for the charge, but it must
45
46 proceed from ignorance, or something worse.
47
48
49

50 I go on to another objection which has been taken to this system: "that the
51
52 expense of the general government and of the state governments will be too
53
54 great, and that the citizens will not be able to support them." If the state
55

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1 governments are to continue as cumbersome and expensive as they have
2
3 hitherto been, I confess it would be distressing to add to their expenses,
4
5 and yet it might be necessary; but I think I can draw a different conclusion
6
7 on this subject, from more conjectures than one. The additional revenue to
8
9 be raised by a general government will be more than sufficient for
10
11 additional expense; and a great part of that revenue may be so contrived as
12
13 not to be taken from the citizens of this country; for I am not of opinion
14
15 that the consumer always pays the impost that is laid on imported articles;
16
17 it is paid sometimes by the importer, and sometimes by the foreign merchant
18
19 who sends them to us. Had a duty of this nature been laid at the time of the
20
21 peace, the greatest part of it would have been the contribution of
22
23 foreigners. Besides, whatever is paid by the citizens is a voluntary
24
25 payment.

26
27
28
29 I think, sir, it would be very easy and laudable to lessen the expenses of
30
31 the state governments. I have been told (and perhaps it is not very far from
32
33 the truth) that there are two thousand members of assembly in the several
34
35 states. The business of revenue is done in consequence of requisitions from
36
37 Congress; and whether it is furnished or not, it commonly becomes a subject
38
39 of discussion. Now, when this business is executed by the legislature of the
40
41 United States, I leave it to those who are acquainted with the expense of
42
43 long and frequent sessions of Assembly, to determine the great saving that
44
45 will take place. Let me appeal to the citizens of Pennsylvania, how much
46
47 time is taken up in this state every year, if not every session, in
48
49 providing for the payment of an amazing interest due on her funded debt.
50
51 There will be many sources of revenue, and many opportunities for economy,
52
53 when the business of finance shall be administered under one government: the
54
55 funds will be more productive, and the taxes, in all probability, less

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1
2 burdensome, than they are now.

3
4
5
6 I proceed to another objection that is taken against the power, given to
7 Congress, of raising and keeping up standing armies. I confess I have been
8 surprised that this objection was ever made; but I am more so that it is
9 still repeated and insisted upon. I have taken some pains to inform myself
10 how the other governments of the world stand with regard to this power, and
11 the result of my inquiry is, that there is not one which has not the power
12 of raising and keeping up standing armies. A government without the power of
13 defence! it is a solecism.
14
15
16
17
18
19
20
21
22
23

24 I well recollect the principle insisted upon by the patriotic body in Great
25 Britain; it is, that, in time of peace, a standing army ought not to be
26 kept up without the consent of Parliament. Their only apprehension appears to
27 be, that it might, be dangerous, were the army kept up without the
28 concurrence of the representatives of the people. Sir, we are not in the
29 millennium. Wars may happen; and when they do happen, who is to have the
30 power of collecting and appointing the force, then become immediately and
31 indispensably necessary?
32
33
34
35
36
37
38
39
40
41

42 It is not declared, in this Constitution, that the Congress shall raise and
43 support armies. No, sir: if they are not driven to it by necessity, why
44 should we suppose they would do it by choice, any more than the
45 representatives of the same citizens in the state legislatures? For we must
46 not lose sight of the great principle upon which this work is founded. The
47 authority here given to the general government flows from the same source as
48 that placed in the legislatures of the several states.
49
50
51
52
53
54
55

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1
2
3 It may be frequently necessary to keep up standing armies in time of peace.
4
5 The present Congress have experienced the necessity, and seven hundred
6
7 troops are just as much a standing army as seventy thousand. The principle
8
9 which sustains them is precisely the same. They may go further, and raise an
10
11 army, without communicating to the public the purpose for which it is
12
13 raised. On a particular occasion they did this. When the commotions existed
14
15 in Massachusetts, they gave orders for enlisting an additional body of two
16
17 thousand men. I believe it is not generally known on what a perilous tenure
18
19 we held our freedom and independence at that period. The names of internal
20
21 insurrection were ready to burst out in every quarter; they were formed by
22
23 the correspondents of state officers, (to whom an allusion was made on a
24
25 former day,) and from one end to the other of the continent, we walked on
26
27 ashes, concealing fire beneath our feet; and ought Congress to be deprived
28
29 of power to prepare for the defence and safety of our country? Ought they to
30
31 be restricted from arming, until they divulge the motive which induced them
32
33 to arm? I believe the power of raising and keeping up an army, in time of
34
35 peace, is essential to every government. No government can secure its
36
37 citizens against dangers, internal and external, without possessing it, and
38
39 sometimes carrying it into execution. I confess it is a power in the
40
41 exercise of which all wise and moderate governments will be as prudent and
42
43 forbearing as possible. When we consider the situation of the United States,
44
45 we must be satisfied that it will be necessary to keep up some troops for
46
47 the protection of the western frontiers, and to secure our interest in the
48
49 internal navigation of that country. It will be not only necessary, but it
50
51 will be economical on the great scale. Our enemies, finding us invulnerable,
52
53 will not attack us; and we shall thus prevent the occasion for larger
54
55 standing armies. I am now led to consider another charge that is brought

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1
2 against this system.

3
4
5
6 It is said that Congress should not possess the power of calling out the
7
8 militia, to execute the laws of the Union, suppress insurrections, and repel
9
10 invasions; nor the President have the command of them when called out for
11
12 such purposes.

13
14
15
16 I believe any gentleman, who possesses military experience, will inform you
17
18 that men without a uniformity of arms, accoutrements, and discipline, are no
19
20 more than a mob in a camp; that, in the field, instead of assisting, they
21
22 interfere with one another. If a soldier drops his musket, and his
23
24 companion, unfurnished with one, takes it up, it is of no service, because
25
26 his cartridges do not fit it. By means of this system, a uniformity of arms
27
28 and discipline will prevail throughout the United States.

29
30
31
32 I really expected that, for this part of the system at least, the framers
33
34 of it would have received plaudits instead of censures, as they here discover
35
36 a strong anxiety to have this body put upon an effective footing, and
37
38 thereby, in a great measure, to supersede the necessity of raising or
39
40 keeping up standing armies.

