Table Annexed to Article: Luther Martin's Genuine Information in MR Text Format (1787)

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The Genuine Information, Delivered To The Legislature Of The State Of Maryland, Relative To The Proceedings Of The General Convention, Held At Philadelphia, In 1787, By Luther Martin, Esq., Attorney-General Of Maryland, And One Of The Delegates In The Said Convention.

To the Hon. Thomas Cockey Deye, Speaker of the House of Delegates of Maryland.

Sir, I flatter myself the subject of this letter will be a sufficient apology for thus publicly addressing it to you, and, through you, to the other members of the House of Delegates. It cannot have escaped your or their recollection, that, when called upon, as the servant of a free state, to render an account of those transactions in which I had a share, in consequence of the trust reposed in me by that state, among other things, I informed them, “that, some time in July, the Hon. Mr. Yates and Mr. Lansing, of New York, left the Convention; that they had uniformly opposed the system, and that, I believe, despairing of getting a proper one brought forward, or of rendering any real service, they returned no more.” You cannot, sir, have forgotten — for the incident was too remarkable not to have made some impression — that, upon my giving this information, the zeal of one of my honorable colleagues, in favor of a system which I thought it my duty to oppose, impelled him to interrupt me, and, in a manner which I am confident his zeal alone prevented him from being convinced was not the most delicate, to insinuate, pretty strongly, that the statement which I had given of the conduct of those gentlemen, and their motives for not returning, was not candid.

Those honorable members have officially given information on this subject, by a joint letter to his excellency, Governor Clinton. [See elsewhere in this volume.] Indulge me, sir, in giving an extract from it, that it may stand contrasted in the same page with the information I gave, and may convict
me of the want of candor of which I was charged, if the charge was just: if it will not do that, then let it silence my accusers. —

“Thus circumstanced, under these impressions, to have hesitated would have been to be culpable. We therefore gave the principles of the Constitution, which has received the sanction of a majority of the Convention, our decided and unreserved dissent. We were not present at the completion of the new Constitution; but, before we left the Convention, its principles were so well established as to convince us that no alteration was to be expected to conform it to our ideas of expediency and safety. A persuasion that our further attendance would be fruitless and unavailing, rendered us less solicitous to return.”

These, sir, are their words. On this I shall make no comment. I wish not to wound the feelings of any person. I only wish to convince.

I have the honor to remain, with the utmost respect,

Your very obedient servant,

LUTHER MARTIN.

Baltimore, January 27, 1788.

[Mr. Martin, when called upon, addressed the house nearly as follows: —]

Since I was notified of the resolve of this honorable house, that we should attend this day, to give information with regard to the proceedings of the late Convention, my time has necessarily been taken up with business, and I have also been obliged to make a journey to the Eastern Shore. These circumstances have prevented me from being as well prepared as I could wish to give the information required. However, the few leisure moments I could spare, I have devoted to refreshing my memory, by looking over the papers and notes in my possession; and shall, with pleasure, to the best of my abilities, render an account of my conduct.

It was not in my power to attend the Convention immediately on my appointment. I took my seat, I believe, about the 8th or 9th of June. I found that Governor Randolph, of Virginia, had laid before the Convention certain propositions for their consideration, which have been read to this house by my honorable colleague; and I believe he has very faithfully detailed the
substance of the speech with which the business of the Convention was
opened; for, though I was not there at the time, I saw notes which had been
taken of it.

The members of the Convention from the states came there under different
powers; the greatest number, I believe, under powers nearly the same as
those of the delegates of this state. Some came to the Convention under the
former appointment, authorizing the meeting of delegates merely to
regulate trade. Those of Delaware were expressly instructed to agree to no
system which should take away from the states that equality of suffrage
secured by the original Articles of Confederation. Before I arrived, a
number of rules had been adopted to regulate the proceedings of the
Convention, by one of which, seven states might proceed to business, and
consequently four states, the majority of that number, might eventually
have agreed upon a system which was to affect the whole Union. By
another, the doors were to be shut, and the whole proceedings were to be
kept secret; and so far did this rule extend, that we were thereby prevented
from corresponding with gentlemen in the different states upon the
subjects under our discussion — a circumstance, sir, which I confess I
greatly regretted. I had no idea that all the wisdom, integrity, and virtue of
this state, or of the others, were centred in the Convention. I wished to have
corresponded freely and confidentially with eminent political characters in
my own and other states — not implicitly to be dictated to by them, but to
give their sentiments due weight and consideration. So extremely solicitous
were they that their proceedings should not transpire, that the members
were prohibited even from taking copies of resolutions, on which the
Convention were deliberating, or extracts of any kind from the Journals,
without formally moving for, and obtaining permission, by a vote of the
Convention for that purpose.

You have heard sir, the resolutions which were brought forward by the
honorable member from Virginia. Let me call the attention of this house to
the conduct of Virginia when our Confederation was entered into. That
state then proposed, and obstinately contended, *contrary to the sense of,*
and unsupported by, the other states, *for an inequality of suffrage,*
founded on numbers, or some such scale, which should give her, and
certain other states, *influence in the Union over the rest.* Pursuant to that
spirit which then characterized her, and uniform in her conduct, the very
second resolve is calculated expressly for that purpose — to give her a
representation proportioned to her numbers, — as if the want of that was
the principal defect in our original system, and this alteration the great means of remedying the evils we had experienced under our present government.

The object of Virginia and other large states, to increase their power and influence over the others, did not escape observation. The subject, however, was discussed with great coolness in the committee of the whole house, (for the Convention had resolved itself into a committee of the whole, to deliberate upon the propositions delivered in by the honorable member from Virginia.) Hopes were formed that the farther we proceeded in the examination of the resolutions, the better the house might be satisfied of the impropriety of adopting them, and that they would finally be rejected by a majority of the committee. If, on the contrary, a majority should report in their favor, it was considered that it would not preclude the members from bringing forward and submitting any other system to the consideration of the Convention; and accordingly, while those resolves were the subject of discussion in the committee of the whole house, a number of the members who disapproved them were preparing another system, such as they thought more conducive to the happiness and welfare of the states. The propositions originally submitted to the Convention having been debated, and undergone a variety of alterations in the course of our proceedings, the committee of the whole house, by a small majority, agreed to a report, which I am happy, sir, to have in my power to lay before you. It was as follows: —

“1. Resolved, That it is the opinion of this committee, that a national government ought to be established, consisting of a supreme legislative, judiciary, and executive.

“2. That the legislative ought to consist of two branches.

“3. That the members of the first branch of the national legislature ought to be elected by the people of the several states, for the term of three years; to receive fixed stipends, by which they may be compensated for the devotion of their time to public service, to be paid out of the national treasury; to be ineligible to any office established by a particular state, or under the authority of the United States, except those particularly belonging to the functions of the first branch, during the term of service, and under the national government, for the space of one year after its expiration.
“4. That the members of the second branch of the legislature ought to be chosen by the individual legislatures; to be of the age of thirty years at least: to hold their offices for a term sufficient to insure their independency, namely, seven years, one third to go out biennially; to receive fixed stipends, by which they may be compensated for the devotion of their time to public service, to be paid out of the national treasury; to be ineligible to any office by a particular state, or under the authority of the United States, except those peculiarly belonging to the functions of the second branch, during the term of service, and under the national government, for the space of one year after its expiration.

“5. That each branch ought to possess the right of originating acts.

“6. That the national legislature ought to be empowered to enjoy the legislative rights yested in Congress by the Confederation, and moreover to legislate in all cases to which the separate states are incompetent, or in which the harmony of the United States may be interrupted by the exercise of individual legislation; to negative all laws passed by the several states, contravening, in the opinion of the legislature of the United States, the articles of union, or any treaties subsisting under the authority of the Union.

“7. That the right of suffrage, in the first branch of the national legislature, ought not to be according to the rule established in the Article of Confederation, but according to some equitable rate of representation; namely, in proportion to the whole number of white, and other free citizens and inhabitants, of every age, sex, and condition, including those bound to servitude for a term of years, and three fifths of all other persons not comprehended in the foregoing description, except Indians not paying taxes, in each state.

“8. That the right of suffrage in the second branch of the national legislature ought to be according to the rule established in the first.

“9. That a national executive be instituted, to consist of a single person, to be chosen by the national legislature for the term of seven years, with power to carry into execution the national laws; to appoint to offices in cases not otherwise provided for; to be ineligible a second time, and to be removable on impeachment and conviction of malpractice or neglect of duty; to receive a fixed stipend, by which he may be compensated for the
devotion of his time to public service, to be paid out of the national treasury.

“10. That the national executive shall have a right to negative any legislative act, which shall not afterwards be passed unless by two thirds of each branch of the national legislature.

“11. That a national judiciary be established, to consist of one supreme tribunal, the judges of which to be appointed by the second branch of the national legislature, to hold their offices during good behavior, and to receive punctually, at stated times, a fixed compensation for their services, in which no increase or diminution shall be made, so as to affect the persons actually in office at the time of such increase or diminution.

“12. That the national legislature be empowered to appoint inferior tribunals.

“13. That the jurisdiction of the national judiciary shall extend to cases which respect the collection of the national revenue, cases arising under the laws of the United States, impeachments of any national officer, and questions which involve the national peace and harmony.

“14. Resolved, That provision ought to be made for the admission of states lawfully arising within the limits of the United States, whether from a voluntary junction of government, territory, or otherwise, with the consent of a number of voices in the national legislature less than the whole.

“15. Resolved, That provision ought to be made for the continuance of Congress, and their authority and privileges, until a given day after the reform of the articles of union shall be adopted, and for the completion of all their engagements.

“16. That a republican constitution and its existing laws ought to be guarantied to each state by the United States.

“17. That provision ought to be made for the amendment of the articles of union whenever it shall seem necessary.

“18. That the legislative, executive, and judiciary powers, within the several states, ought to be bound by oath to support the articles of the union.
“19. That the amendments which shall be offered to the Confederation by this Convention, ought, at a proper time or times, after the approbation of Congress, to be submitted to an assembly or assemblies, recommended by the legislatures, to be expressly chosen by the people, to consider and decide thereon.”

These propositions, sir, were acceded to by a majority of the members of the committee — a system by which the large states were to have not only an inequality of suffrage in the first branch, but also the same inequality in the second branch, or Senate. However, it was not designed the second branch should consist of the same number as the first. It was proposed that the Senate should consist of twenty-eight members, formed on the following scale: — Virginia to send five, Pennsylvania and Massachusetts each four; South Carolina, North Carolina, Maryland, New York, and Connecticut, two each, and the states of New Hampshire, Rhode Island, Jersey, Delaware, and Georgia, each of them one. Upon this plan, the three large states, Virginia, Pennsylvania, and Massachusetts, would have thirteen senators out of twenty-eight — almost one half of the whole number. Fifteen senators were to be a quorum to proceed to business; those three states would, therefore, have thirteen out of that quorum. Having this inequality in each branch of the legislature, it must be evident, sir, that they would make what laws they pleased, however injurious or disagreeable to the other states, and that they would always prevent the other states from making any laws, however necessary and proper, if not agreeable to the views of those three states. They were not only, sir, by this system, to have such an undue superiority in making laws and regulations for the Union, but to have the same superiority in the appointment of the President, the judges, and all other officers of government.

Hence these three states would, in reality, have the appointment of the President, judges, and all other officers. This President, and these judges so appointed, we may be morally certain, would be citizens of one of those three states; and the President, as appointed by them, and a citizen of one of them, would espouse their interests and their views, when they came in competition with the views and interests of the other states. This President, so appointed by the three large states, and so unduly under their influence, was to have a negative upon every law that should be passed, which, if negatived by him, was not to take effect unless assented to by two thirds of each branch of the legislature — a provision which deprived ten states of
even the faintest shadow of liberty; for if they, by a miraculous unanimity, having all their members present, should outvote the other three, and pass a law contrary to their wishes, those three large states need only procure the President to negative it, and thereby prevent a possibility of its ever taking effect, because the representatives of those three states would amount to much more than one third (almost one half) of the representatives in each branch. And, sir, this government, so organized, with all this undue superiority in those three large states, was, as you see, to have a power of negativing the laws passed by every state legislature in the Union. Whether, therefore, laws passed by the legislature of Maryland, New York, Connecticut, Georgia, or of any other of the ten states, for the regulation of their internal police, should take effect, and be carried into execution, was to depend on the good pleasure of the representatives of Virginia, Pennsylvania, and Massachusetts.

This system of slavery, which bound hand and foot ten states in the Union, and placed them at the mercy of the other three, and under the most abject and servile subjection to them, was approved by a majority of the members of the Convention, and reported by the committee.

On this occasion, the house will recollect that the Convention was resolved into a committee of the whole. Of this committee Mr. Gorham was chairman. The Hon. Mr. Washington was then on the floor, in the same situation with the other members of the Convention at large, to oppose any system he thought injurious, or to propose any alterations or amendments he thought beneficial. To these propositions, so reported by the committee, no opposition was given by that illustrious personage, or by the president of the state of Pennsylvania. They both appeared cordially to approve them, and to give them their hearty concurrence. Yet this system, I am confident, Mr. Speaker, there is not a member in this house would advocate, or who would hesitate one moment in saying it ought to be rejected. I mention this circumstance, in compliance with the duty I owe this honorable body, not with a view to lessen those exalted characters, but to show how far the greatest and best of men may be led to adopt very improper measures, through error in judgment, state influence, or by other causes; and to show that it is our duty not to suffer our eyes to be so far dazzled by the splendor of names as to run blindfolded into what may be our destruction.

Mr. Speaker, I revere those illustrious personages as much as any man here. No man has a higher sense of the important services they have
rendered this country. No member of the Convention went there more disposed to pay deference to their opinions. But I should little have deserved the trust this state reposed in me, if I could have sacrificed its dearest interests to my complaisance for their sentiments.

When, contrary to our hopes, it was found that a majority of the members of the Convention had, in the committee, agreed to the system I have laid before you, we then thought it necessary to bring forward the propositions which such of us who had disapproved the plan before had prepared. The members who prepared these resolutions were principally of the Connecticut, New York, New Jersey, Delaware, and Maryland delegations. The Hon. Mr. Patterson, of the Jerseys, laid them before the Convention. Of these propositions I am in possession of a copy, which I shall beg leave to read to you.

These propositions were referred to a committee of the whole house. Unfortunately, the New Hampshire delegation had not yet arrived; and the sickness of a relation of the Hon. Mr. M’Henry obliged him still to be absent — a circumstance, sir, which I considered much to be regretted, as Maryland thereby was represented by only two delegates, and they unhappily differed very widely in their sentiments.

