

Thomas Jefferson (1743-1826)

In 1786, while he was serving as ambassador to France, Thomas Jefferson received news of Shays' Rebellion, an uprising of debt-ridden farmers in Massachusetts. Daniel Shays, a veteran of the Continental Army, led hundreds of armed farmers, many of them veterans, in a protest against heavy taxation and their impoverished condition. As Howard Zinn points out in our reading from Chapter Five of A People's History of the United States, angry farmers in other New England states, such as Rhode Island and New Hampshire, were also agitating for change.

Unlike Alexander Hamilton, who sought to "check the impudence of democracy," Jefferson saw these insurgent acts as "a medicine necessary for the sound health of the government." In the letter below, written to James Madison and dated January 30, 1787, Jefferson declares, "I hold it that a little rebellion now and then is a good thing, & as necessary in the political world as storms in the physical." (Eleven months later, on December 20, 1787, Jefferson again addresses the issue of rebellion in a letter to Madison: "The late rebellion in Massachusetts [Shays' Rebellion] has given more alarm than I think it should have.")

Although "a little rebellion" does not make Jefferson uneasy, he confesses to Madison serious concern about "the possibility that the navigation of the Mississippi may be abandoned to Spain." This would result in dividing the United States into eastern and western sections, with the possibility that westerners might declare themselves a separate nation and eventually find themselves at war with Spain. What then should be the role of the United States in such a conflict? Moreover, by abandoning navigation of the Mississippi to Spain, the United States would be relinquishing five of

the eight parts of its territory and thus lose substantial income for payment of public debts.

Finally, with characteristic attention to detail and interest in technological advancement, Jefferson closes the letter below with a description of his newly developed portable copying machine. Madison will be receiving one of these machines, and Jefferson assures his friend that he "will be pleased to have one, when you shall have tried its convenience."

JMW

To James Madison: "A Little Rebellion Now and Then"

[Paris, Jan. 30, 1787]

DEAR SIR

My last to you was of the 16th of Dec, since which I have received yours of Nov 25, & Dec 4, which afforded me, as your letters always do, a treat on matters public, individual & economical. I am impatient to learn your sentiments on the late troubles in the Eastern states. So far as I have yet seen, they do not appear to threaten serious consequences. Those states have suffered by the stoppage of the channels of their commerce, which have not yet found other issues. This must render money scarce, and make the people uneasy. This uneasiness has produced acts absolutely unjustifiable; but I hope they will provoke no severities from their governments. A consciousness of those in power that their administration of the public affairs has been honest, may perhaps produce too great a degree of indignation: and those characters wherein fear predominates over hope may apprehend too much from these instances of irregularity. They may conclude too hastily that nature has formed man insusceptible of any other government but that of force, a conclusion not founded in truth, nor experience. Societies exist under three forms sufficiently distinguishable. 1. Without government, as among our Indians. 2. Under governments wherein the will of every one has a just influence, as is the case in England in a slight degree, and in our states, in a great one. 3. Under governments of force: as is the case in all other monarchies and in most of the other republics. To have an idea of the curse of existence under these last, they