41
42
43
44 The militia formed under this system, and trained by the several states,
45
46 will be such a bulwark of internal strength, as to prevent the attacks of
47
48 foreign enemies. I have been told that, about the year 1744, an attack was
49
50 intended by France upon Massachusetts Bay, but was given up on reading the
51
52 militia law of the province.

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1 If a single state could deter an enemy from such attempts, what influence
2
3 will the proposed arrangement have upon the different powers of Europe?
4

5
6
7 In every point of view, this regulation is calculated to produce good
8
9 effects. How powerful and respectable must the body of militia appear under
10
11 general and uniform regulations! How disjointed, weak, and inefficient are
12
13 they at present! I appeal to military experience for the truth of my
14
15 observations.
16

17
18
19 The next objection, sir, is a serious one indeed; it was made by the
20
21 honorable gentleman from Fayette, (Mr. Smilie.) "The Convention knew this
22
23 was not a free government; otherwise, they would not have asked the powers
24
25 of the purse and sword." I would beg to ask the gentleman what free
26
27 government he knows that has not the powers of both? There was, indeed, a
28
29 government under which we unfortunately were for a few years past, that had
30
31 them not; but it does not now exist. A government without these powers is
32
33 one of the improvements with which opposition wish to astonish mankind.
34

35
36
37 Have not the freest governments those powers? And are they not in the
38
39 fullest exercise of them? This is a thing so clear, that really it is
40
41 impossible to find facts or reasons more clear, in order to illustrate it.
42
43 Can we create a government without the power to act? How can it act without
44
45 the assistance of men? And how are men to be procured without being paid for
46
47 their services? Is not the one power the consequence of the other?
48

49
50
51 We are told, -- and it is the last and heaviest charge, -- "that this
52
53 government is an aristocracy, and was intended so to be by the late
54
55 Convention;" and we are told (the truth of which is not disputed) that an

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1 aristocratical government is incompatible with freedom. I hope, before this
2
3 charge is believed, some stronger reasons will be given in support of it
4
5
6 than any that have yet been produced.
7
8
9

10 The late Convention were assembled to devise some plan for the security,
11
12 safety, and happiness of the people of the United States. If they have
13
14 devised a plan that robs them of their power, and constitutes an
15
16 aristocracy, they are the parricides of their country, and ought to be
17
18 punished as such. What part of this system is it that warrants the charge?
19
20
21

22 What is an aristocratic government? I had the honor of giving a definition
23
24 of it at the beginning of our debates. It is, sir, the government of a few
25
26 over the many -- elected by themselves, or possessing a share in the
27
28 government by inheritance, or in consequence of territorial rights, or some
29
30 quality independent of the choice of the people. This is an aristocracy, and
31
32 this Constitution is said to be an aristocratical form of government; and it
33
34 is also said that it was intended so to be by the members of the late
35
36 Convention who framed it. What peculiar rights have been reserved to any
37
38 class of men, on any occasion? Does even the first magistrate of the United
39
40 States draw to himself a single privilege or security that does not extend
41
42 to every person throughout the United States? Is there a single distinction
43
44 attached to him, in this system, more than there is to the lowest officer in
45
46 the republic? Is there an office from which any one set of men whatsoever
47
48 are excluded? Is there one of any kind in this system but is as open to the
49
50 poor as to the rich? to the inhabitant of the country, as well as to the
51
52 inhabitant of the city? And are the places of honor and emoluments confined
53
54 to a few? And are these few the members of the late Convention? Have they
55

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1 made any particular provisions in favor of themselves, their relations, or
2 their posterity? If they have committed their country to the demon of
3 aristocracy, have they not committed themselves also, with every thing they
4 held near and dear to them?
5
6
7
8
9

10 Far, far other is the genius of this system. I have had already the honor of
11 mentioning its general nature; but I will repeat it, sir. In its principle
12 it is purely democratical; but its parts are calculated in such manner as to
13 obtain those advantages, also, which are peculiar to the other forms of
14 government in other countries. By appointing a single magistrate, we secure
15 strength, vigor, energy, and responsibility in the executive department. By
16 appointing a Senate, the members of which are elected for six years, yet, by
17 a rotation already taken notice of, changing every second year, we secure
18 the benefit of experience, while, on the other hand, we avoid the
19 inconveniences that arise from a long and detached establishment. This body
20 is periodically renovated from the people, like a tree, which, at the proper
21 season, receives its nourishment from its parent earth.
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36

37 In the other branch of the legislature, the House of Representatives, shall
38 we not have the advantages of benevolence and attachment to the people,
39 whose immediate representatives they are?
40
41
42
43
44

45 A free government has often been compared to a pyramid. This allusion is
46 made with peculiar propriety in the system before you; it is laid on the
47 broad basis of the people; its powers gradually rise, while they are
48 confined, in proportion as they ascend, until they end in that most
49 permanent of all forms. When you examine all its parts, they will invariably
50 be found to preserve that essential mark of free governments -- a chain of
51
52
53
54
55

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1
2 connection with the people.

3
4
5
6 Such, sir, is the nature of this system of government; and the important
7
8 question at length presents itself to our view -- Shall it be ratified, or
9
10 shall it be rejected, by this Convention? In order to enable us still
11
12 further to form a judgment on this truly momentous and interesting point, on
13
14 which all we have, or can have, dear to us on earth is materially depending,
15
16 let us for a moment consider the consequences that will result from one or
17
18 the other measure. Suppose we reject this system of government; what will be
19
20 the consequence? Let the farmer say, he whose produce remains unasked for;
21
22 nor can he find a single market for its consumption, though his fields are
23
24 blessed with luxuriant abundance. Let the manufacturer, and let the
25
26 mechanic, say; they can feel, and tell their feelings. Go along the wharves
27
28 of Philadelphia, and observe the melancholy silence that reigns. I appeal
29
30 not to those who enjoy places and abundance under the present government;
31
32 they may well dilate upon the easy and happy situation of our country. Let
33
34 the merchants tell you what is our commerce; let them say what has been their
35
36 situation since the return of peace -- an era which they might have expected
37
38 would furnish additional sources to our trade, and a continuance, and even
39
40 an increase, to their fortunes. Have these ideas been realized? or do they
41
42 not lose some of their capital in every adventure, and continue the
43
44 unprofitable trade from year to year, subsisting under the hopes of happier
45
46 times under an efficient general government? The ungainful trade carried on
47
48 by our merchants has a baneful influence on the interests of the
49
50 manufacturer, the mechanic, and the farmer; and these, I believe, are the
51
52 chief interests of the people of the United States.
53
54
55