The result of the reference of these last propositions to a committee, was a speedy and hasty determination to reject them. I doubt not, sir, to those who consider them with attention, so sudden a rejection will appear surprising; but it may be proper to inform you, that, on our meeting in Convention, it was soon found there were among us three parties of very different sentiments and views: —

One party, whose object and wish it was to abolish and annihilate all state governments, and to bring forward one general government over this extensive continent, of a monarchical nature, under certain restrictions and limitations. Those who openly avowed this sentiment were, it is true, but few; yet it is equally true, sir, that there was a considerable number who did not openly avow it, who were, by myself and many others of the Convention, considered as being in reality favorers of that sentiment, and, acting upon those principles, covertly endeavoring to carry into effect what they well knew openly and avowedly could not be accomplished. The second party was not for the abolition of the state governments, nor for the introduction of a monarchical government under any form; but they wished
to establish such a system as could give their own states undue power and influence, in the government, over the other states.

A third party was what I considered truly federal and republican. This party was nearly equal in number with the other two, and was composed of the delegations from Connecticut, New York, New Jersey, Delaware, and in part from Maryland; also of some individuals from other representations. This party, sir, were for proceeding upon terms of federal equality; they were for taking our present federal system as the basis of their proceedings, and, as far as experience had shown us that there were defects, to remedy those defects; as far as experience had shown that other powers were necessary to the federal government, to give those powers. They considered this the object for which they were sent by their states, and what their states expected from them. They urged that if, after doing this, experience should show that there still were defects in the system, (as no doubt there would be,) the same good sense that induced this Convention to be called, would cause the states, when they found it necessary, to call another; and if that convention should act with the same moderation, the members of it would proceed to correct such errors and defects as experience should have brought to light — that, by proceeding in this train, we should have a prospect at length of obtaining as perfect a system of federal government as the nature of things would admit.

On the other hand, if we, contrary to the purpose for which we were intrusted, considering ourselves as master-builders, too proud to amend our original government, should demolish it entirely, and erect a new system of our own, a short time might show the new system as defective as the old, perhaps more so. Should a convention be found necessary again, if the members thereof, acting upon the same principles, instead of amending and correcting its defects, should demolish that entirely, and bring forward a third system, that also might soon be found no better than either of the former; and thus we might always remain young in government and always suffering the inconveniences of an incorrect, imperfect system.

But, sir, the favorers of monarchy, and those who wished the total abolition of state governments, — well knowing that a government founded on truly federal principles, the bases of which were the thirteen state governments preserved in full force and energy, would be destructive of their views; and knowing they were too weak in numbers openly to bring forward their system; conscious, also, that the people of America would reject it if
proposed to them, — joined their interest with that party who wished a system giving particular states the power and influence over the others, procuring, in return, mutual sacrifices from them, in giving the government great and undefined powers as to its legislative and executive; well knowing that, by departing from a federal system, they paved the way for their favorite object — the destruction of the state governments, and the introduction of monarchy. And hence, Mr. Speaker, I apprehend, in a great measure, arose the objections of those honorable members, Mr. Mason and Mr. Gerry. In every thing that tended to give the large states power over the smaller, the first of those gentlemen could not forget he belonged to the Ancient Dominion; nor could the latter forget that he represented Old Massachusetts; that part of the system which tended to give those states power over the others met with their perfect approbation. But when they viewed it charged with such powers as would destroy all state governments, their own as well as the rest, — when they saw a President so constituted as to differ from a monarch scarcely but in name, and having it in his power to become such in reality when he pleased, — they, being republicans and federalists, as far as an attachment to their own states would permit them, warmly and zealously opposed those parts of the system. From these different sentiments, and from this combination of interest, I apprehend, sir, proceeded the fate of what was called the Jersey resolutions, and the report made by the committee of the whole house.

The Jersey propositions being thus rejected, the Convention took up those reported by the committee, and proceeded to debate them by paragraphs. It was now that they who disapproved the report found it necessary to make a warm and decided opposition, which took place upon the discussion of the seventh resolution, which related to the inequality of representation in the first branch. Those who advocated this inequality, urged, that, when the Articles of Confederation were formed, it was only from necessity and expediency that the states were admitted each to have an equal vote; but that our situation was now altered, and therefore those states who considered it contrary to their interest would no longer abide by it. They said no state ought to wish to have influence in government, except in proportion to what it contributes to it; that if it contributes but little, it ought to have but a small vote; that taxation and representation ought always to go together; that, if one state had sixteen times as many inhabitants as another, or was sixteen times as wealthy, it ought to have sixteen times as many votes; that an inhabitant of Pennsylvania ought to have as much weight and consequence as an inhabitant of Jersey or
Delaware; that it was contrary to the feelings of the human mind — what the large states would never submit to; that the large states would have great objects in view, in which they would never permit the smaller states to thwart them; that equality of suffrage was the rotten part of the Constitution, and that this was a happy time to get clear of it. In fine, it was the poison which contaminated our whole system, and the source of all the evils we experienced.

This, sir, is the substance of the arguments, — if arguments they may be called, — which were used in favor of inequality of suffrage. Those who advocated the equality of suffrage took the matter up on the original principles of government. They urged that all men, considered in a state of nature, before any government is formed, are equally free and independent, no one having any right or authority to exercise power over another, and this without any regard to difference in personal strength, understanding, or wealth — that, when such individuals enter into government, they have each a right to an equal voice in its first formation, and afterwards have each a right to an equal vote in every matter which relates to their government: — that if it could be done conveniently, they have a right to exercise it in person: where it cannot be done in person, but, for convenience, representatives are appointed to act for them, every person has a right to an equal vote in choosing that representative who is intrusted to do, for the whole, that which the whole, if they could assemble, might do in person, and in the transacting of which each would have an equal voice: — that if we were to admit, because a man was more wise, more strong, or more wealthy, he should be entitled to more votes than another, it would be inconsistent with the freedom and liberty of that other, and would reduce him to slavery.

Suppose, for instance, ten individuals, in a state of nature, about to enter into government, nine of whom are equally wise, equally strong, and equally wealthy; the tenth is ten times as wise, ten times as strong, or ten times as rich: if, for this reason he is to have ten votes for each vote of either of the others, the nine might as well have no vote at all — since, though the whole nine might assent to a measure, yet the vote of the tenth would countervail, and set aside all their votes. If this tenth approved of what they wished to adopt, it would be well; but if he disapproved, he could prevent it; and in the same manner he could carry into execution any measure he wished, contrary to the opinions of all the others, he having ten votes, and the others altogether but nine. It is evident that, on these principles,
nine would have no will nor discretion of their own, but must be totally dependent on the will and discretion of the tenth: to him they would be as absolutely slaves as any negro is to his master. If he did not attempt to carry into execution any measures injurious to the other nine, it could only be said that they had a good master; they would not be the less slaves, because they would be totally dependent on the will of another, and not on their own will. They might not feel their chains, but they would, notwithstanding wear them; and whenever their master pleased, he might draw them so tight as to gall them to the bone. Hence it was urged, the inequality of representation, or giving to one man more votes than another, on account of his wealth, &c., was altogether inconsistent with the principles of liberty; and in the same proportion as it should be adopted, in favor of one or more, in that proportion are the others enslaved. It was urged that, though every individual should have an equal voice in the government, yet even the superior wealth, strength, or understanding, would give great and undue advantages to those who possessed them — that wealth attracts respect and attention; superior strength would cause the weaker and more feeble to be cautious how they offended, and to put up with small injuries rather than engage in an unequal contest. In like manner, superior understanding would give its possessor many opportunities of profiting at the expense of the more ignorant.

Having thus established these principles with respect to the rights of individuals in a state of nature, and what is due to each on entering into government, — principles established by every writer on liberty, — they proceeded to show that states, when once formed, are considered, with respect to each other, as individuals in a state of nature; that, like individuals, each state is considered equally free and equally independent, the one having no right to exercise authority over the other, though more strong, more wealthy, or abounding with more inhabitants — that, when a number of states unite themselves under a federal government, the same principles apply to them as when a number of individual men unite themselves under a state government — that every argument which shows one man ought not to have more votes than another, because he is wiser, stronger, or wealthier, proves that one state ought not to have more votes than another, because it is stronger, richer, or more populous; and that, by giving one state, or one or two states, more votes than the others, the others thereby are enslaved to such state or states, having the greater number of votes, in the same manner as in the case before put of individuals, when one has more votes than the others — that the reason
why each individual man, in forming a state government, should have an equal vote, is, because each individual, before he enters into government, is equally free and independent; so each state, when states enter into a federal government, are entitled to an equal vote, because, before they entered into such federal government, each state was equally free and equally independent — that adequate representation of men, formed into a state government, consists in each man having an equal voice; either personally, or if by representatives, that he should have an equal voice in choosing the representatives — so adequate representation of states in a federal government, consists in each state having an equal voice, either in person or by its representative, in every thing which relates to the federal government — that this adequacy of representation is more important in a federal, than in a state government, because the members of a state government, the district of which is not very large, have generally such a common interest, that laws can scarcely be made by one part oppressive to the others, without their suffering in common; but the different states composing an extensive federal empire, widely distant one from the other, may have interests so totally distinct, that the one part might be greatly benefited by what would be destructive to the other.

They were not satisfied by resting it on principles; they also appealed to history. They showed that, in the Amphictyonic confederation of the Grecian cities, each city, however different in wealth, strength, and other circumstances, sent the same number of deputies, and had each an equal voice in every thing that related to the common concerns of Greece. It was shown that, in the seven provinces of the United Netherlands, and the confederated cantons of Switzerland, each canton, and each province, have an equal vote, although there are as great distinctions of wealth, strength, population, and extent of territory, among those provinces, and those cantons, as among these states. It was said that the maxim, that taxation and representation ought to go together, was true so far that no person ought to be taxed who is not represented; but not in the extent insisted upon, to wit, that the quantum of taxation and representation ought to be the same; on the contrary, the quantum of representation depends upon the quantum of freedom, and therefore all, whether individual states or individual men, who are equally free, have a right to equal representation — that to those who insist that he who pays the greatest share of taxes ought to have the greatest number of votes, it is a sufficient answer to say, that this rule would be destructive of the liberty of the others, and would render them slaves to the more rich and wealthy — that, if one man pays
more taxes than another, it is because he has more wealth to be protected by government, and he receives greater benefits from the government; so, if one state pays more to the federal government, it is because, as a state, she enjoys greater blessings from it; she has more wealth protected by it, or a greater number of inhabitants, whose rights are secured, and who share its advantages.

It was urged that, upon these principles, the Pennsylvanian, or inhabitant of a large state, was of as much consequence as the inhabitant of Jersey, Delaware, Maryland, or any other state — that his consequence was to be decided by his situation in his own state; that, if he was there as free, if he had as great share in the forming of his own government, and in the making and executing its laws, as the inhabitants of those other states, then was he equally important and of equal consequence. Suppose a confederation of states had never been adopted, but every state had remained absolutely in its independent situation, — no person could, with propriety, say that the citizen of the large state was not as important as the citizen of the smaller. The confederation of states cannot alter the case. It was said that, in all transactions between state and state, the freedom, independence, importance, and consequence, even the individuality, of each citizen of the different states, might with propriety be said to be swallowed up or concentrated in the independence, the freedom, and the individuality, of the state of which they are citizens; that the thirteen states are thirteen distinct, political, individual existences, as to each other; that the federal government is, or ought to be, a government over these thirteen political, individual existences, which form the members of that government; and as the largest state is only a single individual of this government, it ought to have only one vote; the smallest state, also being one individual member of this government, ought also to have one vote. To those who urged that the states having equal suffrage was contrary to the feelings of the human heart, it was answered, that it was admitted to be contrary to the feelings of pride and ambition; but those were feelings which ought not to be gratified at the expense of freedom.

It was urged that the position that great states would have great objects in view, in which they would suffer the less states to thwart them, was one of the strongest reasons why inequality of representation ought not to be admitted. If those great objects were not inconsistent with the interest of the less states, they would readily concur in them; but if they were inconsistent with the interest of a majority of the states composing the
government, in that case two or three states ought not to have it in their
to aggrandize themselves at the expense of all the rest. To those who
alleged that equality of suffrage, in our federal government, was the
poisonous source from which all our misfortunes flowed, it was answered
that the allegation was not founded in fact — that equality of suffrage had
never been complained of, by the states, as a defect in our federal system —
that, among the eminent writers, foreigners and others, who had treated of
the defects of our Confederation, and proposed alterations, none had
proposed an alteration in this part of the system; and members of the
Convention, both in and out of Congress, who advocated the equality of
suffrage, called upon their opponents, both in and out of Congress, and
challenged them to produce one single instance where a bad measure had
been adopted, or a good measure had failed of adoption, in consequence of
the states having an equal vote. On the contrary, they urged that all our
evils flowed from the want of power in the federal head, and that, let the
right of suffrage in the states be altered in any manner whatever, if no
greater power were given to the government, the same inconveniences
would continue.

It was denied that the equality of suffrage was originally agreed to on
principles of necessity or expediency; on the contrary, that it was adopted
on the principles of the rights of men, and the rights of states, which were
then well known, and which then influenced our conduct, although now
they seem to be forgotten. For this, the Journals of Congress were appealed
to. It was from them shown, that, when the committee of Congress reported
to that body the Articles of Confederation, the very first article which
became the subject of discussion was that respecting equality of suffrage —
that Virginia proposed divers modes of suffrage, all on the principle of
inequality, which were almost unanimously rejected — that, on the
question for adopting the article, it passed, Virginia being the only state
which voted in the negative — that, after the Articles of Confederation were
submitted to the states, by them to be ratified, almost every state proposed
certain amendments, which they instructed their delegates to endeavor to
obtain before ratification: and that, among all the amendments proposed,
not one state, not even Virginia, proposed an amendment of that article
securing the equality of suffrage; the most convincing proof it was agreed
to, and adopted, not from necessity, but upon a full conviction that,
according to the principles of free government, the states had a right to that
equality of suffrage.
But, sir, it was to no purpose that the futility of their objections was shown. When driven from the pretence that the equality of suffrage had been originally agreed to on principles of expediency and necessity, the representatives of the large states persisted in a declaration, that they would never agree to admit the smaller states to an equality of suffrage. In answer to this, they were informed, and informed in terms the most strong and energetic that could possibly be used, that *we never would agree* to a system giving them the undue influence and superiority they proposed — that we would risk every possible consequence — that from anarchy and confusion order might arise — that slavery was the worst that could ensue, and we considered the system proposed to be the most complete, most abject system of slavery that the wit of man ever devised, under the pretence of forming a government for free states — that we never would submit tamely and servilely to a present certain evil in dread of a future, which might be imaginary — that we were sensible the eyes of our country and the world were upon us — that we would not labor under the imputation of being unwilling to form a strong and energetic federal government; but we would publish the system which *we approved*, and also that which we *opposed*, and leave it to our country and the world at large to judge, between us, who best understood the rights of freemen and free states, and who best advocated them; and to the same tribunal we would submit, who ought to be answerable for all the consequences which might arise to the Union, from the Convention breaking up without proposing any system to their constituents. During this debate, we were threatened that, if we did not agree to the system proposed, we never should have an opportunity of meeting in convention to deliberate on another; and this was frequently urged. In answer, we called upon them to show what was to prevent it, and from what quarter was our danger to proceed. Was it from a foreign enemy? Our distance from Europe, and the political situation of that country, left us but little to fear. Was there any ambitious state or states, who, in violation of every sacred obligation, was preparing to enslave the other states, and raise itself to consequence on the ruin of the others? Or was there any such ambitious individual? We did not apprehend it to be the case. But suppose it to be true; it rendered it the more necessary that we should sacredly guard against a system which might enable all those ambitious views to be carried into effect, *even under the sanction of the Constitution and government*. In fine, sir, all these threats were treated with contempt, and they were told that we apprehended but one reason to prevent the states meeting again in convention; that, when they discovered the part this Convention had acted, and how much its members were
abusing the trust reposed in them, the states would never trust another convention.