must be seen. It is a government of wolves over sheep. It is a problem, not clear in my mind, that the 1st condition is not the best. But I believe it to be inconsistent with any great degree of population. The second state has a great deal of good in it. The mass of mankind under that enjoys a precious degree of liberty & happiness. It has it's [sic] evils too: the principal of which is the turbulence to which it is subject. But weigh this against the oppressions of monarchy, and it becomes nothing. *Malo periculosam, libertatem quam quietam servitutem.* Even this evil is productive of good. It prevents the degeneracy of government, and nourishes a general attention to the public affairs. I hold it that a little rebellion now and then is a good thing, & as necessary in the political world as storms in the physical. Unsuccessful rebellions indeed generally establish the encroachments on the rights of the people which have produced them. An observation of this truth should render honest republican governors so mild in their punishment of rebellions, as not to discourage them too much. It is a medicine necessary for the sound health of government. If these transactions give me no uneasiness, I feel very differently at another piece of intelligence, to wit, the possibility that the navigation of the Mississippi may be abandoned to Spain. I never had any interest Westward of the Alleghaney; & I never will have any. But I have had great opportunities of knowing the character of the people who inhabit that country. And I will venture to say that the act which abandons the navigation of the Mississippi is an act of separation between the Eastern & Western country. It is a relinquishment of five parts out of eight of the territory of the United States, an abandonment of the fairest subject for the payment of our public debts, & the chaining those debts on our own necks in perpetuum. I have the utmost confidence in the honest intentions of those who concur in this measure; but I lament their want of acquaintance with the character & physical advantages of the people who, right or wrong, will suppose their interests sacrificed on this occasion to the contrary interests of that part of the confederacy in possession of present power. If they declare themselves a separate people, we are incapable of a single effort to retain them. Our citizens can never be induced, either as militia or as souldiers, to go there to cut the throats of their own brothers & sons, or rather to be themselves the subjects instead of the perpetrators of the parricide. Nor would that country requite the cost of being retained against the will of it's inhabitants, could it be done. But it cannot be done. They are able already to rescue the navigation of the Mississippi out of the hands of Spain, & to add New Orleans to their own territory. They will be joined by the inhabitants of Louisiana. This will bring on a war between them & Spain; and that will produce the question with us whether it will not be worth our while to become parties with them in the war, in order to reunite them

with us, & thus correct our error? & were I to permit my forebodings to go one step further, I should predict that the inhabitants of the U S would force their rulers to take the affirmative of that question. I wish I may be mistaken in all these opinions. . . .

I send you by Colo. Franks, your pocket telescope, walking stick & chemical box. The two former could not be combined together. The latter could not be had in the form you referred to. Having a great desire to have a portable copying machine, & being satisfied from some experiments that the principle of the large machine might be applied in a small one, I planned one when in England & had it made. It answers perfectly. I have since set a workman to making them here, & they are in such demand that he has his hands full.

Being assured that you will be pleased to have one, when you shall have tried it's [sic] convenience, I send you one by Colo. Franks. The machine costs 96 livres, the appendages 24 livres, and I send you paper & ink for 12 livres; in all 132 livres. There is a printed paper of directions; but you must expect to make many essays before you succeed perfectly. A soft brush, like a shaving brush, is more convenient than the sponge. You can get as much ink & paper as you please from London. The paper costs a guinea a ream.

James Madison (1751-1836)

Although he is perhaps chiefly remembered in popular annals of American history as the fourth president of the United States, James Madison is included in this reader for his role in three other and more crucial events in the making of the fledgling nation: the drafting of the Constitution of the United States, keeping a written record of the secret proceedings in the Philadelphia Convention of the summer of 1787 where the Constitution was born and brought into the light of day, and coauthoring (with John Jay and Alexander Hamilton) the 85 newspaper articles that provide the most complete and thoughtful theoretical justification of the new constitution.

As a member of the Annapolis Convention of 1786, Madison had already had occasion to give serious and extended thought to the proper foundations of political authority well before the Philadelphia convention convened the following summer. Madison, in fact, arrived early in Philadelphia and had already prepared several crucial resolutions before most of the delegates had yet assembled. By thus seizing the initiative he was able to set important parts of the constitutional agenda and to establish the tone of aggressive reorganization of constitutional structure that characterized the summer's proceedings. Madison not only brought forth the initial proposal to jettison the Articles of Confederation and begin the whole process of constitution making from the ground up (which itself was an illegal proposal in view of the provision of the Articles that any changes to it would be by amendment only). He also put before the delegates the influential Virginia plan which significantly shaped the entire course of subsequent discussion. It is no exaggeration to say, as one historian recently put it, that Madison "may rightly be

considered the principal architect of the political system defined by the United States Constitution." [Drew R. McCoy, in The Reader's Companion to American History, Eric Foner and John A. Garraty, Eds. (Boston: Houghton Mifflin, 1991)].

Madison also had a unique grasp of the historical moment of the convention. It was he (among others) who urged the necessity of proceeding in secret, behind closed doors, lest the controversy of the enterprise spill over into the messier domain of public opinion and the press. But to preserve memory of what went on in the State House (now called Independence Hall) Madison took detailed notes to preserve for posterity whatever lessons might be gleaned from this actual experiment in constitution-framing. These notes provide valuable first-hand insight into the business of founding a nation on republican principles, and are often studied today by scholars of constitutional interpretation as useful clues about the "original intent" of the founders.