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1 I will go further. Is there now a government among us that can do a single
2
3 act that a national government ought to do? Is there any power of the United
4
5 States that can command a single shilling? This is a plain and a home
6
7 question.
8
9

10
11 Congress may recommend; they can do no more: they may require; but they must
12
13 not proceed one step further. If things are bad now, -- and that they are
14
15 not worse is only owing to hopes of improvement or change in the system, --
16
17 will they become better when those hopes are disappointed? We have been
18
19 told, by honorable gentlemen on this floor, (Mr. Smilie, Mr. Findley, and
20
21 Mr. Whitehill,) that it is improper to urge this kind of argument in favor
22
23 of a new system of government, or against the old one: unfortunately, sir,
24
25 these things are too severely felt to be omitted; the people feel them; they
26
27 pervade all classes of citizens, and every situation from New Hampshire to
28
29 Georgia: the argument of necessity is the patriot's defence, as well as the
30
31 tyrant's plea.
32
33
34

35 Is it likely, sir, that, if this system of government is rejected, a better
36
37 will be framed and adopted? I will not expatiate on this subject; but I
38
39 believe many reasons will suggest themselves to prove that such expectation
40
41 would be illusory. If a better could be obtained at a future time, is there
42
43 any thing essentially wrong in this? I go further. Is there any thing wrong
44
45 that cannot be amended more easily by the mode pointed out in the system
46
47 itself, than could be done by calling convention after convention, before
48
49 the organization of the government? Let us now turn to the consequences that
50
51 will result if we assent to and ratify the instrument before you. I shall
52
53 trace them as concisely as I can, because I have trespassed already too long
54
55 on the patience and indulgence of the house.

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1
2
3
4 I stated, on a former occasion, one important advantage; by adopting this
5
6 system, we become a nation; at present, we are not one. Can we perform a
7
8 single national act? Can we do any thing to procure us dignity, or to
9
10 preserve peace and tranquillity? Can we relieve the distress of our
11
12 citizens? Can we provide for their welfare or happiness? The powers of our
13
14 government are mere sound. If we offer to treat with a nation, we receive
15
16 this humiliating answer: "You cannot, in propriety of language, make a
17
18 treaty, because you have no power to execute it." Can we borrow money? There
19
20 are too many examples of unfortunate creditors existing, both on this and
21
22 the other side of the Atlantic, to expect success from this expedient. But
23
24 could we borrow money, we cannot command a fund, to enable us to pay either
25
26 the principal or interest; for, in instances where our friends have advanced
27
28 the principal, they have been obliged to advance the interest also, in order
29
30 to prevent the principal from being annihilated in their hands by
31
32 depreciation. Can we raise an army? The prospect of a war is highly
33
34 probable. The accounts we receive, by every vessel from Europe, mention that
35
36 the highest exertions are making in the ports and arsenals of the greatest
37
38 maritime powers. But whatever the consequence may be, are we to lie supine?
39
40 We know we are unable, under the Articles of Confederation, to exert
41
42 ourselves; and shall we continue so, until a stroke be made on our commerce,
43
44 or we see the debarkation of a hostile army on our unprotected shores? Who
45
46 will guaranty that our property will not be laid waste, that our towns will
47
48 not be put under contribution, by a small naval force, and subjected to all
49
50 the horror and devastation of war? May not this be done without opposition,
51
52 at least effectual opposition, in the present situation of our country?
53
54 There may be safety over the Appalachian Mountains, but there can be none on
55

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1 our sea-coast. With what propriety can we hope our flag will be respected,
2
3 while we have not a single gun to fire in its defence?
4

5
6
7 Can we expect to make internal improvement, or accomplish any of those great
8
9 national objects which I formerly alluded to, when we cannot find money to
10
11 remove a single lock out of a river?
12

13
14
15 This system, sir, will at least make us a nation, and put it in the power of
16
17 the Union to act as such. We shall be considered as such by every nation in
18
19 the world. We shall regain the confidence of our citizens, and command the
20
21 respect of others.
22

23
24
25 As we shall become a nation, I trust that we shall also form a national
26
27 character, and that this character will be adapted to the principles and
28
29 genius of our system of government: as yet we possess none; our language,
30
31 manners, customs, habits, and dress, depend too much upon those of other
32
33 countries. Every nation, in these respects, should possess originality;
34
35 there are not, on any part of the globe, finer qualities for forming a
36
37 national character, than those possessed by the children of America.
38

39 Activity, perseverance, industry, laudable emulation, docility in acquiring
40
41 information, firmness in adversity, and patience and magnanimity under the
42
43 greatest hardships; -- from these materials, what a respectable national
44
45 character may be raised! In addition to this character I think there is
46
47 strong reason to believe that America may take the lead in literary
48
49 improvements and national importance. This is a subject which, I confess, I
50
51 have spent much pleasing time in considering. That language, sir, which
52
53 shall become most generally known in the civilized world, will impart great
54
55 importance over the nation that shall use it. The language of the United

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1
2 States will, in future times, be diffused over a greater extent of country
3
4 than any other that we know. The French, indeed, have made laudable attempts
5
6 toward establishing a universal language; but, beyond the boundaries of
7
8 France, even the French language is not spoken by one in a thousand. Besides
9
10 the freedom of our country, the great improvements she has made, and will
11
12 make, in the science of government, will induce the patriots and literati of
13
14 every nation to read and understand our writings on that subject; and hence
15
16 it is not improbable that she will take the lead in political knowledge.
17
18
19