At length, sir, after every argument had been exhausted by the advocates of equality of representation, the question was called, when a majority decided in favor of the inequality — Massachusetts, Pennsylvania, Virginia, North Carolina, South Carolina, and Georgia, voting for it; Connecticut, New York, New Jersey, and Delaware, against; Maryland divided. It may be thought surprising, sir, that Georgia, a state now small, and comparatively trifling, in the Union, should advocate this system of unequal representation, giving up her present equality in the federal government, and sinking herself almost to total insignificance in the scale; but, sir, it must be considered that Georgia has the most extensive territory in the Union, being larger than the whole island of Great Britain, and thirty times as large as Connecticut. This system being designed to preserve to the states their whole territory unbroken, and to prevent the erection of new states within the territory of any of them, Georgia looked forward when, her population being increased in some measure proportioned to her territory, she should rise in the scale, and give law to the other states; and hence we found the delegation of Georgia warmly advocating the proposition of giving the states unequal representation. Next day, the question came on with respect to the inequality of representation in the second branch; but little debate took place; the subject had been exhausted on the former question. On the votes being taken, Massachusetts, Pennsylvania, Virginia, North Carolina, and South Carolina, voted for the inequality. Connecticut, New York, New Jersey, Delaware, and Maryland,* were in the negative. Georgia had only two representatives on the floor, one of whom (not, I believe, because he was against the measure, but from a conviction that he would go home, and thereby dissolve the Convention, before we would give up the question) voted also in the negative, by which that state was divided. Thus, sir, on this great and important part of the system, the Convention being equally divided, — five states for the measure, five against, and one divided, — there was a total stand; and we did not seem very likely to proceed any farther. At length, it was proposed that a select committee should be balloted for, composed of a member from each state, which committee should endeavor to devise some mode of reconciliation or compromise. I had the honor to be on that committee. We met, and discussed the subject of difference. The one side insisted on the inequality of suffrage in both branches; the other side, equality in both. Each party was tenacious of their sentiments. When it was found that nothing could
induce us to yield the inequality in both branches, they at length proposed, by way of compromise, if we would accede to their wishes as to the first branch, they would agree to an equal representation in the second. To this it was answered, that there was no merit in the proposal; it was only consenting, after they had struggled to put both their feet on our necks, to take one of them off, provided we would consent to let them keep the other on; when they knew, at the same time, that they could not put one foot on our necks, unless we would consent to it; and that, by being permitted to keep on that one foot, they should afterwards be able to place the other foot on whenever they pleased.

They were also called on to inform us what security they could give us, should we agree to this compromise, that they would abide by the plan of government formed upon it any longer than suited their interests, or they found it expedient. “The states have a right to an equality of representation. This is secured to us by our present Articles of Confederation; we are in possession of this right. It is now to be torn from us. What security can you give us that, when you get the power the proposed system will give you, when you have men and money, you will not force from the states that equality of suffrage, in the second branch, which you now deny to be their right, and only give up from absolute necessity? Will you tell us we ought to trust you because you now enter into a solemn compact with us? This you have done before, and now treat with the utmost contempt. Will you now make an appeal to the Supreme Being, and call on him to guaranty your observance of this compact? The same you have formerly done for your observance of the Articles of Confederation, which you are now violating in the most wanton manner.

“The same reason which you now urge, for destroying our present federal government, may be urged for abolishing the system you propose to adopt; and as the method prescribed by the Articles of Confederation is now totally disregarded by you, as little regard may be shown by you to the rules prescribed for the amendment of the new system, whenever, having obtained power by the government, you shall hereafter be pleased to discard it entirely, or so to alter it as to give yourselves all that superiority which you have now contended for, and to obtain which you have shown yourselves disposed to hazard the Union.” — Such, sir, was the language used on that occasion; and they were told that, as we could not possibly have a stronger tie on them for the observance of the new system than we had for their observance of the Articles of Confederation, (which had
proved totally insufficient,) it would be wrong and imprudent to confide in them. It was further observed, that the inequality of the representation would be daily increasing — that many of the states whose territory was confined, and whose population was at this time large in proportion to their territory, would probably, twenty, thirty, or forty years hence, have no more representatives than at the introduction of the government; whereas the states having extensive territory, where lands are to be procured cheap, would be daily increasing in the number of inhabitants, not only from propagation, but from the emigration of the inhabitants of the other states, and would have soon double, or perhaps treble, the number of representatives that they are to have at first, and thereby enormously increase their influence in the national councils. However, the majority of the select committee at length agreed to a series of propositions by way of compromise, — part of which related to the representation in the first branch, nearly as the system is now published, and part of them to the second branch, securing in that equal representation, — and reported them as a compromise upon the express terms that they were wholly to be adopted or wholly to be rejected. Upon this compromise, a great number of the members so far engaged themselves, that, if the system was progressed upon agreeably to the terms of compromise, they would lend their names, by signing it, and would not actively oppose it, if their states should appear inclined to adopt it. Some, however, — in which number was myself, — who joined in that report, and agreed to proceed upon those principles, and see what kind of a system would ultimately be formed upon it, yet reserved to themselves, in the most explicit manner, the right of finally giving a solemn dissent to the system, if it was thought by them inconsistent with the freedom and happiness of their country. This, sir, will account why the gentlemen of the Convention so generally signed their names to the system; — not because they thought it a proper one; not because they thoroughly approved, or were unanimous for it; but because they thought it better than the system attempted to be forced upon them. This report of the select committee was, after long dissension, adopted by a majority of the Convention, and the system was proceeded in accordingly. I believe near a fortnight — perhaps more — was spent in the discussion of this business, during which we were on the verge of dissolution, scarce held together by the strength of a hair, though the public papers were announcing our extreme unanimity.

Mr. Speaker, I think it my duty to observe that, during this struggle to prevent the large states from having all power in their hands, which had
nearly terminated in a dissolution of the Convention, it did not appear to me that either of those illustrious characters, the Hon. Mr. Washington or the president of the state of Pennsylvania, was disposed to favor the claims of the smaller states against the undue superiority attempted by the large states. On the contrary, the honorable president of Pennsylvania was a member of the committee of compromise, and there advocated the right of the large states to an inequality in both branches, and only ultimately conceded it in the second branch on the principle of conciliation, when it was found no other terms would be accepted. This, sir, I think it my duty to mention for the consideration of those who endeavor to prop up a dangerous and defective system by great names. Soon after this period, the Hon. Mr. Yates and Mr. Lansing, of New York, left us. They had uniformly opposed the system; and, I believe, despairing of getting a proper one brought forward, or of rendering any real service, they returned no more. The propositions reported by the committee of the whole house having been fully discussed by the Convention, and, with many alterations, having been agreed to by a majority, a committee of five was appointed to detail the system according to the principles contained in what had been agreed to by that majority. This was likely to require some time, and the Convention adjourned for eight or ten days. Before the adjournment, I moved for liberty to be given to the different members to take correct copies of the propositions to which the Convention had then agreed, in order that, during the recess of the Convention, we might have an opportunity of considering them, and, if it should be thought that any alterations or amendments were necessary, that we might be prepared, against the Convention met, to bring them forward for discussion. But, sir, the same spirit which caused our doors to be shut, our proceedings to be kept secret, our Journals to be locked up, and every avenue, as far as possible, to be shut to public information, prevailed also in this case, and the proposal, so reasonable and necessary, was rejected by a majority of the Convention; thereby precluding even the members themselves from the necessary means of information and deliberation on the important business in which they were engaged.

It has been observed, Mr. Speaker, by my honorable colleagues, that the debate respecting the mode of representation was productive of considerable warmth. This observation is true. But, sir, it is equally true, that, if we could have tamely and servilely consented to be bound in chains, and meanly condescended to assist in riveting them fast, we might have avoided all that warmth, and have proceeded with as much calmness and
coolness as any Stoic could have wished. Having thus, sir, given the honorable members of this house a short history of some of the interesting parts of our proceedings, I shall beg leave to take up the system published by the Convention, and shall request your indulgence while I make some observations on different parts of it, and give you such further information as may be in my power. [Here Mr. Martin read the first section of the first article, and then proceeded.] With respect to this part of the system, Mr. Speaker, there was a diversity of sentiment. Those who were for two branches in the legislature — a House of Representatives and a Senate — urged the necessity of a second branch, to serve as a check upon the first, and used all those trite and common-place arguments which may be proper and just when applied to the formation of a state government over individuals variously distinguished in their habits and manners, fortune and rank; where a body chosen in a select manner, respectable for their wealth and dignity, may be necessary, frequently, to prevent the hasty and rash measures of a representation more popular. But, on the other side, it was urged that none of those arguments could with propriety be applied to the formation of a federal government over a number of independent states — that it is the state governments which are to watch over and protect the rights of the individual, whether rich or poor, or of moderate circumstances, and in which the democratic and aristocratic influence or principles are to be so blended, modified, and checked, as to prevent oppression and injury — that the federal government is to guard and protect the states and their rights, and to regulate their common concerns — that a federal government is formed by the states, as states, (that is, in their sovereign capacities,) in the same manner as treaties and alliances are formed — that a sovereignty, considered as such, cannot be said to have jarring interests or principles, the one aristocratic, and the other democratic; but that the principles of a sovereignty, considered as a sovereignty, are the same, whether that sovereignty is monarchical, aristocratical, democratical, or mixed — that the history of mankind doth not furnish an instance, from its earliest history to the present time, of a federal government constituted of two distinct branches — that the members of the federal government, if appointed by the states in their state capacities, (that is, by their legislatures, as they ought,) would be select in their choice; and, coming from different states, having different interests and views, this difference of interests and views would always be a sufficient check over the whole; and it was shown that even Adams, who, the reviewers have justly observed, appears to be as fond of checks and balances as Lord Chesterfield of the graces, — even he declares that a
council consisting of one branch has always been found sufficient in a federal government.

It was urged, that the government we were forming was not in reality a federal, but a national, government, not founded on the principles of the preservation, but the abolition or consolidation, of all state governments — that we appeared totally to have forgotten the business for which we were sent, and the situation of the country for which we were preparing our system — that we had not been sent to form a government over the inhabitants of America, considered as individuals — that, as individuals, they were all subject to their respective state governments, which governments would still remain though the federal government should be dissolved — that the system of government we were intrusted to prepare was a government over these thirteen states; but that, in our proceedings, we adopted principles which would be right and proper only on the supposition that there were no state governments at all, but that all the inhabitants of this extensive continent were, in their individual capacity, without government, and in a state of nature — that, accordingly, the system proposes the legislature to consist of two branches, the one to be drawn from the people at large, immediately, in their individual capacity; the other to be chosen in a more select manner, as a check upon the first. It is, in its very introduction, declared to be a compact between the people of the United States as individuals; and it is to be ratified by the people at large, in their capacity as individuals; all which, it was said, would be quite right and proper, if there were no state governments, if all the people of this continent were in a state of nature, and we were forming one national government for them as individuals; and is nearly the same as was done in most of the states, when they formed their governments over the people who composed them.

Whereas it was urged, that the principles on which a federal government over states ought to be constructed and ratified are the reverse; and, instead of the legislature consisting of two branches, one branch was sufficient, whether examined by the dictates of reason or the experience of ages — that the representation, instead of being drawn from the people at large, as individuals, ought to be drawn from the states, as states, in their sovereign capacity — that, in a federal government, the parties to the compact are not the people, as individuals, but the states, as states; and that it is by the states, as states, in their sovereign capacity, that the system of government ought to be ratified, and not by the people, as individuals.
It was further said, that, in a federal government over states equally free, sovereign, and independent, every state ought to have an equal share in making the federal laws or regulations, in deciding upon them, and in carrying them into execution, neither of which was the case in this system, but the reverse, the states not having an equal voice in the legislature, nor in the appointment of the executive, the judges, and the other officers of government. It was insisted, that in the whole system there was but one federal feature — the appointment of the senators by the states in their sovereign capacity, that is, by their legislatures, and the equality of suffrage in that branch; but it was said that this feature was only federal in appearance.

To prove this, — and that the Senate, as constituted, could not be a security for the protection and preservation of the state governments, and that the senators could not be considered the representatives of the states, as states, — it was observed that, upon just principles, the representative ought to speak the sentiments of his constituents, and ought to vote in the same manner that his constituents would do, (as far as he can judge,) provided his constituents were acting in person, and had the same knowledge and information with himself; and therefore that the representative ought to be dependent on his constituents, and answerable to them; that the connection between the representatives and the represented ought to be as near and as close as possible. According to these principles, Mr. Speaker, in this state it is provided, by its Constitution, that the representatives in Congress shall be chosen annually, shall be paid by the state, and shall be subject to recall even within the year — so cautiously has our Constitution guarded against an abuse of the trust reposed in our representatives in the federal government; whereas, by the third and sixth section of the first article of this new system, the senators are to be chosen for six years, instead of being chosen annually; instead of being paid by their states who send them, they, in conjunction with the other branch are to pay themselves out of the treasury of the United States, and are not liable to be recalled during the period for which they are chosen. Thus, sir, for six years, the senators are rendered totally and absolutely independent of their states, of whom they ought to be the representatives, without any bond or tie between them. During that time, they may join in measures ruinous and destructive to their states, even such as should totally annihilate their state governments; and their states cannot recall them, nor exercise any control over them.
Another consideration, Mr. Speaker, it was thought, ought to have great weight to prove that the smaller states cannot depend on the Senate for the preservation of their rights, either against large and ambitious states, or against an ambitious, aspiring President. The Senate, sir, is so constituted that they are not only to compose one branch of the legislature, but, by the second section of the second article, they are to compose a privy council for the President. Hence it will be necessary that they should be, in a great measure, a permanent body, constantly residing at the seat of government. Seventy years are esteemed for the life of a man; it can hardly be supposed that a senator, especially from the states remote from the seat of empire, will accept of an appointment which must estrange him for six years from his state, without giving up, to a great degree, his prospects in his own state. If he has a family, he will take his family with him to the place where the government shall be fixed; that will become his home; and there is every reason to expect that his future views and prospects will centre in the favors and emoluments of the general government, or of the government of that state where the seat of empire is established. In either case, he is lost to his own state. If he places his future prospects in the favors and emoluments of the general government, he will become a dependant and creature of the President. As the system enables a senator to be appointed to office, and without the nomination of the President no appointment can take place, — as such he will favor the wishes of the President, and concur in his measures, who, if he has no ambitious views of his own to gratify, may be too favorable to the ambitious views of the large states, who will have an undue share in his original appointment, on whom he will be more dependent afterwards than on the states which are smaller. If the senator places his future prospects in that state where the seat of empire is fixed, from that time he will be, in every question wherein its particular interest may be concerned, the representative of that state, not of his own.