Notes on the Debates over the Constitution

John Randolph Presents the Virginia Plan, 1787 (from James Madison's notes)

Mr. Randolph then opened the main business. He expressed his regret, that it should fall to him, rather than those, who were of longer standing in life and political experience, to open the great subject of their mission. But, as the convention had originated from Virginia, and his colleagues supposed that some proposition was expected from them, they had imposed this task on him.

He then commented on the difficulty of the crisis, and the necessity of preventing the fulfilment of the prophecies of the American downfall.

He observed that in revising the federal system we ought to inquire (1) into the properties which such a government ought to possess, (2) the defects of the Confederation, (3) the danger of our situation, and (4) the remedy.

1. The character of such a government ought to secure (1) against foreign invasion; (2) against dissensions between members of the Union, or seditions in particular States; (3) to procure to the several States various blessings, of which an isolated situation was incapable; (4) to be able to defend itself against incroachment; and (5) to be paramount to the State Constitutions.

2. In speaking of the defects of the Confederation he professed a high respect for its authors, and considered them as having done all that patriots could do, in the then infancy of the science of constitutions and of confederacies—when the inefficiency of requisitions was unknown—no commercial discord had arisen among any States—no rebellion had appeared as in Massachusetts—foreign debts had not become urgent—the havoc of paper money had not been foreseen—treaties had not been violated—and perhaps nothing better could be obtained from the jealousy of the States with regard to their sovereignty.

He then proceeded to enumerate the defects: (1) that the Confederation produced no security against foreign invasion; Congress not being permitted to prevent a war nor to support it by their own authority. . . . (2) That the federal government could not check the quarrels between States, nor a rebellion in any, not having constitutional power nor means to interpose according to the exigency. (3) That there were many advantages which the United States might acquire, which were not attainable under the Confederation—such as a productive impost, counteraction of the commercial regulations of other nations, pushing of commerce ad libitum, etc., etc. (4) That the federal government could not defend itself against incroachments from the States. (5) That it was not even paramount to the State Constitutions, ratified, as it was in many of the States.

3. He next reviewed the danger of our situation, and appealed to the sense of the best friends of the United States—the prospect of anarchy from the laxity of government everywhere; and to other considerations.

4. He then proceeded to the remedy; the basis of which he said must be the republican principle.

He proposed as conformable to his ideas the following resolutions, which he explained one by one.

[Virginia Plan]

1. Resolved, that the Articles of Confederation ought to be so corrected and enlarged as to accomplish the objects proposed by their institution; namely, "common defence, security of liberty and general welfare."

2. Resolved therefore, that the rights of suffrage in the National Legislature ought to be

proportioned to the quotas of contribution, or to the number of free inhabitants, as the one or the other rule may seem best in different cases.

3. Resolved, that the National Legislature ought to consist of two branches.

4. Resolved, that the members of the first branch of the National Legislature ought to be elected by the people of the several States every [blank] for the term of [blank]; to be of the age of [blank] years at least, to receive liberal stipends by which they may be compensated for the devotion of their time to the public service; to be ineligible to any office established by a particular State, or under the authority of the United States, except those peculiarly belonging to the functions of the first branch, during the term of service, and for the space of [blank] after its expiration; to be incapable of re-election for the space of [blank] after the expiration of their term of service, and to be subject to recall.

5. Resolved, that the members of the second branch of the National Legislature ought to be elected by those of the first, out of a proper number of persons nominated by the individual Legislatures, to be of the age of [blank] years at least; to hold their offices for a term sufficient to ensure their independence; to receive liberal stipends, by which they may be compensated for the devotion of their time to the public service; and to be ineligible to any office established 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 for the space of [blank] after the expiration thereof.

6. Resolved, that each branch ought to possess the right of originating Acts; that the National Legislature ought to be empowered to enjoy the legislative rights vested 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 National Legislature the articles of Union; and to call forth the force of the Union against any member of the Union failing to fulfil its duty under the articles thereof.