20 If we adopt this system of government, I think we may promise security,
21
22 stability, and tranquillity, to the governments of the, different states.
23
24 They would not be exposed to the danger of competition on questions of
25
26 territory, or any other that have heretofore disturbed them. A tribunal is
27
28 here found to decide, justly and quietly, any interfering claim; and now is
29
30 accomplished what the great mind of Henry IV. of France had in contemplation
31
32 -- a system of government for large and respectable dominions, united and
33
34 bound together, in peace, under a superintending head, by which all their
35
36 differences may be accommodated, without the destruction of the human race.
37
38 We are told by Sully that this was the favorite pursuit of that good king
39
40 during the last years of his life; and he would probably have carried it
41
42 into execution, had not the dagger of an assassin deprived the world of his
43
44 valuable life. I have, with pleasing emotion, seen the wisdom and
45
46 beneficence of a less efficient power under the Articles of Confederation,
47
48 in the determination of the controversy between the states of Pennsylvania
49
50 and Connecticut; but I have lamented that the authority of Congress did not
51
52 extend to extinguish, entirely, the spark which has kindled a dangerous
53
54 flame in the district of Wyoming.
55

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1
2
3 Let gentlemen turn their attention to the amazing consequences which this
4 principle will have in this extended country. The several states cannot war
5 with each other; the general government is the great arbiter in contentions
6 between them; the whole force of the Union can be called forth to reduce an
7 aggressor to reason. What a happy exchange for the disjointed, contentious
8 state sovereignties!

9
10
11 The adoption of this system will also secure us from danger, and procure us
12 advantages from foreign nations. This, in our situation, is of great
13 consequence. We are still an inviting object to one European power at least;
14 and, if we cannot defend ourselves, the temptation may become too alluring
15 to be resisted. I do not mean that, with an efficient government, we should
16 mix with the commotions of Europe. No, sir, we are happily removed from
17 them, and are not obliged to throw ourselves into the scale with any. This
18 system will not harry us into war; it is calculated to guard against it. It
19 will not be in the power of a single man, or a single body of men, to
20 involve us in such distress; for the important power of declaring war is
21 vested in the legislature at large: this declaration must be made with the
22 concurrence of the House of Representatives: from this circumstance we may
23 draw a certain conclusion that nothing but our national interest can draw us
24 into a war. I cannot forbear, on this occasion, (the pleasure of mentioning
25 to you the sentiments of the great and benevolent man, whose works I have
26 already quoted on another subject. Mr. Necker has addressed this country in
27 language important and applicable in the strictest degree to its situation
28 and to the present subject. Speaking of war, and the greatest caution that
29 all nations ought to use in order to avoid its calamities, -- "And you,
30 rising nation," says he, "whom generous efforts have freed from the yoke of

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1
2 Europe! let the universe be struck with still greater reverence at the sight
3
4 of the privileges you have acquired, by seeing you continually employed for
5
6 the public felicity: do not offer it as a sacrifice at the unsettled shrine
7
8 of political ideas, and of the deceitful combinations of warlike ambition;
9
10 avoid, or, at least, delay, participating in the passions of our hemisphere;
11
12 make your own advantage of the knowledge which experience alone has given to
13
14 our old age, and preserve, for a long time, the simplicity of childhood; in
15
16 short, honor human nature, by showing that, when left to its own feelings,
17
18 it is still capable of those virtues that maintain public order, and of that
19
20 prudence which insures public tranquillity."

21
22
23
24 Permit me to offer one consideration more, that ought to induce our
25
26 acceptance of this system. I feel myself lost in the contemplation of its
27
28 magnitude. By adopting this system, we shall probably lay a foundation for
29
30 erecting temples of liberty in every part of the earth. It has been thought
31
32 by many, that on the success of the struggle America has made for freedom
33
34 will depend the exertions of the brave and enlightened of other nations. The
35
36 advantages resulting from this system will not be confined to the United
37
38 States, but will draw from Europe many worthy characters, who pant for the
39
40 enjoyment of freedom. It will induce princes, in order to preserve their
41
42 subjects, to restore to them a portion of that liberty of which they have
43
44 for many ages been deprived. It will be subservient to the great designs of
45
46 Providence with regard to this globe -- the multiplication of mankind, their
47
48 improvement in knowledge, and their advancement in happiness.

49
50
51
52 Mr. M'KEAN. Sir, you have under your consideration a matter of very great
53
54 weight and importance, not only to the present generation, but to posterity;
55

THE DEBATES IN THE CONVENTION OF THE STATE OF PENNSYLVANIA,
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1 for where the rights and liberties of the people are concerned, there
2
3 certainly it is fit to proceed with the utmost caution and regard. You have
4
5 done so hitherto. The power of this Convention being derived from the people
6
7 of Pennsylvania, by a positive and voluntary grant, cannot be extended
8
9 farther than what this positive grant hath conveyed. You have been chosen by
10
11 the people for the sole purpose of "assenting to and ratifying the
12
13 Constitution proposed for the future government of the United States, with
14
15 respect to their general and common concerns," or of rejecting it. It is a
16
17 sacred trust; and as, on the one hand, you ought to weigh well the
18
19 innovations it will create in the governments of the individual states, and
20
21 the dangers which may arise by its adoption, so, upon the other hand, you
22
23 ought fully to consider the benefits it may promise, and the consequences of
24
25 a rejection of it. You have hitherto acted strictly conformably to your
26
27 delegated power; you have agreed that a single question can come before you;
28
29 and it has been accordingly moved that you resolve "to assent to and ratify
30
31 this Constitution." Three weeks have been spent in hearing the objections
32
33 that have been made against it, and it is now time to determine whether they
34
35 are of such a nature as to overbalance any benefits or advantages that may
36
37 be derived to the state of Pennsylvania by your accepting it.

38
39
40
41 Sir, I have as yet taken up but little of your time; notwithstanding this,
42
43 I will endeavor to contract what occurs to me on the subject. And in what I
44
45 have to offer, I shall observe this method: I will first consider the
46
47 arguments that may have been used against this Constitution, and then give
48
49 my reasons why I am for the motion.