But even this provision apparently for the security of the state governments, inadequate as it is, is entirely left at the mercy of the general government; for, by the fourth section of the first article, it is expressly provided, that the Congress shall have a power to make and alter all regulations concerning the time and manner of holding elections for senators — a provision expressly looking to, and I have no doubt designed for, the utter extinction and abolition of all state governments. Nor will this, I believe, be doubted by any person, when I inform you that some of the warm advocates and patrons of the system in Convention strenuously
opposed the choice of the senators by the state legislatures, insisting that
the state governments ought not to be introduced in any manner so as to be
component parts of, or instruments for carrying into execution, the general
government. Nay, so far were the friends of the system from pretending
that they meant it or considered it as a federal system, that, on the question
being proposed, “that a union of the states, merely federal, ought to be the
sole objects of the exercise of the powers vested in the Convention,” it was
negatived by a majority of the members; and it was resolved, “that a
national government ought to be formed.” Afterwards, the word “national”
was struck out by them, because they thought the word might tend to
alarm; and although, now, they who advocate the system pretend to call
themselves federalists, in Convention the distinction was quite the reverse;
those who opposed the system were there considered and styled the federal
party, those who advocated it the anti-federal.

Viewing it as a national, not a federal government, — as calculated and
designed, not to protect and preserve, but to abolish and annihilate, the
state governments, — it was opposed for the following reasons: It was said
that this continent was much too extensive for one national government,
which should have sufficient power and energy to pervade, and hold in
obedience and subjection, all its parts, consistently with the enjoyment and
preservation of liberty — that the genius and habits of the people of
America were opposed to such a government — that, during their
connection with Great Britain, they had been accustomed to have all their
concerns transacted within a narrow circle, their colonial district; they had
been accustomed to have their seats of government near them, to which
they might have access, without much inconvenience, when their business
should require it — that, at this time, we find, if a county is rather large, the
people complain of the inconvenience, and clamor for a division of their
county, or for a removal of the place where their courts are held, so as to
render it more central and convenient — that, in those states the territory of
which is extensive, as soon as the population increases remote from the seat
of government, the inhabitants are urgent for a removal of the seat of their
government, or to be erected into a new state. As a proof of this, the
inhabitants of the western parts of Virginia and North Carolina, of Vermont
and the Province of Maine, were instances; even the inhabitants of the
western parts of Pennsylvania, who, it is said, already seriously look
forward to the time when they shall either be erected into a new state, or
have their seat of government removed to the Susquehannah. If the
inhabitants of the different states consider it as a grievance to attend a
county court, or the seat of their own government, when a little inconvenient, can it be supposed they would ever submit to have a national government established, the seat of which would be more than a thousand miles removed from some of them? It was insisted that governments of a republican nature are those best calculated to preserve the freedom and happiness of the citizen — that governments of this kind are only calculated for a territory but small in its extent — that the only method by which an extensive continent, like America, could be connected and united together, consistently with the principles of freedom, must be by having a number of strong and energetic state governments, for securing and protecting the rights of individuals forming those governments, and for regulating all their concerns; and a strong, energetic federal government over those states, for the protection and preservation, and for regulating the common concerns of the states.

It was further insisted that, even if it was possible to effect a total abolition of the state governments at this time, and to establish one general government over the people of America, it could not long subsist, but in a little time would again be broken into a variety of governments of a smaller extent, similar, in some manner, to the present situation of this continent. The principal difference, in all probability, would be, that the governments so established, being effected by some violent convulsion, might not be formed on principles so favorable to liberty as those of our present state governments — that this ought to be an important consideration to such of the states who had excellent governments, which was the case with Maryland, and most others, whatever it might be to persons who, disapproving of their particular state government, would be willing to hazard every thing to overturn and destroy it. These reasons, sir, influenced me to vote against two branches in the legislature, and against every part of the system which was repugnant to the principles of a federal government. Nor was there a single argument urged, or reason assigned, which, to my mind, was satisfactory to prove that a good government, on federal principles, was unattainable; the whole of their arguments only proving, what none of us controverted — that our federal government, as originally formed, was defective, and wanted amendment.

However, a majority of the Convention, hastily and inconsiderately, without condescending to make a fair trial, in their great wisdom decided that a kind of government which a Montesquieu and a Price have declared the best calculated of any to preserve internal liberty, and to enjoy external
strength and security, and the only one by which a large continent can be 
connected and united, consistently with the principles of liberty, was totally 
impracticable; and they acted accordingly.

With respect to that part of the second section of the first article which 
relates to the apportionment of representation and direct taxation, there 
were considerable objections made to it, besides the great objection of 
inequality. It was urged, that no principle could justify taking slaves into 
computation in apportioning the number of representatives a state should 
have in the government — that it involved the absurdity of increasing the 
power of a state in making laws for free men in proportion as that state 
violated the rights of freedom — that it might be proper to take slaves into 
consideration, when taxes were to be apportioned, because it had a 
tendency to discourage slavery; but to take them into account in giving 
representation tended to encourage the slave trade, and to make it the 
interest of the states to continue that infamous traffic — that slaves could 
not be taken into account as men, or citizens, because they were not 
admitted to the rights of citizens, in the states which adopted or continued 
slavery. If they were to be taken into account as property, it was asked what 
peculiar circumstance should render this property (of all others the most 
odious in its nature) entitled to the high privilege of conferring 
consequence and power in the government to its possessors, rather than 
any other property; and why slaves should, as property, be taken into 
account rather than horses, cattle, mules, or any other species; and it was 
observed, by an honorable member from Massachusetts, that he considered 
it as dishonorable and humiliating to enter into compact with the slaves of 
the Southern States, as it would with the horses and mules of the Eastern. It 
was also objected that the numbers of representatives appointed by this 
section to be sent, by the particular states, to compose the first legislature, 
were not precisely agreeable to the rule of representation adopted by this 
system, and that the numbers in this section are artfully lessened for the 
large states, while the smaller states have their full proportion, in order to 
prevent the undue influence which the large states will have in the 
government from being too apparent; and I think, Mr. Speaker, that this 
objection is well founded.

I have taken some pains to obtain information of the number of freemen 
and slaves in the different states; and I have reason to believe that, if the 
estimate was now taken which is directed, and one delegate to be sent for 
every thirty thousand inhabitants, that Virginia would have at least twelve
delegates, Massachusetts eleven, and Pennsylvania ten, instead of the number stated in this section; whereas the other states, I believe, would not have more than the number there allowed them; nor would Georgia, most probably, at present, send more than two. If I am right, Mr. Speaker, upon the enumeration being made, and the representation being apportioned according to the rule prescribed, the whole number of delegates would be seventy-one, thirty-six of which would be a quorum to do business: the delegates of Virginia, Massachusetts, and Pennsylvania, would amount to thirty-three of that quorum. Those three states will, therefore, have much more than equal power and influence in making the laws and regulations which are to affect this continent, and will have a moral certainty of preventing any laws or regulations which they disapprove, although they might be thought ever so necessary by a great majority of the states. It was further objected that, even if the states who had most inhabitants ought to have a greater number of delegates, yet the number of delegates ought not to be in exact proportion to the number of inhabitants, because the influence and power of those states whose delegates are numerous will be greater, when compared with the influence and power of the other states, than the proportion which the numbers of their delegates bear to each other; as, for instance, though Delaware has but one delegate, and Virginia but ten, yet Virginia has more than ten times as much power and influence in the government as Delaware. To prove this, it was observed that Virginia would have a much greater chance to carry any measure than any number of states whose delegates were altogether ten, (suppose the states of Delaware, Connecticut, Rhode Island, and New Hampshire,) since the ten delegates from Virginia, in every thing that related to the interest of that state, would act in union, and move one solid and compact body; whereas the delegates of these four states, though collectively equal in number to those from Virginia, coming from different states having different interests, will be less likely to harmonize and move in concert. As a further proof, it was said that Virginia, as the system is now reported, by uniting with her the delegates of four other states, can carry a question against the sense and interest of the eight states by sixty-four different combinations; the four states voting with Virginia being every time so far different as not to be composed of the same four; whereas the state of Delaware can only, by uniting four other states with her, carry a measure against the sense of eight states by two different combinations — a mathematical proof that the state of Virginia has thirty-two times greater chance of carrying a measure against the sense of eight states than Delaware, although Virginia has only ten times as many delegates. It was also shown that the idea was totally
fallacious, which was attempted to be maintained, that, if a state had one thirteenth part of the numbers composing the delegation in this system, such state would have as much influence as under the Articles of Confederation. To prove the fallacy of this idea, it was shown that, under the Articles of Confederation, the state of Maryland had but one vote in thirteen; yet no measure could be carried against her interests without seven states, a majority of the whole, concurring in it; whereas, in this system, though Maryland has six votes, — which is more than the proportion of one in thirteen, — yet five states may, in a variety of combinations, carry a question against her interest, though seven other states concur with her, and six states, by a much greater number of combinations, may carry a measure against Maryland, united with six other states. I shall here, sir, just observe, that, as the committee of detail reported the system, the delegates from the different states were to be one for every forty thousand inhabitants: it was afterwards altered to one for every thirty thousand. This alteration was made after I left the Convention, at the instance of whom I know not; but it is evident that the alteration is in favor of the states which have large and extensive territory, to increase their power and influence in the government, and to the injury of the smaller states; since it is the states of extensive territory who will most speedily increase the number of their inhabitants, as before has been observed, and will, therefore, most speedily procure an increase to the number of their delegates. By this alteration, Virginia, North Carolina, or Georgia, by obtaining one hundred and twenty thousand additional inhabitants, will be entitled to four additional delegates; whereas such state would only have been entitled to three, if forty thousand had remained the number by which to apportion the delegation.

As to that part of this section that relates to direct taxation, there was also an objection for the following reasons: It was said that a large sum of money was to be brought into the national treasury by the duties on commerce, which would be almost wholly paid by the commercial states; it would be unequal and unjust that the sum which was necessary to be raised by direct taxation should be apportioned equally upon all the states, obliging the commercial states to pay as large a share of the revenue arising therefrom as the states from whom no revenue had been drawn by imposts; since the wealth and industry of the inhabitants of the commercial states will, in the first place, be severely taxed through their commerce, and afterwards be equally taxed with the industry and wealth of the inhabitants of the other states, who have paid no part of that revenue; so that, by this
provision, the inhabitants of the commercial states are, in this system, obliged to bear an unreasonable and disproportionate share in the expenses of the Union, and the payment of that foreign and domestic debt which was incurred not more for the benefit of the commercial than of the other states.

In the sixth section of the first article, it is provided, that senators and representatives may be appointed to any civil office under the authority of the United States, except such as shall have been created, or the emoluments of which have been increased, during the time for which they were elected. Upon this subject, sir, there was a great diversity of sentiment among the members of the Convention. As the propositions were reported by the committee of the whole house, a senator or representative could not be appointed to any office under a particular state, or under the United States, during the time for which they were chosen, nor to any office under the United States until one year after the expiration of that time. It was said — and in my opinion justly — that no good reason could be assigned why a senator or representative should be incapacitated to hold an office in his own government, since it can only bind him more closely to his state, and attach him the more to its interests, which, as its representative, he is bound to consult and sacredly guard, as far as is consistent with the welfare of the Union, and therefore, at most, would only add the additional motive of gratitude for discharging his duty; and, according to this idea, the clause which prevented senators or delegates from holding offices in their own states was rejected by a considerable majority. But, sir, we sacredly endeavored to preserve all that part of the resolution which prevented them from being eligible to offices under the United States, as we considered it essentially necessary to preserve the integrity, independence, and dignity of the legislature, and to secure its members from corruption.

I was in the number of those who were extremely solicitous to preserve this part of the report; but there was a powerful opposition made by such who wished the members of the legislature to be eligible to offices under the United States. Three different times did they attempt to procure an alteration, and as often failed — a majority firmly adhering to the resolution as reported by the committee; however, an alteration was at length, by dint of perseverance, obtained, even within the last twelve days of the Convention, — for it happened after I left Philadelphia. As to the exception that they cannot be appointed to offices created by themselves, or the emoluments of which are by themselves increased, it is certainly of little consequence, since they may easily evade it by creating new offices, to
which may be appointed the persons who fill the offices before created, and thereby vacancies will be made, which may be filled by the members who for that purpose have created the new offices.

It is true, the acceptance of an office vacates their seat, nor can they be reëlected during their continuance in office; but it was said, that the evil would first take place; that the price for the office would be paid before it was obtained; that vacating the seat of the person who was appointed to office made way for the admission of a new member, who would come there as desirous to obtain an office as he whom he succeeded, and as ready to pay the price necessary to obtain it; in fine, that it would be only driving away the flies that were filled, to make room for those that were hungry. And as the system is now reported, the President having the power to nominate to all offices, it must be evident that there is no possible security for the integrity and independence of the legislature, but that they are most unduly placed under the influence of the President, and exposed to bribery and corruption.

The seventh section of this article was also the subject of contest. It was thought, by many members of the Convention, that it was very wrong to confine the origination of all revenue bills to the House of Representatives, since the members of the Senate will be chosen by the people as well as the members of the House of Delegates, — if not immediately, yet mediately, — being chosen by the members of the state legislatures which members are elected by the people; and that it makes no real difference whether we do a thing in person, or by a deputy or agent appointed by us for that purpose.

That no argument can be drawn from the House of Lords in the British constitution, since they are neither mediately nor immediately the representatives of the people, but are one of the three estates composing that kingdom, having hereditary rights and privileges, distinct from and independent of the people.