7. Resolved, that a National Executive be instituted; to be chosen by the National Legislature for the term of [blank] years, to receive punctually at stated times, a fixed compensation for the services rendered, in which no increase nor diminution shall be made so as to affect the magistracy, existing at the time of increase or diminution, and to be ineligible a second time; and that besides a general authority to execute the national laws, it ought to enjoy the executive rights vested in Congress by the Confederation.

8. Resolved, that the Executive and a convenient number of the National Judiciary, ought to compose a Council of Revision with authority to

examine every Act of the National Legislature before it shall operate, and every Act of a particular Legislature before a negative thereon shall be final; and that the dissent of the said Council shall amount to a rejection, unless the Act of the National Legislature be again passed, or that of a particular Legislature be again negatived by [blank] of the members of each branch.

9. Resolved, that a National Judiciary be established to consist of one or more supreme tribunals, and of inferior tribunals to be chosen by the National Legislature, to hold their offices during good behaviour; and to receive punctually at stated times 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. That the jurisdiction of the inferior tribunals shall be to hear and determine in the first instance, and of the supreme tribunal to hear and determine in the dernier resort, all piracies and felonies on the high seas, captures from an enemy, cases in which foreigners or citizens of other States applying to such jurisdictions may be interested, or which respect the collection of the national revenue; impeachments of any National officers, and questions which may involve the national peace and harmony.

10. 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 and territory or otherwise, with the consent of a number of voices in the National Legislature less than the whole.

11. Resolved, that a republican government and the territory of each State, except in the instance of a voluntary junction of Government and territory, ought to be guarantied by the United States to each State.

12. Resolved, that provision ought to be made for the continuance of Congress and their authorities 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.

13. Resolved, that provision ought to be made for the amendment of the Articles of Union whensoever it shall seem necessary, and that the assent of the National Legislature ought not to be required thereto.

14. Resolved, that the legislative, executive and judiciary powers within the several States ought to be bound by oath to support the articles of Union.

15. Resolved, that the amendments which shall be offered to the Confederation by the Convention, ought at a proper time or times, after the approbation of Congress, to be submitted to an assembly or assemblies of representatives recommended by the several Legislatures to be expressly chosen by the people, to consider and decide thereon.

William Patterson Proposes the New Jersey Plan, 1787

Mr. Patterson, laid before the Convention the plan which he said several of the deputations wished to be substituted in place of that proposed by Mr. Randolph.

1. Resolved, that the articles of Confederation ought to be so revised, corrected & enlarged, as to render the federal Constitution adequate to the exigencies of Government, & the preservation of the Union.

2. Resolved, that in addition to the powers vested in the U. States in Congress, by the present existing articles of Confederation, they be authorized to pass acts for raising a revenue, by levying a duty or duties on all goods or merchandizes of foreign growth or manufacture, imported into any part of the U. States, by Stamps on paper, vellum or parchment, and by a postage on all letters or packages passing through the general post office, to be applied to such federal purposes as they shall deem proper & expedient; to make rules & regulations for the collection thereof; and the same from time to time, to alter & amend in such manner as they shall think proper: to pass Acts for the regulation of trade & commerce as well with foreign nations as with each other: provided that all punishments, fines, forfeitures & penalties to be incurred for contravening such acts rules and regulations shall be adjudged by the Common law Judiciaries of the State in which any offence contrary to the true intent & meaning of such Acts rules & regulations shall have been committed or perpetrated, . . . subject nevertheless, for the correction of all errors, both in law & fact in rendering Judgment, to an appeal to the Judiciary of the U. States.

3. Resolved, that whenever requisitions shall be necessary, instead of the rule for making requisitions mentioned in the articles of Confederation, the United States in Congress be authorized to make such requisitions in proportion to the whole number of white & other free citizens & inhabitants of every age sex and condition including those bound to servitude for a term of years & three fifths of all other persons not comprehended in the foregoing description, except Indians not paying taxes; that if such requisitions be not complied with, in the time specified therein, to direct the collection thereof in the non complying States & for that purpose to devise and pass acts directing & authorizing the same; provided that none of the powers hereby vested in the U. States in Congress shall be exercised without the consent of at least [blank] States, and in that proportion if the number of Confederated States should hereafter be increased or diminished.