50
51
52
53 The arguments against the Constitution are, I think, chiefly these: --
54
55

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1
2 First. That the elections of representatives and senators are not frequent
3
4 enough to insure responsibility to their constituents.
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6
7

8 Second. That one representative for thirty thousand persons is too few.
9
10
11

12 Third. The Senate have a share in the appointment of certain officers, and
13
14 are to be the judges on the impeachment of such officers. This is blending
15
16 the executive with the legislative and judicial department, and is likely to
17
18 screen the offenders impeached, because of the concurrence of a majority of
19
20 the Senate in their appointment.
21
22
23

24 Fourth. That the Congress may, by law, deprive the electors of a fair choice
25
26 of their representatives, by fixing improper times, places, and modes of
27
28 election.
29
30
31

32 Fifth. That the powers of Congress are too large, particularly in laying
33
34 internal taxes and excises, because they may lay excessive taxes, and leave
35
36 nothing for the support of the state governments.
37
38
39

40 In raising and supporting armies; and that the appropriation of money, for
41
42 that use, should not be for so long a term as two years.
43
44
45

46 In calling forth the militia on necessary occasions; because they may call
47
48 them from one end of the continent to the other, and wantonly harass them;
49
50 besides, they may coerce men to act in the militia, whose consciences are
51
52 against bearing arms in any case.
53
54
55

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1 In making all laws which shall be necessary and proper for carrying into
2 execution the foregoing powers, and all other powers vested by this
3 Constitution in the government of the United States, or in any department or
4 office thereof;
5
6
7

8
9
10
11 And in declaring that this Constitution, and the laws of the United States
12 which shall be made in pursuance thereof, and all treaties made, or which
13 shall be made, under the authority of the United States, shall be the
14 supreme law of the land.
15
16
17

18
19
20
21 The migration or importation of such persons as any of the states shall
22 admit shall not be prohibited prior to 1808, nor a tax or duty imposed on
23 such importation exceeding ten dollars for each person.
24
25
26
27

28
29 Sixth. That the whole of the executive power is not lodged in the President
30 alone, so that there might be one responsible person.
31
32
33

34
35 That he has the sole power of pardoning offences against the United States,
36 and may therefore pardon traitors, for treasons committed in consequence of
37 his own ambitious and wicked projects, or those of the Senate.
38
39
40

41
42
43 That the Vice-President is a useless officer, and, being an executive
44 officer, is to be president of the Senate, and in case of a division is to
45 have the casting voice.
46
47
48

49
50
51 Seventh. The judicial power shall be vested in one Supreme Court. An
52 objection is made, that the compensation for the services of the judges
53 shall not be diminished during their continuance in office; and this is
54
55

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1
2 contrasted with the compensation to the President, which is to be neither
3
4 increased nor diminished during the period for which he shall have been
5
6 elected; but that of the judges may be increased, and the judges may hold
7
8 other offices of a lucrative nature, and their judgments be thereby warped.
9

10
11
12 That in all the cases enumerated, except where the Supreme Court has
13
14 original jurisdiction, "they shall have appellate jurisdiction both as to
15
16 law and facts, with such exceptions, and under such regulations, as the
17
18 Congress shall make." From hence is inferred that the trial by jury is not
19
20 secured.
21

22
23
24 That they have jurisdiction between citizens of different states.
25

26
27
28 Eighth. That there is no bill or declaration of rights in this
29
30 Constitution.
31

32
33
34 Ninth. That this is a consolidation of the several states, and not a
35
36 confederation.
37

38
39
40 Tenth. It is an aristocracy, and was intended to be so by the framers of it.
41

42
43
44 The first objection that I heard advanced against this Constitution, I say,
45
46 sir, was, that "the elections of representatives and senators are not
47
48 frequent enough to insure responsibility to their constituents."
49

50
51
52 This is a subject that most men differ about; but there are more
53
54 considerations than that of mere responsibility. By this system the House of
55

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1 Representatives is composed of persons chosen every second year by the
2
3 people of the several states; and the senators every six years by the
4
5 legislatures. Whether the one or the other of these periods is of too long
6
7 duration, is a question to which various answers will be given. Some persons
8
9 are of opinion, that three years in the one case, and seven in the other,
10
11 would be a more eligible term than that adopted in this Constitution. In
12
13 Great Britain, we find the House of Commons elected for seven years; the
14
15 House of Lords is perpetual, and the king never dies. The Parliament of
16
17 Ireland is octennial. In various other parts of the British dominions, the
18
19 House of Representatives sit during the royal pleasure, and have been
20
21 continued twenty years. This, sir, is a term undoubtedly too long. In a
22
23 single state, I think annual elections most proper; but then there ought to
24
25 be more branches in the legislature than one. An annual legislature,
26
27 possessed of supreme power, may be properly termed an annual despotism; and,
28
29 like an individual, they are subject to caprice, and act as party spirit or
30
31 spleen dictates; hence that instability to the laws which is the bane of
32
33 republican governments.

34
35
36
37 The framers of this Constitution wisely divided the legislative department
38
39 between the two houses, subject to the qualified negative of the President
40
41 of the United States, though this government embraces only enumerated
42
43 powers. In a single state, annual elections may be proper; the more so, when
44
45 the legislative powers extend to all cases; but in such an extent of country
46
47 as the United States, and when the powers are circumscribed, there is not
48
49 that necessity, nor are the objects of the general government of that nature
50
51 as to be acquired immediately by every capacity. To combine the-various
52
53 interests of thirteen different states, requires more extensive knowledge
54
55 than is necessary for the legislature of any one of them. Two years are

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1
2 therefore little enough for the members of the House of Representatives to
3
4 make themselves fully acquainted with the views, the habits, and interests,
5
6 of the United States. With respect to the Senate, when we consider the trust
7
8 reposed in them, we cannot hesitate to pronounce that the period assigned to
9
10 them is short enough; they possess, in common with the House of
11
12 Representatives, legislative power; with its concurrence they also have
13
14 power to declare war; they are joined with the President in concluding
15
16 treaties; it therefore behoves them to be conversant with the politics of
17
18 the nations of the world, and the dispositions of the sovereigns and their
19
20 ministers; this requires much reading and attention. And, believe me, the
21
22 longer a man bends his study to any particular subject, the more likely he
23
24 is to be master of it. Experience and practice will assist genius and
25
26 education. I therefore think the time allowed, under this system, to both
27
28 houses, to be extremely proper. This objection has been made repeatedly; but
29
30 it can only have weight with those who are not at the pains of thinking on
31
32 the subject. When any thing, sir, new or great, is done, it is very apt to
33
34 create a ferment among those out of doors, who, as they cannot always enter
35
36 into the depth and wisdom of counsels, are too apt to censure what they do
37
38 not understand; upon a little reflection and experience, the people often
39
40 find that to be a singular blessing which at first they deemed a curse.