That it may, and probably will, be a future source of dispute and controversy between the two branches, what are, or are not, revenue bills and the more so as they are not defined in the Constitution; which controversies may be difficult to settle, and may become serious in their consequences, there being no power in the Constitution to decide upon, or authorize, in cases of absolute necessity, to terminate them by a prorogation or dissolution of either of the branches — a remedy provided in
the British constitution, where the king has that power, which has been found necessary at times to be exercised, in cases of violent dissensions between the Lords and Commons on the subject of money bills.

That every regulation of commerce; every law relative to excises, stamps, the post-office, the imposing of taxes, and their collection; the creation of courts and offices; in fine, every law for the Union, if enforced by any pecuniary sanctions, as they would tend to bring money into the Continental treasury, might, and no doubt would, be considered a revenue act. That consequently the Senate — the members of which will, it may be presumed, be the most select in their choice, and consist of men the most enlightened and of the greatest abilities, who, from the duration of their appointment and the permanency of their body, will probably be best acquainted with the common concerns of the states, and with the means of providing for them — will be rendered almost useless as a part of the legislature; and that they will have but little to do in that capacity except patiently to wait the proceedings of the House of Representatives, and afterwards examine and approve, or propose amendments.

There were also objections to that part of this section which relates to the negative of the President. There were some who thought no good reason could be assigned for giving the President a negative of any kind. Upon the principle of a check to the proceedings of the legislature, it was said to be unnecessary; that the two branches having a control over each other’s proceedings, and the Senate being chosen by the state legislatures, and being composed of members from the different states, there would always be a sufficient guard against measures being hastily or rashly adopted — that the President was not likely to have more wisdom or integrity than the senators or any of them; or to better know or consult the interest of the states, than any member of the Senate, so as to be entitled to a negative on that principle; and as to the precedent from the British constitution, (for we were eternally troubled with arguments and precedents from the British government,) it was said it would not apply. The king of Great Britain there composed one of the three estates of the kingdom; he was possessed of rights and privileges as such, distinct from the Lords and Commons — rights and privileges which descended to his heirs, and were inheritable by them; that, for the preservation of these, it was necessary he should have a negative; but that this was not the case with the President of the United States, who was no more than an officer of the government; the sovereignty was not in him, but in the legislature. And it was further urged, even if he
was allowed a negative, it ought not to be of so great extent as that given by the system, since his single voice is to countervail the whole of either branch, and any number less than two thirds of the other. However, a majority of the Convention was of a different opinion, and adopted it as it now makes a part of the system.

By the eighth section of this article, Congress is to have power to lay and collect taxes, duties, imposts, and excises. When we met in Convention, after our adjournment, to receive the report of the committee of detail, the members of that committee were requested to inform us what powers were meant to be vested in Congress by the word duties in this section, since the word imposts extended to duties on goods imported, and by another part of the system no duties on exports were to be laid. In answer to this inquiry, we were informed that it was meant to give the general government the power of laying stamp duties on paper, parchment, and vellum. We then proposed to have the power inserted in express words, lest disputes might hereafter arise on the subject, and that the meaning might be understood by all who were to be affected by it; but to this it was objected, because it was said that the word stamp would probably sound odiously in the ears of many of the inhabitants, and be a cause of objection. By the power of imposing stamp duties, the Congress will have a right to declare, that no wills, deeds, or other instruments of writing, shall be good and valid without being stamped; that, without being reduced to writing, and being stamped, no bargain, sale, transfer of property, or contract of any kind or nature whatsoever, shall be binding; and also that no exemplifications of records, depositions, or probates of any kind, shall be received in evidence, unless they have the same solemnity. They may likewise oblige all proceedings of a judicial nature to be stamped, to give them effect. Those stamp duties may be imposed to any amount they please; and under the pretence of securing the collections of these duties, and to prevent the laws which imposed them from being evaded, the Congress may bring the decision of all questions relating to the conveyance, disposition, and rights of property, and every question relating to contracts between man and man, into the courts of the general government — their inferior courts in the first instance, and the superior court by appeal. By the power to lay and collect imposts, they may impose duties on any or every article of commerce imported into these states, to what amount they please. By the power to lay excises, — a power very odious in its nature, since it authorizes officers to go into your houses, your kitchens, your cellars, and to examine into your private concerns, — the Congress may impose duties on every article of use
or consumption, on the food that we eat, on the liquors that we drink, on
the clothes that we wear, the glass which enlightens our houses, or the
hearths necessary for our warmth and comfort. By the power to lay and
collect taxes, they may proceed to direct taxation on every individual, either
by a capitation tax on their heads, or an assessment on their property. By
this part of the section, therefore, the government has power to lay what
duties they please on goods imported; to lay what duties they please,
afterwards, on whatever we use or consume; to impose stamp duties to
what amount they please, and in whatever case they please; — afterwards,
to impose on the people direct taxes, by capitation tax, or by assessment, to
what amount they choose, and thus to sluice them at every vein as long as
they have a drop of blood, without any control, limitation, or restraint;
while all the officers for collecting these taxes, stamp duties, imposts, and
excises, are to be appointed by the general government, under its
directions, not accountable to the states; nor is there even a security that
they shall be citizens of the respective states in which they are to exercise
their offices. At the same time, the construction of every law imposing any
and all these taxes and duties, and directing the collection of them, and
every question arising thereon, and on the conduct of the officers appointed
to execute these laws, and to collect these taxes and duties, so various in
their kinds, is taken away from the courts of justice of the different states,
and confined to the courts of the general government, there to be heard and
determined by judges holding their offices under the appointment, not of
the states, but of the general government.

Many of the members, and myself in the number, thought that states were
much better judges of the circumstances of their citizens, and what sum of
money could be collected from them by direct taxation, and of the manner
in which it could be raised with the greatest ease and convenience to their
citizens, than the general government could be; and that the general
government ought not to have the power of laying direct taxes in any case
but in that of the delinquency of a state. Agreeably to this sentiment, I
brought in a proposition on which a vote of the Convention was taken. The
proposition was as follows: “And whenever the legislature of the United
States shall find it necessary that revenue should be raised by direct
taxation, having apportioned the same by the above rule, requisitions shall
be made of the respective states to pay into the Continental treasury their
respective quotas within a time in the said requisition to be specified; and
in case of any of the states failing to comply with such requisition, then, and
then only, to have power to devise and pass acts directing the mode and
authorizing the collection of the same.”

Had this proposition been acceded to, the dangerous and oppressive power in the general government of imposing direct taxes on the inhabitants, which it now enjoys in all cases, would have been only vested in it, in case of the non-compliance of a state, as a punishment for its delinquency, and would have ceased the moment that the state complied with the requisition. But the proposition was rejected by a majority, consistent with their aim and desire of increasing the power of the general government as far as possible, and destroying the powers and influence of the states. And though there is a provision that all duties, imposts, and excises, shall be uniform, — that is, to be laid to the same amount on the same articles in each state, — yet this will not prevent Congress from having it in their power to cause them to fall very unequally, and much heavier on some states than on others, because these duties may be laid on articles but little or not at all used in some states, and of absolute necessity for the use and consumption of others; in which case, the first would pay little or no part of the revenue arising therefrom, while the whole, or nearly the whole, of it would be paid by the last, to wit, the states which use and consume the articles on which the imposts and excises are laid.

By our original Articles of Confederation, the Congress have power to borrow money and emit bills of credit on the credit of the United States; agreeable to which was the report on this system, as made by the committee of detail. When we came to this part of the report, a motion was made to strike out the words “to emit bills of credit.” Against the motion we urged, that it would be improper to deprive the Congress of that power; that it would be a novelty unprecedented to establish a government which should not have such authority; that it was impossible to look forward into futurity so far as to decide that events might not happen that should render the exercise of such a power absolutely necessary; and that we doubted whether, if a war should take place, it would be possible for this country to defend itself without having recourse to paper credit, in which case there would be a necessity of becoming a prey to our enemies, or violating the constitution of our government; and that, considering the administration of the government would be principally in the hands of the wealthy, there could be little reason to fear an abuse of the power by an unnecessary or injurious exercise of it. But, sir, a majority of the Convention, being wise beyond every event, and being willing to risk any political evil rather than admit the idea of a paper emission in any possible case, refused to trust this
authority to a government to which they were lavishing the most unlimited
powers of taxation, and to the mercy of which they were willing blindly to
trust the liberty and property of the citizens of every state in the Union; and
they erased that clause from the system. Among other powers given to this
government in the eighth section, it has that of appointing tribunals inferior
to the Supreme Court. To this power there was an opposition. It was urged
that there was no occasion for inferior courts of the general government to
be appointed in the different states, and that such ought not to be admitted
— that the different state judiciaries in the respective states would be
competent to, and sufficient for, the cognizance in the first instance of all
cases that should arise under the laws of the general government, which,
being by this system made the supreme law of the states, would be binding
on the different state judiciaries — that, by giving an appeal to the Supreme
Court of the United States, the general government would have a sufficient
check over their decisions, and security for the enforcing of their laws —
that to have inferior courts appointed under the authority of Congress, in
the different states, would eventually absorb and swallow up the state
judiciaries, by drawing all business from them to the courts of the general
government, which the extensive and undefined powers, legislative and
judicial, of which it is possessed, would easily enable it to do — that it would
unduly and dangerously increase the weight and influence of Congress in
the several states; be productive of a prodigious number of officers; and be
attended with an enormous additional and unnecessary expense — that, the
judiciaries of the respective states not having power to decide upon the laws
of the general government, but the determination of those laws being
confined to the judiciaries appointed under the authority of Congress in the
first instance, as well as on appeal, there would be a necessity for judges or
magistrates of the general government, and those to a considerable
number, in each county of every state — that there would be a necessity for
courts to be holden by them in each county, and that these courts would
stand in need of all proper officers, such as sheriffs, clerks, and others,
commissioned under the authority of the general government — in fine,
that the administration of justice, as it will relate to the laws of the general
government, would require in each state all the magistrates, courts, officers,
and expense, which are now found necessary, in the respective states, for
the administration of justice as it relates to the laws of the state
governments. But here, again, we were overruled by a majority, who,
assuming it as a principle that the general government and the state
governments (as long as they should exist) would be at perpetual variance
and enmity, and that their interests would constantly be opposed to each
other, insisted, for that reason, that the state judges, being citizens of their respective states, and holding their commissions under them, ought not, though acting on oath, to be intrusted with the administration of the laws of the general government.

By the eighth section of the first article, the Congress have also a power given them to raise and support *armies*, without any limitation as to numbers, and without any restriction in time of peace. Thus, sir, this plan of government, instead of guarding against a standing army, — that engine of arbitrary power, which has so often and so successfully been used for the subversion of freedom, — has, in its formation, given it an express and constitutional sanction, and hath provided for its introduction. Nor could this be prevented. I took the sense of the Convention on a proposition, by which the Congress should not have power, in time of peace, to keep immbodied more than a certain number of regular troops, that number to be ascertained by what should be considered a respectable peace establishment. This proposition was rejected by a majority, it being their determination that the power of Congress to keep up a standing army, even in peace, should only be restrained by their will and pleasure.

This section proceeds, further, to give a power to the Congress to provide for the calling forth *the militia* to execute the laws of the Union, suppress insurrections, and repel invasions. As to giving such a power there was no objection; but it was thought by some that this power ought to be given with certain restrictions. It was thought that not more than a certain part of the militia of any one state ought to be obliged to march out of the same, or be employed out of the same, at any one time, without the consent of the legislature of such state. This amendment I endeavored to obtain; but it met with the same fate which attended almost every attempt to limit the powers given to the general government, and constitutionally to guard against their abuse: it was not adopted. As it now stands, the Congress will have the power, if they please, to march the whole militia of Maryland to the remotest part of the Union, and keep them in service as long as they think proper, without being in any respect dependent upon the government of Maryland for this unlimited exercise of power over its citizens — all of whom, from the lowest to the greatest, may, during such service, be subjected to military law, and tied up and whipped at the halbert, like the meanest of slaves.

By the next paragraph, Congress is to have the power to provide for
organizing, arming, and disciplining, the militia, and for governing such part of them as may be employed in the service of the United States.

For this extraordinary provision, by which the militia — the only defence and protection which the state can have for the security of their rights against arbitrary encroachments of the general government — is taken entirely out of the power of their respective states, and placed under the power of Congress, it was speciously assigned, as a reason, that the general government would cause the militia to be better regulated and better disciplined than the state governments, and that it would be proper for the whole militia of the Union to have a uniformity in their arms and exercise. To this it was answered, that the reason, however specious, was not just — that it would be absurd that the militia of the western settlements, who were exposed to an Indian enemy, should either be confined to the same arms or exercise as the militia of the Eastern or Middle States — that the same penalties which would be sufficient to enforce an obedience to militia laws in some states, would be totally disregarded in others — that, leaving the power to the several states, they would respectively best know the situation and circumstance of their citizens, and the regulations that would be necessary and sufficient to effect a well-regulated militia in each — that we were satisfied the militia had heretofore been as well disciplined as if they had been under the regulations of Congress — and that the states would now have an additional motive to keep their militia in proper order, and fit for service, as it would be the only chance to preserve their existence against a general government, armed with powers sufficient to destroy them.

These observations, sir, procured from some of the members an open avowal of those reasons by which we believed, before, that they were actuated. They said that, as the states would be opposed to the general government, and at enmity with it, — which, as I have already observed, they assumed as a principle, — if the militia was under the control and the authority of the respective states, it would enable them to thwart and oppose the general government. They said the states ought to be at the mercy of the general government, and therefore that the militia ought to be put under its power, and not suffered to remain under the power of the respective states. In answer to these declarations, it was urged that if, after having retained to the general government the great powers already granted, — and among those, that of raising and keeping up regular troops without limitation, — the power over the militia should be taken away from
the states, and also given to the general government, it ought to be
considered as the last coup de grace to the state governments; that it must
be the most convincing proof, the advocates of this system design the
destruction of the state governments, and that no professions to the
contrary ought to be trusted; and that every state in the Union ought to
reject such a system with indignation, since, if the general government
should attempt to oppress and enslave them, they could not have any
possible means of self-defence; because the proposed system, taking away
from the states the right of organizing, arming, and disciplining of the
militia, the first attempt made by a state to put the militia in a situation to
counteract the arbitrary measures of the general government would be
construed into an act of rebellion or treason, and Congress would instantly
march their troops into the state. It was further observed that, when a
government wishes to deprive their citizens of freedom, and reduce them to
slavery, it generally makes use of a standing army for that purpose, and
leaves the militia in a situation as contemptible as possible, lest they might
oppose its arbitrary designs — that in this system we give the general
government every provision it could wish for, and even invite it to subvert
the liberties of the states and their citizens, since we give it the right to
increase and keep up a standing army as numerous as it would wish, and,
by placing the militia under its power, enable it to leave the militia totally
unorganized, undisciplined, and even to disarm them; while the citizens, so
far from complaining of this neglect, might even esteem it a favor in the
general government, as thereby they would be freed from the burden of
militia duties, and left to their own private occupations and pleasures.
However, all arguments, and every reason which could be urged on this
subject, as well as on many others, were obliged to yield to one that was
unanswerable, a majority upon the division.