41
42
43
44 Second. "That one representative for thirty thousand persons is too few."

45
46
47
48 There will be, sir, sixty-five in the House of Representatives, and
49
50 twenty-six in the Senate -- in all ninety-one, who, together with the
51
52 President, are to make laws in the several particular matters intrusted to
53
54 them, and which are all enumerated and expressed. I think the number
55

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1 sufficient at the present, and in three years' time, when a census or actual
2 enumeration must take place, they will be increased, and in less than
3 twenty-five years they will be more than double. With respect to this,
4 different gentlemen in the several states will differ, and at least the
5 opinion of the majority must govern.
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9

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11
12
13 Third. "The senators have a share in the appointment of certain officers,
14 and are to be the judges on the impeachment of such officers. This is
15 blending the executive with the legislative and judicial department, and is
16 likely to screen the offenders impeached, because of the concurrence of a
17 majority of the Senate in their appointment."
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19
20
21

22
23
24
25 The President is to nominate to office, and, with the advice and consent of
26 the Senate, appoint officers, so that he is the responsible person; and when
27 any such impeachment shall be tried, it is more than probable that not one
28 of the Senate, who concurred in the appointment, will be a senator, for the
29 seats of a third part are to be vacated every two years, and of all in six.
30
31
32
33
34
35
36

37 As to the senators having a share in the executive power, so far as to the
38 appointment of certain officers, I do not know where this restraint on the
39 President could be more safely lodged. Some may think a privy counsellor
40 might have been chosen by every state: but this could little amend the
41 matter, if any, and it would be a considerable additional expense to the
42 people. Nor need the Senate be under any necessity of sitting constantly, as
43 has been alleged; for there is an express provision made to enable the
44 President to fill up all vacancies that may happen during their recess --
45 the commissions to expire at the end of the next session.
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1
2 As to the impeachments, the objection is much stronger against the supreme
3
4 executive council of Pennsylvania.
5
6
7

8 The House of Lords, in Great Britain, are judges in the last resort in all
9
10 civil causes, and, besides, have the power of trying impeachments.
11
12
13

14 On the trial of impeachments, the senators are to be under the sanction of
15
16 an oath or affirmation, besides the other ties upon them to do justice; and
17
18 the basis is more likely to be against the officer accused than in his
19
20 favor, for there are always more persons disobliged, than the contrary, when
21
22 an office is given away, and the expectants of office are more numerous than
23
24 the possessors.
25
26
27

28 Fourth. "That the Congress may by law deprive the electors of a fair choice
29
30 of their representatives, by fixing improper times, places, and modes of
31
32 election."
33
34
35

36 Every House of Representatives are of necessity to be the judges of the
37
38 elections, returns, and qualifications of its own members. It is therefore
39
40 their province, as well as duty, to see that they are fairly chosen, and are
41
42 the legal members; for this purpose, it is proper they should have it in
43
44 their power to provide that the times, places, and manner of election should
45
46 be such as to insure free and fair elections.
47
48
49

50 Annual Congresses are expressly secured; they have only a power given to
51
52 them to take care that the elections shall be at convenient and suitable
53
54 times and places, and conducted in a proper manner; and I cannot discover
55

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1 why we may not intrust these particulars to the representatives of the
2
3 United States with as much safety as to those of individual states.
4

5
6
7 In some states the electors vote viva voce, in others by ballot. They ought
8
9 to be uniform, and the elections held on the same day throughout the United
10
11 States, to prevent corruption or undue influence. Why are we to suppose that
12
13 Congress will make a bad use of this power, more than the representatives in
14
15 the several states?
16

17
18
19 It is said, "that the powers of Congress, under this Constitution, are too
20
21 large, particularly in laying internal taxes and excises, because they may
22
23 lay excessive taxes, and leave nothing for the support of the state
24
25 governments." Sir, no doubt but you will discover, on consideration, the
26
27 necessity of extending these powers to the government of the Union. If they
28
29 have to borrow money, they are certainly bound, in honor and conscience, to
30
31 pay the interest, until they pay the principal, as well to the foreign as to
32
33 the domestic creditor; it therefore becomes our duty to put it in their
34
35 power to be honest. At present, sir, this is not the case, as experience has
36
37 fully shown. Congress have solicited and required the several states to make
38
39 provision for these purposes. Has one state paid its quota? I believe not
40
41 one of them. And what has been the result? Foreigners have been compelled to
42
43 advance money to enable us to pay the interest due them on what they
44
45 furnished to Congress during the late war. I trust we have had experience
46
47 enough to convince us that Congress ought no longer to depend upon the force
48
49 of requisition. I heard it urged, that Congress ought not to be authorized to
50
51 collect taxes, until a state had refused to comply with this requisition.
52
53 Let us examine this position. The engagements entered into by the general
54
55 government render it necessary that a certain sum shall be paid in one year;

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1
2 notwithstanding this, they must not have power to collect it until the year
3
4 expires, and then it is too late. Or is it expected that Congress will
5
6 borrow the deficiency? Those who lent us, in our distress, have little
7
8 encouragement to make advances again to our government; but give the power
9
10 to Congress to lay such taxes as may be just and necessary, and public
11
12 credit will revive. Yet, because they have the power to lay taxes and
13
14 excise, does it follow that they must? For my part, I hope it may not be
15
16 necessary; but if it is, it is much easier for the citizens of the United
17
18 States to contribute their proportion, than for a few to bear the weight of
19
20 the whole principal and interest of the domestic debt; and there is perfect
21
22 security on this head, because the regulation must equally affect every
23
24 state, and the law must originate with the immediate representatives of the
25
26 people, subject to the investigation of the state representatives. But is
27
28 the abuse an argument against the use of power? I think it is not; and, upon
29
30 the whole, I think this power wisely and securely lodged in the hands of the
31
32 general government; though, on the first view of this work, I was of opinion
33
34 they might have done without it; but, sir, on reflection, I am satisfied
35
36 that it is not only proper, but that our political salvation may depend upon
37
38 the exercise of it.