By the ninth section of this article, the importation of such persons as any
of the states now existing shall think proper to admit, shall not be
prohibited prior to the year one thousand eight hundred and eight; but a
duty may be imposed on such importation not exceeding ten dollars each
person.

The design of this clause is to prevent the general government from
prohibiting the importation of slaves; but the same reasons which caused
them to strike out the word “national,” and not admit the word “stamps,”
influenced them here to guard against the word “slaves.” They anxiously
sought to avoid the admission of expressions which might be odious in the
ears of Americans, although they were willing to admit into their system those things which the expressions signified; and hence it is that the clause is so worded as really to authorize the general government to impose a duty of ten dollars on every foreigner who comes into a state to become a citizen, whether he comes absolutely free, or qualifiedly so as a servant; although this is contrary to the design of the framers, and the duty was only meant to extend to the importation of slaves.

This clause was the subject of a great diversity of sentiment in the Convention. As the system was reported by the committee of detail, the provision was general, that such importation should not be prohibited, without confining it to any particular period. This was rejected by eight states — Georgia, South Carolina, and, I think, North Carolina, voting for it.

We were then told by the delegates of the two first of those states, that their states would never agree to a system which put it in the power of the general government to prevent the importation of slaves, and that they, as delegates from those states, must withhold their assent from such a system.

A committee of one member from each state was chosen by ballot, to take this part of the system under their consideration, and to endeavor to agree upon some report which should reconcile those states. To this committee also was referred the following proposition, which had been reported by the committee of detail, viz.: “No navigation act shall be passed without the assent of two thirds of the members present in each house” — a proposition which the staple and commercial states were solicitous to retain, lest their commerce should be placed too much under the power of the Eastern States, but which these last states were as anxious to reject. This committee — of which also I had the honor to be a member — met, and took under their consideration the subjects committed to them. I found the Eastern States, notwithstanding their aversion to slavery, were very willing to indulge the Southern States at least with a temporary liberty to prosecute the slave trade, provided the Southern States would, in their turn, gratify them, by laying no restriction on navigation acts; and after a very little time, the committee, by a great majority, agreed on a report, by which the general government was to be prohibited from preventing the importation of slaves for a limited time, and the restrictive clause relative to navigation acts was to be omitted.

This report was adopted by a majority of the Convention, but not without
considerable opposition. It was said that we had just assumed a place among independent nations, in consequence of our opposition to the attempts of Great Britain to *enslave us*; that this opposition was grounded upon the preservation of those rights to which God and nature had entitled us, not in *particular*, but in *common* with the rest of all mankind — that we had appealed to the Supreme Being for his assistance, as the God of freedom, who could not but approve our efforts to preserve the *rights* which he had thus imparted to his creatures — that now, when we scarcely had risen from our knees, from supplicating his aid and protection, in forming our government over a free people, — a government formed *pretendedly* on the principles of liberty, and for its preservation, — in that government to have a provision not only putting it out of its power to restrain and prevent the slave trade, but even encouraging that most infamous traffic, by giving the states power and influence in the Union in proportion as they cruelly and wantonly sport with the rights of their fellow-creatures, ought to be considered as a solemn mockery of, and insult to, that God whose protection we had then implored; and could not fail to hold us up in detestation, and render us contemptible to every true friend of liberty in the world. It was said, it ought to be considered, that national crimes can only be, and frequently are, punished in this world by national punishments; and that the continuance of the slave trade, and thus giving it a national *sanction and encouragement*, ought to be considered as justly exposing us to the displeasure and vengeance of Him who is equally Lord of all, and who views with equal eye the poor African slave and his American master.

It was urged that, by this system, we were giving the general government full and absolute power to regulate commerce, under which general power it would have a right to restrain, or totally prohibit, the slave trade; it must therefore appear to the world absurd and disgraceful, to the last degree, that we should except from the exercise of that power the only branch of commerce which is unjustifiable in its nature, and contrary to the rights of mankind — that, on the contrary, we ought rather to prohibit expressly, in our Constitution, the further importation of slaves; and to authorize the general government, from time to time, to make such regulations as should be thought most advantageous for the gradual abolition of slavery, and the emancipation of the slaves which are already in the states — that slavery is inconsistent with the genius of republicanism, and has a tendency to destroy those principles on which it is supported, as it lessens the sense of the equal rights of mankind, and habituates us to tyranny and oppression.
It was further urged that, by this system of government, every state is to be protected both from foreign invasion and from domestic insurrections; that, from this consideration, it was of the utmost importance it should have a power to restrain the importation of slaves, since, in proportion as the number of slaves was increased in any state, in the same proportion the state is weakened and exposed to foreign invasion or domestic insurrection, and by so much less will it be able to protect itself against either; and therefore will, by so much the more, want aid from, and be a burden to, the Union. It was further said that as, in this system, we were giving the general government a power, under the idea of national character or national interest, to regulate even our weights and measures, and have prohibited all possibility of emitting paper money, and passing insolvent laws, &c., it must appear still more extraordinary, that we should prohibit the government from interfering with the slave trade, than which nothing could so materially affect both our national honor and interest. These reasons influenced me, both on the committee and in Convention, most decidedly to oppose and vote against the clause, as it now makes a part of the system.

You will perceive, sir, not only that the general government is prohibited from interfering in the slave trade before the year eighteen hundred and eight, but that there is no provision in the Constitution that it shall afterwards be prohibited, nor any security that such prohibition will ever take place; and I think there is great reason to believe that, if the importation of slaves is permitted until the year eighteen hundred and eight, it will not be prohibited afterwards. At this time we do not generally hold this commerce in so great abhorrence as we have done. When our liberties were at stake, we warmly felt for the common rights of men. The danger being thought to be past which threatened ourselves, we are daily growing more insensible to those rights. In those states which have restrained or prohibited the importation of slaves, it is only done by legislative acts which may be repealed. When those states find that they must in their national character and connection, suffer in the disgrace, and share in the inconveniences, attendant upon that detestable and iniquitous traffic, they may be desirous also to share in the benefits arising from it; and the odium attending it will be greatly effaced by the sanction which is given to it in the general government.

By the next paragraph, the general government is to have a power of suspending the *habeas corpus* act, in cases of rebellion or invasion.
As the state governments have a power of suspending the *habeas corpus* act in those cases, it was said there could be no reason for giving such a power to the general government, since, whenever the state which is invaded, or in which an insurrection takes place, finds its safety requires it, it will make use of that power; and it was urged that, if we gave this power to the general government, it would be an engine of oppression in its hands, since, whenever a state should oppose its views, however arbitrary and unconstitutional, and refuse submission to them, the general government may declare it an act of rebellion, and, suspending the *habeas corpus* act, may seize upon the persons of those advocates of freedom who have had virtue and resolution enough to excite the opposition, and may imprison them during its pleasure in the remotest part of the Union, so that a citizen of Georgia might be *Bastiled* in the farthest part of New Hampshire, or a citizen of New Hampshire in the farthest extreme to the south, — cut off from their family, their friends, and their every connection. These considerations induced me, sir, to give my negative also to this clause.

In this same section, there is a provision that no preference shall be given to the ports of *one state over another*, and that vessels bound to or from one state shall not be obliged to enter, clear, or pay duties, in another. This provision, as well as that which relates to the uniformity of impost duties and excises, was introduced, sir, by the delegation of this state. Without such a provision, it would have been in the power of the general government to compel all ships sailing into or out of the Chesapeake, to clear and enter at Norfolk, or some port in Virginia — a regulation which would be extremely injurious to our commerce, but which would, if considered merely as to the interest of the Union, perhaps not be thought unreasonable, since it would render the collection of the revenue arising from commerce more certain and less expensive.

But, sir, as the system is now reported, the general government have a power to establish what ports they please in each state, and to ascertain at what ports in every state ships shall clear and enter in such state — a power which may be so used as to destroy the effect of that provision, since by it may be established a port in such a place as shall be so inconvenient to the states as to render it more eligible for their shipping to clear and enter in another than in their own states. Suppose, for instance, the general government should determine that all ships which cleared or entered in Maryland should clear and enter at Georgetown, on the Potomac; it would oblige all the ships which sailed from, or were bound to, any other port of
Maryland, to clear or enter in some port in Virginia. To prevent such a use of the power which the general government now has of limiting the number of ports in a state, and fixing the place or places where they shall be, we endeavored to obtain a provision, that the general government should only, in the first instance, have authority to ascertain the number of ports proper to be established in each state, and transmit information thereof to the several states, the legislatures of which, respectively, should have the power to fix the places where those ports should be, according to their idea of what would be most advantageous to the commerce of their state, and most for the ease and convenience of their citizens; and that the general government should not interfere in the establishment of the places, unless the legislature of the state should neglect or refuse so to do; but we could not obtain this alteration.

By the tenth section, every state is prohibited from emitting bills of credit. As it was reported by the committee of detail, the states were only prohibited from emitting them without the consent of Congress; but the Convention was so smitten with the paper-money dread, that they insisted the prohibition should be absolute. It was my opinion, sir, that the states ought not to be totally deprived of the right to emit bills of credit, and that, as we had not given an authority to the general government for that purpose, it was the more necessary to retain it in the states. I considered that this state, and some others, have formerly received great benefit from paper emissions, and that, if public and private credit should once more be restored, such emissions may hereafter be equally advantageous; and further, that it is impossible to foresee that events may not take place which shall render paper money of absolute necessity; and it was my opinion, if this power was not to be exercised by a state without the permission of the general government, it ought to be satisfactory even to those who were the most haunted by the apprehensions of paper money. I therefore thought it my duty to vote against this part of the system.

The same section also puts it out of the power of the states to make any thing but gold and silver coin a tender in payment of debts, or to pass any law impairing the obligation of contracts.

I considered, sir, that there might be times of such great public calamities and distress, and of such extreme scarcity of specie, as should render it the duty of a government, for the preservation of even the most valuable part of its citizens, in some measure to interfere in their favor, by passing laws
totally or partially stopping courts of justice; or authorizing the debtor to pay by instalments, or by delivering up his property to his creditors at a reasonable and honest valuation. The times have been such as to render regulations of this kind necessary in most or all of the states, to prevent the wealthy creditor and the moneymaker from totally destroying the poor, though industrious debtor. Such times may again arrive. I therefore voted against depriving the states of this power — a power which I am decided they ought to possess, but which, I admit, ought only to be exercised on very important and urgent occasions. I apprehend, sir, the principal cause of complaint among the people at large is, the public and private debt with which they are oppressed, and which, in the present scarcity of cash, threatens them with destruction, unless they can obtain so much indulgence, in point of time, that, by industry and frugality, they may extricate themselves.

This government proposal, I apprehend, so far from removing, will greatly increase those complaints, since, grasping in its all-powerful hand the citizens of the respective states, it will, by the imposition of the variety of taxes, imposts, stamps, excises, and other duties, squeeze from them the little money they may acquire, the hard earnings of their industry, as you would squeeze the juice from an orange, till not a drop more can be extracted; and then let loose upon them their private creditors, to whose mercy it consigns them, by whom their property is to be seized upon and sold, in this scarcity of specie, at a sheriff's sale, where nothing but ready cash can be received, for a tenth part of its value, and themselves and their families to be consigned to indigence and distress, without their governments having a power to give them a moment's indulgence, however necessary it might be, and however desirous to grant them aid.

By this same section, every state is also prohibited from laying any imposts, or duties, on imports or exports, without the permission of the general government. It was urged that, as almost all sources of taxation were given to Congress, it would be but reasonable to leave the states the power of bringing revenue into their treasuries by laying a duty on exports, if they should think proper, which might be so light as not to injure or discourage industry, and yet might be productive of considerable revenue; also, that there might be cases in which it would be proper, for the purpose of encouraging manufactures, to lay duties to prohibit the exportation of raw materials, and, even in addition to the duties laid by Congress on imports, for the sake of revenue, to lay a duty to discourage the importation of
particular articles into a state, or to enable the manufacturer here to supply us on as good terms as they could be obtained from a foreign market. However, the most we could obtain was, that this power might be exercised by the states with, and only with, the consent of Congress, and subject to its control; and so anxious were they to seize on every shilling of our money for the general government, that they insisted even the little revenue, that might thus arise, should not be appropriated to the use of the respective states where it was collected, but should be paid into the treasury of the United States; and accordingly it is so determined.

The second article relates to the executive — his mode of election, his powers, and the length of time he should continue in office.

On these subjects there was a great diversity of sentiment. Many of the members were desirous that the President should be elected for seven years, and not to be eligible a second time. Others proposed that he should not be absolutely ineligible, but that he should not be capable of being chosen a second time, until the expiration of a certain number of years. The supporters of the above proposition went upon the idea that the best security for liberty was a limited duration, and a rotation of office, in the chief executive department.

There was a party who attempted to have the President appointed during good behavior, without any limitation as to time; and, not being able to succeed in that attempt, they then endeavored to have him reeligible without any restraint. It was objected that the choice of a President to continue in office during good behavior, would at once be rendering our system an elective monarchy; and that, if the President was to be reeligible without any interval of disqualification, it would amount nearly to the same thing, since, from the powers that the President is to enjoy, and the interests and influence with which they will be attended, he will be almost absolutely certain of being reelected from time to time, as long as he lives. As the propositions were reported by the committee of the whole house, the President was to be chosen for seven years, and not to be eligible at any time after. In the same manner, the proposition was agreed to in Convention; and so it was reported by the committee of detail, although a variety of attempts were made to alter that part of the system by those who were of a contrary opinion, in which they repealedly failed; but, sir, by never losing sight of their object, and choosing a proper time for their purpose, they succeeded, at length, in obtaining the alteration, which was
not made until within the last twelve days before the Convention adjourned.

As these propositions were agreed to by the committee of the whole house, the President was to be appointed by the national legislature; and, as it was reported by the committee of detail, the choice was to be made by ballot, in such a manner that the states should have an equal voice in the appointment of this officer, as they, of right, ought to have; but those who wished, as far as possible, to establish a national instead of a federal government, made repeated attempts to have the President chosen by the people at large. On this the sense of the Convention was taken, I think, not less than three times while I was there, and as often rejected; but within the last fortnight of their session, they obtained the alteration in the manner it now stands, by which the large states have a very undue influence in the appointment of the President. There is no case where the states will have an equal voice in the appointment of the President, except where two persons shall have an equal number of votes, and those a majority of the whole number of electors, — a case very unlikely to happen, — or where no person has the majority of the votes. In these instances, the House of Representatives are to choose by ballot, each state having an equal voice; but they are confined, in the last instance, to the five who have the greatest number of votes, which gives the largest states a very unequal chance of having the President chosen under their nomination.