39
40
41
42 The next objection is against "the power of raising and supporting armies;
43
44 and the appropriation of money for that use should not be for so long a term
45
46 as two years." Is it not necessary that the authority superintending the
47
48 general concerns of the United States should have the power of raising and
49
50 supporting armies? Are we, sir, to stand defenceless amidst conflicting
51
52 nations? Wars are inevitable, but war cannot be declared without the consent
53
54 of the immediate representatives of the people. They must also originate the
55

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1 law which appropriates the money for the support of the army; yet they can
2
3 make no appropriation for a longer term than two years; but does it follow,
4
5 because they may make appropriations for that period, that they must, or
6
7 even will, do it? The power of raising and supporting armies is not only
8
9 necessary, but is enjoyed by the present Congress, who also judge of the
10
11 expediency or necessity of keeping them up. In England there is a standing
12
13 army: though in words it is engaged but for one year, yet is it not kept
14
15 constantly up? Is there a year that Parliament refuses to grant them
16
17 supplies? Though this is done annually, it might be done for any longer
18
19 term. Are not their officers commissioned for life? And when they exercise
20
21 this power with so much prudence, shall the representatives of this country
22
23 be suspected the more, because they are restricted to two years?
24
25
26

27 It is objected that the powers of Congress are too large, because "they have
28
29 the power of calling forth the militia on necessary occasions, and may call
30
31 them from one end of the continent to the other, and wantonly harass them;
32
33 besides, they may coerce men to act in the militia whose consciences are
34
35 against bearing arms in any case." It is true, by this system power is given
36
37 to Congress to organize, arm, and discipline the militia, but every thing
38
39 else is left to the state governments; they are to officer and train them.
40
41 Congress have also the power of calling them forth for the purpose of
42
43 executing the laws of the Union, suppressing insurrections, and repelling
44
45 invasions; but can it be supposed they would call them, in such case, from
46
47 Georgia to New Hampshire? Common sense must oppose the idea.
48
49
50

51 Another objection was taken from these words of the Constitution -- "to make
52
53 all laws which shall be necessary and proper for carrying into execution the
54
55 foregoing powers, and all other powers vested by this Constitution in the

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1 government of the United States, or in any department or office thereof."

2
3 And, in declaring "that this Constitution, and the laws of the United States
4
5 which shall be made in pursuance thereof, and all treaties made, or which
6
7 shall be made, under the authority of the United States, shall be the
8
9 supreme law of the land," this has at last been conceded, that, though it is
10
11 explicit enough, yet it gives to Congress no further powers than those
12
13 already enumerated. Those that first said it gave to Congress the power of
14
15 superseding the state governments, cannot persist in it; for no person can,
16
17 with a tolerable face, read the clauses over, and infer that such may be the
18
19 consequence.
20

21
22
23 Provision is made that Congress shall have power to prohibit the importation
24
25 of slaves after the year 1808; but the gentlemen in opposition accuse this
26
27 system of a crime, because it has not prohibited it at once. I suspect those
28
29 gentlemen are not well acquainted with the business of the diplomatic body,
30
31 or they would know that an agreement might be made that did not perfectly
32
33 accord with the will and pleasure of any one person. Instead of finding
34
35 fault with what has been gained, I am happy to see a disposition in the
36
37 United States to do so much.
38
39
40
41

42 The next objections have been against the executive power. It is complained
43
44 of, "because the whole of the executive power is not lodged in the President
45
46 alone, so that there might be one responsible person. He has the sole powers
47
48 of pardoning offences against the United States, and may therefore pardon
49
50 traitors, for treasons committed in consequence of his own ambitious or
51
52 wicked projects, or those of the Senate."
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54
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1 Observe the contradiction, sir, in these two objections. One moment the
2
3 system is blamed for not leaving all executive authority to the President
4
5 alone, the next it is censured for giving him the sole power to pardon
6
7 traitors. I am glad to hear these objections made, because it forebodes an
8
9 amendment in that body in which amendment is necessary. The President of the
10
11 United States must nominate to all offices, before the persons can be
12
13 chosen; he here consents and becomes liable. The executive council of
14
15 Pennsylvania appoint officers by ballot, which effectually destroys
16
17 responsibility. He may pardon offences; and hence it is inferred that he may
18
19 pardon traitors, for treason committed in consequence of his own ambitious
20
21 and wicked projects. The executive council of Pennsylvania can do the same.
22
23 But the President of the United States may be impeached before the Senate,
24
25 and punished for his crimes.

26
27
28
29 "The Vice-President is a useless officer." Perhaps the government might he
30
31 executed without him, but there is a necessity of having a person to preside
32
33 in the Senate, to continue a full representation of each state in that body.
34
35 The chancellor of England is a judicial officer; yet he sits in the House of
36
37 Lords.

38
39
40
41 The next objection is against the judicial department. "The judicial power
42
43 shall be vested in one Supreme Court." An objection is made that the
44
45 compensation for the services of the judges shall not be diminished during
46
47 their continuance in office; and this is contrasted with the compensation of
48
49 the President, which is to be neither increased nor diminished during the
50
51 period for which he shall be elected. But that of the judges may be
52
53 increased, and the judge may hold other offices of a lucrative nature, and
54
55 his judgment be thereby warped.

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2
3
4 Do gentlemen not see the reason why this difference is made? Do they not see
5
6 that the President is appointed but for four years, whilst the judges may
7
8 continue for life, if they shall so long behave themselves well? In the
9
10 first case, little alteration can happen in the value of money; but in the
11
12 course of a man's life, a very great one may take place from the discovery
13
14 of silver and gold mines, and the great influx of those metals; in which
15
16 case an increase of salary may be requisite. A security that their
17
18 compensation shall not be lessened, nor they have to look up to every
19
20 session for salary, will certainly tend to make those officers more easy and
21
22 independent.

23
24
25
26 "The judges may hold other offices of a lucrative nature." This part of the
27
28 objection reminds me of the scheme that was fallen upon, in Pennsylvania, to
29
30 prevent any person from taking up large tracts of land. A law was passed
31
32 restricting the purchaser to a tract not exceeding three hundred acres; but
33
34 all the difference it made was, that the land was taken up by several
35
36 patents, instead of one, and the wealthy could procure, if they chose it,
37
38 three thousand acres. What though the judges could hold no other office,
39
40 might they not have brothers, children, and other relations, whom they might
41
42 wish to see placed in the offices forbidden to themselves? I see no
43
44 apprehensions that may be entertained on this account.

45
46
47
48 That, in all cases enumerated, except where the Supreme Court has original
49
50 jurisdiction, "they shall have appellate jurisdiction both as to law and
51
52 fact, with such exceptions and under such regulations as the Congress shall
53
54 make." From this it is inferred that the trial by jury is not secured; and
55

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1 an objection is set up to the system, because they have jurisdiction between
2 citizens of different states. Regulations under this head, are necessary;
3 but the Convention could form no one that would have suited each of the
4 United States. It has been a subject of amazement to me to hear gentlemen
5 contend that the verdict of a jury shall be without revision in all cases.
6
7 Juries are not infallible because they are twelve in number. When the law is
8 so blended with the fact as to be almost inseparable, may not the decision
9 of a jury be erroneous? Yet, notwithstanding this, trial by jury is the best
10 mode that is known. Appellate jurisdiction, sir, is known in the common law,
11 and causes are removed from inferior courts, by writs of error, into some
12 court of appeal. It is said that the lord chancellor, in all cases, sends
13 down to the lower courts when he wants to determine a fact; but that opinion
14 is not well founded, because he determines nineteen out of twenty without the
15 intervention of any jury. The power to try causes between citizens of
16 different states was thought by some gentlemen invidious; but I apprehend
17 they must see the necessity of it, from what has been already said by my
18 honorable colleague.

19 "That there is no bill or declaration of rights in this Constitution."

20
21 To this I answer, Such a thing has not been deemed essential to liberty,
22 excepting in Great Britain, where there is a king and a House of Lords,
23 quite distinct, with respect to power and interest, from the rest of the
24 people; or, in Poland, the pacta conventus, which the king signs before he
25 is crowned; and in six states of the American United States.

26
27 Again, because it is unnecessary; for the powers of Congress, being derived
28 from the people in the mode pointed out by this Constitution, and being

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1
2 therein enumerated and positively granted, can be no other than what this
3
4 positive grant conveys. (Locke on Civil Government, vol. ii, b. 2, chap. 2,
5
6 sect. 140, and in the 13th chap., sect. 152.)
7
8
9

10 With respect to executive officers, they have no manner of authority, any of
11
12 them, beyond what is by positive grant and commission delegated to them.
13
14
15

16 "That this is a consolidation of the several states, and not a
17
18 confederation."
19
20
21

22 To this I answer, the name is immaterial; the thing unites the several
23
24 states, and makes them like one, in particular instances and for particular
25
26 purposes -- which is what is ardently desired by most of the sensible men in
27
28 this country. I care not whether it is called a consolidation,
29
30 confederation, or national government, or by what other name, if it is a
31
32 good government, and calculated to promote the blessings of liberty,
33
34 tranquillity, and happiness.
35
36
37

38 "It is an aristocracy, and was intended to be so by the framers of it."
39
40
41

42 Here, again, sir, the name is immaterial, if it is a good system of
43
44 government for the general and common concerns of the United States. But
45
46 after the definition which has already been given of an aristocratic
47
48 government, it becomes unnecessary to repeat arguments to prove that this
49
50 system does not establish an aristocracy.
51
52
53

54 There have been some other small objections to, or rather criticisms on,
55

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1 this work, which I rest assured the gentlemen who made them will, on
2
3 reflection, excuse me in omitting to notice.
4

5
6
7 Many parts of this Constitution have been wrested and Tortured, in order to
8
9 make way for shadowy objections, which must have been observed by every
10
11 auditor. Some other things were said with acrimony; they seemed to be
12
13 personal; I heard the sound, but it was inarticulate. I can compare it to
14
15 nothing better than the feeble noise occasioned by the working of small
16
17 beer.
18
19

20
21 It holds in argument, as well as nature, that destructio unius est generatio
22
23 alterius -- the refutation of an argument begets a proof.
24
25

26
27 The objections to this Constitution having been answered, and all done away,
28
29 it remains pure and unhurt; and this alone is a forcible argument of its
30
31 goodness.
32
33

34
35 Mr. President, I am sure nothing can prevail with me to give my vote for
36
37 ratifying this Constitution, but a conviction, from comparing the arguments
38
39 on both sides, that the not doing it is liable to more inconvenience and
40
41 danger than the doing it.
42
43

44
45 1. If you do it, you strengthen the government and people of these United
46
47 States, and will thereby have the wisdom and assistance of all the states.
48
49

50
51 2. You will settle, establish, and firmly perpetuate, our independence, by
52
53 destroying the vain hopes of all its enemies, both at home and abroad.
54
55

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1
2 3. You will encourage your allies to join with you; nay, to depend, that
3
4 what hath been stipulated, or shall hereafter be stipulated and agreed upon,
5
6 will be punctually performed, and other nations will be induced to enter
7
8 into treaties with you.
9

10
11
12 4. It will have a tendency to break our parties and divisions, and, by that
13
14 means, lay a firm and solid foundation for the future tranquillity and
15
16 happiness of the United States in general, and of this state in particular.
17
18
19

20 5. It will invigorate our commerce, and encourage shipbuilding.
21
22
23

24 6. It will have a tendency not only to prevent any other nation from making
25
26 war upon you, but from offering you any wrong, or even insult.
27
28
29

30 In short, the advantages that must result from it are obviously so numerous
31
32 and important, and have been so fully and ably pointed out by others, that
33
34 it appears to be unnecessary to enlarge on this head.
35
36
37

38 Upon the whole, sir, the law has been my study from my infancy, and my only
39
40 profession. I have gone through the circle of offices, in the legislative,
41
42 executive, and judicial departments of government; and from all my study,
43
44 observation, and experience, I must declare that, from a full examination
45
46 and due consideration of this system, it appears to me the best the world
47
48 has yet seen.
49
50
51

52 I congratulate you on the fair prospect of its being adopted, and am happy
53
54 in the expectation of seeing accomplished what has been long my ardent wish
55

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1 -- that you will hereafter have a salutary permanency in magistracy, and
2
3 stability in the laws.
4
5