As to the Vice-President, — that great officer of government, who is, in case of the death, resignation, removal, or inability, of the President, to supply his place, and be vested with his powers, and who is officially to be president of the Senate, — there is no provision by which a majority of the voices of the electors are necessary to his appointment; but after it is decided who is chosen President, that person who has the next number of votes of the electors is declared to be legally elected to the vice-presidency; so that, by this system, it is very possible, and not improbable, that he might be appointed by the electors of a single large state; and a very undue influence in the Senate is given to that state of which the Vice-President is a citizen, since, in every question where the Senate is divided, that state will have two votes — the president having, on those occasions, a casting voice. Every part of the system which relates to the Vice-President, as well as the present mode of electing the President, was introduced and agreed upon after I left Philadelphia.
Objections were made to that part of this article by which the President is appointed commander-in-chief of the army and navy of the United States, and of the militia of the several states; and it was wished to be so far restrained, that he should not command in person; but this could not be obtained. The power given to the President of granting reprieves and pardons was also thought extremely dangerous, and as such opposed. The President thereby has the power of pardoning those who are guilty of treason, as well as of other offences. It was said that no treason was so likely to take place as that in which the President himself might be engaged — the attempt to assume to himself powers not given by the Constitution, and establish himself in regal authority: in which attempt a provision is made for him to secure from punishment the creatures of his ambition, the associates and abettors of his treasonable practices, by granting them pardons, should they be defeated in their attempts to subvert the Constitution.

To that part of this article, also, which gives the President a right to nominate, and with the consent of the Senate to appoint, all the officers, civil and military, of the United States, there was considerable opposition. It was said that the person who nominates will always in reality appoint, and that this was giving the President a power and influence which, together with the other powers bestowed upon him, would place him above all restraint or control. In fine, it was urged that the President, as here constituted, was a king in every thing but the name; that though he was to be chosen for a limited time, yet, at the expiration of that time, if he is not reëlected, it will depend entirely upon his own moderation whether he will resign that authority with which he has once been invested — that, from his having the appointment of all the variety of officers in every part of the civil department for the Union, who will be very numerous in themselves and their connections, relations, friends, and dependants, he will have a formidable host devoted to his interest, and ready to support his ambitious views — that the army and navy, which may be increased without restraint as to numbers; the officers of which, from the highest to the lowest, are all to be appointed by him, and dependent on his will and pleasure, and commanded by him in person, will, of course, be subservient to his wishes, and ready to execute his commands; in addition to which, the militia are also entirely subjected to his orders — that these circumstances, combined together, will enable him, when he pleases, to become a king in name, as well as in substance, and establish himself in office not only for his own life, but even, if he chooses, to have that authority perpetuated to his family.
It was further observed, that the only appearance of responsibility in the President, which the system holds up to our view, is the provision for impeachment; but that, when we reflect that he cannot be impeached but by the House of Delegates, and that the members of this house are rendered dependent upon, and unduly under the influence of, the President, by being appointable to offices of which he has the sole nomination, so that, without his favor and approbation, they cannot obtain them, there is little reason to believe that a majority will ever concur in impeaching the President, let his conduct be ever so reprehensible; especially, too, as the final event of that impeachment will depend upon a different body, and the members of the House of Delegates will be certain, should the decision be ultimately in favor of the President, to become thereby the objects of his displeasure, and to bar to themselves every avenue to the emoluments of government.

Should he, contrary to probability, be impeached, he is afterwards to be tried and adjudged by the Senate, and without the concurrence of two thirds of the members who shall be present, he cannot be convicted. This Senate being constituted a privy council to the President, it is probable many of its leading and influential members may have advised or concurred in the very measures for which he may be impeached. The members of the Senate also are, by the system, placed as unduly under the influence of, and dependent upon, the President, as the members of the other branch, since they also are appointable to offices, and cannot obtain them but through the favor of the President.

There will be great, important, and valuable offices under this government, should it take place, more than sufficient to enable him to hold out the expectation of one of them to each of the senators. Under these circumstances, will any person conceive it to be difficult for the President always to secure to himself more than one third of that body? Or can it reasonably be believed that a criminal will be convicted, who is constitutionally empowered to bribe his judges, at the head of whom is to preside, on those occasions, the chief justice — which officer, in his original appointment, must be nominated by the President, and will, therefore, probably, be appointed, not so much for his eminence in legal knowledge, and for his integrity, as from favoritism and influence; since the President, knowing that, in case of impeachment, the chief justice is to preside at his trial, will naturally wish to fill that office with a person of whose voice and influence he shall consider himself secure. These are reasons to induce a
belief that there will be but little probability of the President ever being either impeached or convicted. But it was also urged that, vested with the powers which the system gives him, and with the influence attendant upon those powers, to him it would be of little consequence whether he was impeached or convicted, since he will be able to set both at defiance. These considerations occasioned a part of the Convention to give a negative to this part of the system establishing the executive as it is now offered for our acceptance.

By the third article, the judicial power of the United States is vested in one Supreme Court, and in such inferior courts as the Congress may, from time to time, ordain and establish. These courts, and these only, will have a right to decide upon the laws of the United States, and all questions arising upon their construction, and in a judicial manner to carry those laws into execution; to which the courts, both superior and inferior, of the respective states, and their judges and other magistrates, are rendered incompetent. To the courts of the general government are also confined all cases, in law or equity, arising under the proposed Constitution and treaties made under the authority of the United States — all cases affecting ambassadors, other public ministers, and consuls — all cases of admiralty and maritime jurisdiction — all controversies to which the United States are a party — all controversies between two or more states; between citizens of the same state, claiming lands under grants of different states; and between a state, or the citizens thereof, and foreign states, citizens, or subjects. Whether, therefore, any laws or regulations of the Congress, any acts of its President or other officers, are contrary to, or not warranted by, the Constitution, rests only with the judges, who are appointed by Congress, to determine; by whose determinations every state must be bound. Should any question arise between a foreign consul and any of the citizens of the United States, however remote from the seat of empire, it is to be heard before the judiciary of the general government, and, in the first instance, to be heard in the Supreme Court, however inconvenient to the parties, and however trifling the subject of dispute.

Should the mariners of an American or foreign vessel, while in any American port, have occasion to sue for their wages, or, in any other instance, a controversy belonging to the admiralty jurisdiction should take place between them and their masters or owners, it is in the courts of the general government the suit must be instituted; and either party may carry it by appeal to its Supreme Court. The injury to commerce, and the
oppression to individuals, which may thence arise, need not be enlarged upon. Should a citizen of Virginia, Pennsylvania, or any other of the United States, be indebted to, or have debts due from, a citizen of this state, or any other claim be subsisting on one side or the other, in consequence of commercial or other transactions, it is only in the courts of Congress that either can apply for redress. The case is the same should any claim subsist between citizens of this state and foreigners, merchants, mariners, and others, whether of a commercial or of any other nature: they must be prosecuted in the same courts; and, though in the first instance they may be brought in the inferior, yet an appeal may be made to the supreme judiciary, even from the remotest state in the Union.

The inquiry concerning, and trial of, every offence against, and breach of, the laws of Congress, are also confined to its courts. The same courts also have the sole right to inquire concerning and try every offence, from the lowest to the highest, committed by the citizens of any other state, or of a foreign nation, against the laws of this state within its territory; and in all these cases the decision may be ultimately brought before the supreme tribunal, since the appellate jurisdiction extends to criminal as well as to civil cases.

And in all those cases, where the general government has jurisdiction in civil questions, the proposed Constitution not only makes no provision for the trial by jury in the first instance, but, by its appellate jurisdiction, absolutely takes away that inestimable privilege, since it expressly declares the Supreme Court shall have appellate jurisdiction both as to law and fact. Should, therefore, a jury be adopted in the inferior court, it would only be a needless expense, since, on an appeal, the determination of that jury, even on questions of fact, however honest and upright, is to be of no possible effect. The Supreme Court is to take up all questions of fact; to examine the evidence relative thereto; to decide upon them, in the same manner as if they had never been tried by a jury. Nor is trial by jury secured in criminal cases. It is true that, in the first instance, in the inferior court, the trial is to be by jury. In this, and in this only, is the difference between criminal and civil cases. But, sir, the appellate jurisdiction extends, as I have observed, to cases criminal, as well as civil, and on the appeal the court is to decide not only on the law but on the fact. If, therefore, even in criminal cases, the general government is not satisfied with the verdict of the jury, its officer may remove the prosecution to the Supreme Court; and there the verdict of the jury is to be of no effect, but the judges of this court are to decide upon
the fact as well as the law, the same as in civil cases.

Thus, sir, jury trials, which have ever been the boast of the English constitution, — which have been by our several state constitutions so cautiously secured to us, — jury trials, which have so long been considered the surest barrier against arbitrary power, and the palladium of liberty, with the loss of which the loss of our freedom may be dated, are taken away by the proposed form of government, not only in a great variety of questions between individual and individual, but in every case, whether civil or criminal, arising under the laws of the United States, or the execution of those laws. It is taken away in those very cases where, of all others, it is most essential for our liberty to have it sacredly guarded and preserved; in every case, whether civil or criminal, between government and its officers on the one part, and the subject or citizen on the other. Nor was this the effect of inattention, nor did it arise from any real difficulty in establishing and securing jury trials by the proposed Constitution if the Convention had wished so to do; but the same reason influenced here as in the case of the establishment of the inferior courts. As they could not trust state judges, so would they not confide in state juries. They alleged that the general government and the state governments would always be at variance — that the citizens of the different states would enter into the views and interests of their respective states, and therefore ought not to be trusted in determining causes in which the general government was any way interested, without giving the general government an opportunity, if it disapproved the verdict of the jury, to appeal, and to have the facts examined into again, and decided upon by its own judges, on whom it was thought a reliance might be had by the general government, they being appointed under its authority.

Thus, sir, in consequence of this appellate jurisdiction, and its extension to facts as well as to law, every arbitrary act of the general government, and every oppression of all that variety of officers appointed under its authority for the collection of taxes, duties, impost, excise, and other purposes, must be submitted to by the individual, or must be opposed with little prospect of success, and almost a certain prospect of ruin, at least in those cases where the middle and common class of citizens are interested. Since, to avoid that oppression, or to obtain redress, the application must be made to one of the courts of the United States, — by good fortune, should this application be in the first instance attended with success, and should damages be recovered equivalent to the injury sustained, an appeal lies to the Supreme Court, in
which case the citizen must at once give up his cause, or he must attend to it at the distance, perhaps, of more than a thousand miles from the place of his residence, and must take measures to procure before that court, on the appeal, all the evidence necessary to support his action, which, even if ultimately prosperous, must be attended with a loss of time, a neglect of business, and an expense, which will be greater than the original grievance, and to which men in moderate circumstances would be utterly unequal.

By the third section of this article, it is declared that treason against the United States shall consist in levying war against them, or in adhering to their enemies, giving them aid or comfort.

By the principles of the American revolution, arbitrary power may, and ought to, be resisted even by arms, if necessary. The time may come when it shall be the duty of a state, in order to preserve itself from the oppression of the general government, to have recourse to the sword; in which case, the proposed form of government declares, that the state, and every one of its citizens who acts under its authority, are guilty of a direct act of treason; reducing, by this provision, the different states to this alternative, — that they must tamely and passively yield to despotism, or their citizens must oppose it at the hazard of the halter, if unsuccessful; and reducing the citizens of the state which shall take arms to a situation in which they must be exposed to punishment, let them act as they will — since, if they obey the authority of their state government, they will be guilty of treason against the United States; if they join the general government, they will be guilty of treason against their own state.

To save the citizens of the respective states from this disagreeable dilemma, and to secure them from being punishable as traitors to the United States, when acting expressly in obedience to the authority of their own state, I wished to have obtained, as an amendment to the third section of this article, the following clause: —

“Provided, That no act or acts done by one or more of the states against the United States, or by any citizen of any one of the United States, under the authority of one or more of the said states, shall be deemed treason, or punished as such; but in case of war being levied by one or more of the states against the United States, the conduct of each party towards the other, and their adherents respectively, shall be regulated by the laws of war and of nations.”
But this provision was not adopted, being too much opposed to the great object of many of the leading members of the Convention, which was, by all means to leave the states at the mercy of the general government, since they could not succeed in their immediate and entire abolition.

By the third section of the fourth article no new state shall be formed or erected within the jurisdiction of any other state, without the consent of the legislature of such state.

There are a number of states which are so circumstanced, with respect to themselves and to the other states, that every principle of justice and sound policy requires their dismemberment, or division into smaller states. Massachusetts is divided into two districts, totally separated from each other by the state of New Hampshire, on the north-east side of which lie the provinces of Maine and Sagadahock, more extensive in point of territory, but less populous, than old Massachusetts, which lies on the other side of New Hampshire. No person can cast his eye on the map of that state, but he must in a moment admit, that every argument drawn from convenience, interest, and justice, requires that the provinces of Maine and Sagadahock should be erected into a new state, and that they should not be compelled to remain connected with old Massachusetts, under all the inconveniences of their situation.

The state of Georgia is larger in extent than the whole island of Great Britain, extending from its sea-coast to the Mississippi, a distance of eight hundred miles or more: its breadth, for the most part, about three hundred miles. The states of North Carolina and Virginia, in the same manner, reach from the sea-coast unto the Mississippi.

The hardship, the inconvenience, and the injustice, of compelling the inhabitants of those states who may dwell on the western side of the mountains, and along the Ohio and Mississippi Rivers, to remain connected with the inhabitants of those states, respectively, on the Atlantic side of the mountains, and subject to the same state governments, would be such as would, in my opinion, justify even recourse to arms, to free themselves from, and to shake off, so ignominious a yoke.

This representation was made in Convention; and it was further urged, that the territory of these states was too large, and that the inhabitants thereof
would be too much disconnected for a republican government to extend to them its benefits, which is only suited to a small and compact territory — that a regard also for the peace and safety of the Union ought to excite a desire that those states should become, in time, divided into separate states; since, when their population should become proportioned in degree to their territory, they would, from their strength and power, become dangerous members of a federal government. It was further said that, if the general government was not, by its Constitution, to interfere, the inconvenience would soon remed[y] itself; for that, as the population increased in those states, their legislatures would be obliged to consent to the erection of new states, to avoid the evils of a civil war. But as, by the proposed Constitution, the general government is obliged to protect each state against domestic violence, and consequently will be obliged to assist in suppress[ing] such commotions and insurrections as may take place from the struggle to have new states erected, the general government ought to have a power to decide upon the propriety and necessity of establishing or erecting a new state, even without the approbation of the legislature of such states within whose jurisdiction the new state should be erected; and for this purpose I submitted to the Convention the following proposition: “That, on the application of the inhabitants of any district of territory within the limits of any of the states, it shall be lawful for the legislature of the United States — if they shall, under all circumstances, think it reasonable — to erect the same into a new state, and admit it into the Union, without the consent of the state of which the said district may be a part.” And it was said, that we surely might trust the general government with this power with more propriety than with many others with which they were proposed to be intrusted; and that, as the general government was bound to suppress all insurrections and commotions which might arise on this subject, it ought to be in the power of the general government to decide upon it, and not in the power of the legislature of a single state, by obstinately and unreasonably opposing the erection of a new state, to prevent its taking effect, and thereby extremely to oppress that part of its citizens which live remote from and inconvenient to the seat of its government, and even to involve the Union in war to support its injustice and oppression. But, upon the vote being taken, Georgia, South Carolina, North Carolina, Virginia, Pennsylvania, Massachusetts, were in the negative. New Hampshire, Connecticut, Jersey, Delaware, and Maryland, were in the affirmative. New York was absent.

That it was inconsistent with the rights of free and independent states to
have their territory dismembered without their consent, was the principal argument used by the opponents of this proposition. The truth of the objection we readily admitted, but at the same time insisted that it was not more inconsistent with the rights of free and independent states than that inequality of suffrage and power which the larger states had extorted from the others; and that, if the smaller states yielded up their rights in that instance, they were entitled to demand from the states of extensive territory a surrender of their rights in this instance; and in a particular manner, as it was equally necessary for the true interest and happiness of the citizens of their own states, as of the Union. But, sir, although, when the large states demanded undue and improper sacrifices to be made to their pride and ambition, they treated the rights of free states with more contempt than ever a British Parliament treated the rights of her colonial establishment, yet, when a reasonable and necessary sacrifice was asked from them, they spurned the idea with ineffable disdain. They then perfectly understood the full value and the sacred obligation of state rights, and at the least attempt to infringe them, where they were concerned, they were tremblingly alive, and agonized at every pore.

When we reflect how obstinately those states contended for that unjust superiority of power in the government which they have in part obtained, and for the establishment of this superiority by the Constitution; when we reflect that they appeared willing to hazard the existence of the Union rather than not to succeed in their unjust attempt; that, should their legislatures consent to the erection of new states within their jurisdiction, it would be an immediate sacrifice of that power, to obtain which they appeared disposed to sacrifice every other consideration; when we further reflect that they now have a motive for desiring to preserve their territory entire and unbroken which they never had before, — the gratification of their ambition in possessing and exercising superior power over their sister states, — and that this Constitution is to give them the means to effect this desire of which they were formerly destitute, — the whole force of the United States pledged to them for restraining intestine commotions, and preserving to them the obedience and subjection of their citizens, even in the extremest part of their territory; — I say, sir, when we consider these things, it would be too absurd and improbable to deserve a serious answer, should any person suggest that these states mean ever to give their consent to the erection of new states within their territory. Some of them, it is true, have been, for some time past, amusing their inhabitants in those districts that wish to be erected into new states; but should this Constitution be
adopted armed with a sword and halter, to compel their obedience and subjection, they will no longer act with indecision; and the state of Maryland may, and probably will, be called upon to assist, with her wealth and her blood, in subduing the inhabitants of Franklin, Kentucky, Vermont, and the provinces of Maine and Sagadahock, in compelling them to continue in subjection to the states which respectively claim jurisdiction over them.

Let it not be forgotten, at the same time, that a great part of the territory of these large and extensive states, which they now hold in possession, and over which they now claim and exercise jurisdiction, were crown lands, unlocated and unsettled when the American revolution took place — lands which were acquired by the common blood and treasure, and which ought to have been the common stock, and for the common benefit of the Union. Let it be remembered that the state of Maryland was so deeply sensible of the injustice that these lands should be held by particular states for their own emolument, even at a time when no superiority of authority or power was annexed to extensive territory, that, in the midst of the late war, and all the dangers which threatened us, it withheld for a long time its assent to the Articles of Confederation for that reason, and, when it ratified those Articles, it entered a solemn protest against what it considered so flagrant injustice. But, sir, the question is not now whether those states shall hold that territory unjustly to themselves, but whether, by that act of injustice, they shall have superiority of power and influence over the other states, and have a constitutional right to domineer and lord it over them — nay, more, whether we will agree to a form of government by which we pledge to those states the whole force of the Union to preserve to them their extensive territory entire and unbroken, and with our blood and wealth to assist them, whenever they please to demand it, to preserve the inhabitants thereof under their subjection, for the purpose of increasing their superiority over us — of gratifying their unjust ambition — in a word, for the purpose of giving ourselves masters, and of riveting our chains!

The part of the system, which provides that no religious test shall ever be required as a qualification to any office or public trust under the United States, was adopted by a great majority of the Convention, and without much debate. However, there were some members so unfashionable as to think that a belief of the existence of a Deity, and of a state of future rewards and punishments, would be some security for the good conduct of our rulers, and that, in a Christian country, it would be at least decent to
hold out some distinction between the professors of Christianity and
downright infidelity or paganism.

The seventh article declares, that the ratification of nine states shall be
sufficient for the establishment of this Constitution, between the states
ratifying the same.

It was attempted to obtain a resolve that, if seven states, whose votes in the
first branch should amount to a majority of the representation in that
branch, concurred in the adoption of the system, it should be sufficient, and
this attempt was supported on the principle, that a majority ought to
govern the minority; but to this it was objected that, although it was true,
after a constitution and form of government is agreed on, in every act done
under and consistent with that constitution and form of government, the
act of the majority, unless otherwise agreed in the constitution, should bind
the minority, yet it was directly the reverse in originally forming a
constitution, or dissolving it — that, in originally forming a constitution, it
was necessary that every individual should agree to it, to become bound
thereby, and that, when once adopted, it could not be dissolved by consent,
unless with the consent of every individual who was party to the original
agreement — that, in forming our original federal government, every
member of that government (that is, each state) expressly consented to it —
that it is a part of the compact, made and entered into in the most solemn
manner, that there should be no dissolution or alteration of that federal
government without the consent of every state, the members of, and parties
to, the original compact — that, therefore, no alteration could be made by
the consent of a part of these states, or by the consent of the inhabitants of
a part of the states, which could either release the states so consenting from
the obligation they are under to the other states, or which could in any
manner become obligatory upon those states that should not ratify such
alterations. Satisfied of the truth of these positions, and not holding
ourselves at liberty to violate the compact, which this state had solemnly
entered into with the others, by altering it in a different manner from that
which, by the same compact, is provided and stipulated, a number of the
members, and among those the delegation of this state, opposed the
ratification of this system in any other manner than by the unanimous
consent and agreement of all the states.

By our original Articles of Confederation, any alterations proposed are, in
the first place, to be approved by Congress. Accordingly, as the resolutions
were originally adopted by the Convention, and as they were reported by
the committee of detail, it was proposed that this system should be laid
before Congress, *for their approbation.* But, sir, the warm advocates of this
system, fearing it would not meet with the approbation of Congress, and
determined, even though Congress and the respective state legislatures
should disapprove the same, to force it upon them, if possible, through the
intervention of the people at large, moved to strike out the words “for their
approbation,” and succeeded in their motion; to which, it being directly in
violation of the mode prescribed by the Articles of Confederation for the
alteration of our federal government, a part of the Convention, and myself
in the number, thought it a duty to give a decided negative.

Agreeably to the Articles of Confederation, entered into in the *most solemn
manner*, and for the *observance* of which the states pledged themselves to
each other, and called upon the *Supreme Being* as a witness and avenger
between them, no alterations are to be made in those Articles, unless, after
they are approved by Congress, they are agreed to, and ratified, by the
legislature of every state; but by the resolve of the Convention, this
Constitution is not to be ratified by the legislature of the respective states,
but is to be submitted to conventions chosen by the people, and, if ratified
by them, is to be binding.

This resolve was opposed, among others, by the delegation of Maryland.
Your delegates were of opinion that, as the form of government proposed
was, if adopted, most essentially to alter the *Constitution of this state*, and
as our Constitution had pointed out a mode by which, and by which only,
alterations were to be made therein, a convention of the people could not be
called to agree to and ratify the said form of government without a *direct
violation* of our Constitution, which it is the duty of every individual in this
state to protect and support. In this opinion all your delegates who were
attending were unanimous. I, sir, opposed it also upon a more extensive
ground, as being directly contrary to the mode of altering our federal
government, *established* in our original compact; and as such, being a *direct violation* of the mutual faith plighted by the states to each other, I
gave it my negative.

I was of opinion that the states, considered as states, in their political
capacity, are the members of a federal government — that the states in their
political capacity, or as sovereignties, are entitled, and *only entitled*,
originally to agree upon the form of, and submit themselves to, a federal
government, and afterwards, by mutual consent, to dissolve or alter it —
that every thing which relates to the formation, the dissolution, or the
alteration, of a federal government over states equally free, sovereign, and
independent, is the peculiar province of the states in their sovereign or
political capacity, in the same manner as what relates to forming alliances
or treaties of peace, amity, or commerce; and that the people at large, in
their individual capacity, have no more right to interfere in the one case
than in the other — that according to these principles we originally acted in
forming our Confederation. It was the states as states, by their
representatives in Congress, that formed the Articles of Confederation; it
was the states as states, by their legislatures, who ratified those Articles;
and it was there established and provided that the states as states (that is,
by their legislatures) should agree to any alterations that should hereafter
be proposed in the federal government, before they should be binding; and
any alterations agreed to in any other manner cannot release the states
from the obligation they are under to each other by virtue of the original
Articles of Confederation. The people of the different states never made any
objection to the manner in which the Articles of Confederation were formed
or ratified, or to the mode by which alterations were to be made in that
government: with the rights of their respective states they wished not to
interfere. Nor do I believe the people, in their individual capacity, would
ever have expected or desired to have been appealed to on the present
occasion, in violation of the rights of their respective states, if the favorers
of the proposed Constitution, imagining they had a better chance of forcing
it to be adopted by a hasty appeal to the people at large, (who could not be
so good judges of the dangerous consequence,) had not insisted upon this
mode. Nor do these positions in the least interfere with the principle, that
all power originates from the people; because, when once the people have
exercised their power in establishing and forming themselves into a state
government it never devolves back to them; nor have they a right to resume
or again to exercise that power, until such events take place as will amount
to a dissolution of their state government. And it is an established principle,
that a dissolution or alteration of a federal government doth not dissolve
the state governments which compose it. It was also my opinion that, upon
principles of sound policy, the agreement or disagreement to the proposed
system ought to have been by the state legislatures; in which case, let the
event have been what it would, there would have been but little prospect of
the public peace being disturbed thereby; whereas the attempt to force
down this system, although Congress and the respective state legislatures
should disapprove, by appealing to the people, and to procure its
establishment in a manner totally unconstitutional, has a tendency to set
the state governments and their subjects at variance with each other, to
lessen the obligations of government, to weaken the bands of society, to
introduce anarchy and confusion, and to light the torch of discord and civil
war throughout this continent. All these considerations weighed with me
most forcibly against giving my assent to the mode by which it is resolved
that this system is to be ratified, and were urged by me in opposition to the
measure.

I have now, sir, in discharge of the duty I owe to this house, given such
information as hath occurred to me, which I consider most material for
them to know; and you will easily perceive, from this detail, that a great
portion of that time, which ought to have been devoted calmly and
impartially to consider what alterations in our federal government would be
most likely to procure and preserve the happiness of the Union, was
employed in a violent struggle on the one side to obtain all power and
dominion in their own hands, and on the other to prevent it; and that the
aggrandizement of particular states, and particular individuals, appears to
have been much more the subject sought after than the welfare of our
country.

The interest of this state, not confined merely to itself, abstracted from all
others, but considered relatively, as far as was consistent with the common
interest of the other states, I thought it my duty to pursue, according to the
best opinion I could form of it.

When I took my seat in the Convention, I found them attempting to bring
forward a system which, I was sure, never had entered into the
contemplation of those I had the honor to represent, and which, upon the
fullest consideration, I considered not only injurious to the interest and
rights of this state, but also incompatible with the political happiness and
freedom of the states in general. From that time until my business
compelled me to leave the Convention, I gave it every possible opposition,
in every stage of its progression. I opposed the system there with the same
explicit frankness with which I have here given you a history of our
proceedings, an account of my own conduct, which in a particular manner I
consider you as having a right to know. While there, I endeavored to act as
became a freeman, and the delegate of a free state. Should my conduct
obtain the approbation of those who appointed me, I will not deny it would
afford me satisfaction; but to me that approbation was at most no more
than a secondary consideration: my first was, to deserve it. Left to myself to act according to the best of my discretion, my conduct should have been the same, had I been even sure your censure would have been my only reward, since I hold it sacredly my duty to dash the cup of poison, if possible, from the hand of a state, or an individual, however anxious the one or the other might be to swallow it.

Indulge me, sir, in a single observation further: There are persons who endeavor to hold up the idea that this system is only opposed by the officers of government. I, sir, am in that predicament. I have the honor to hold an appointment in this state. Had it been considered any objection, I presume I should not have been appointed to the Convention. If it could have had any effect on my mind, it would only be that of warming my heart with gratitude, and rendering me more anxious to promote the true interest of that state which has conferred on me the obligation, and to heighten my guilt, had I joined in sacrificing its essential rights. But, sir, it would be well to remember that this system is not calculated to diminish the number or the value of offices. On the contrary, if adopted, it will be productive of an enormous increase in their number. Many of them will also be of great honor and emoluments. Whether, sir, in this variety of appointments, and in the scramble for them, I might not have as good a prospect to advantage myself as many others, is not for me to say: but this, sir, I can say with truth, that, so far was I from being influenced in my conduct by interest, or the consideration of office, that I would cheerfully resign the appointment I now hold; I would bind myself never to accept another, either under the general government or that of my own state; I would do more, sir: — so destructive do I consider the present system to the happiness of my country, I would cheerfully sacrifice that share of property with which Heaven has blessed a life of industry; I would reduce myself to indigence and poverty; and those who are dearer to me than my own existence I would intrust to the care and protection of that Providence who hath so kindly protected myself; — if on those terms only I could procure my country to reject those chains which are forged for it.

[* ]On this question, Mr. Martin was the only delegate for Maryland present, which circumstance secured the state a negative. Immediately after the question had been taken, and the president had declared the votes, Mr. Jenifer came into the Convention; when Mr. King, from Massachusetts, valuing himself on Mr. Jenifer to divide the state of Maryland on this question, as he had on the former, requested of the president that the
question might be put again. However, the motion was too extraordinary in its nature to meet with success.