4. Resolved, that the U. States in Congress be authorized to elect a federal Executive to consist of [blank] persons, to continue in office for the term of

[blank] years, 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 composing the Executive at the time of such increase or diminution, to be paid out of the federal treasury; to be incapable of holding any other office or appointment during their time of service and for [blank] years thereafter; to be ineligible a second time, & removeable by Congress on application by a majority of the Executives of the several States; that the Executives besides their general authority to execute the federal acts ought to appoint all federal officers not otherwise provided for, & to direct all military operations; provided that none of the persons composing the federal Executive shall on any occasion take command of any troops, so as personally to conduct any military enterprise as General or in other capacity.

5. Resolved, that a federal Judiciary be established to consist of a supreme Tribunal the Judges of which to be appointed by the Executive, & to hold their offices during good behaviour, 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; that the Judiciary so established shall have authority to hear & determine in the first instance on all impeachments of federal Officers, & by way of appeal in the dernier resort in all cases touching the rights of Ambassadors, in all cases of captures from an enemy, in all cases of piracies & felonies on the high Seas, in all cases in which foreigners may be interested, in the construction of any treaty or treaties, or which may arise on any of the Acts for regulation of trade, or the collection of the federal Revenue: that none of the Judiciary shall during the time they remain in office be capable of receiving or holding any other office or appointment during their time of service, or for [blank] thereafter.

6. Resolved, that all Acts of the U. States in Congress made by virtue & in pursuance of the powers hereby & by the articles of Confederation vested in them, and all Treaties made & ratified under the authority of the U. States shall be the supreme law of the respective States so far forth as those Acts or Treaties shall relate to the said States or their Citizens, and that the Judiciary of the several States shall be bound thereby in their decisions, any thing in the respective laws of the Individual States to the contrary notwithstanding; and that if any State, or any body of men in any State shall oppose or prevent the carrying into execution such acts or treaties, the federal Executive shall be authorized to call forth the power of the Confederated States, or so much thereof as may be necessary to enforce and compel an obedience to such Acts, or an observance of such Treaties.

7. Resolved, that provision be made for the admission of new States into the Union.

8. Resolved, the rule for naturalization ought to be the same in every State.

9. Resolved, that a Citizen of one State committing an offense in another State of the Union, shall be deemed guilty of the same offense as if it had been committed by a Citizen of the State in which the offense was committed.

Congress Debates the New Jersey and Virginia Plans, 1787

Mr. Lansing called for the reading of the 1st resolution of each plan, which he considered as involving principles directly in contrast; that of Mr. Patterson says he sustains the sovereignty of the respective States, that of Mr. Randolph destroys it: the latter requires a negative on all the laws of the particular States; the former, only certain general powers for the general good. The plan of Mr. R. in short absorbs all power except what may be exercised in the little local matters of the States which are not objects worthy of the supreme cognizance. He grounded his preference of Mr. P.'s plan, chiefly on two objections against that of Mr. R. 1. want of power in the Convention to discuss & propose it. 2. the improbability of its being adopted. 1. He was decidedly of opinion that the power of the Convention was restrained to amendments of a federal nature, and having for their basis the Confederacy in being. The Act of Congress, the tenor of the Acts of the States, the Commissions produced by the several deputations all proved this. And this limitation of the power to an amendment of the Confederacy, marked the opinion of the States, that it was unnecessary & improper to go farther. He was sure that this was the case with his State. N. York would never have concurred in sending deputies to the convention, if she had supposed the deliberations were to turn on a consolidation of the States, and a National Government.

2. was it probable that the States would adopt & ratify a scheme, which they had never authorized us to propose? and which so far exceeded what they regarded as sufficient? . . . The States will never feel a sufficient confidence in a general Government to give it a negative on their laws. The Scheme is itself totally novel. There is no parallel to it to be found. The authority of Congress is familiar to the people, and an augmentation of the powers of Congress will be readily approved by them.

Mr. Patterson, said as he had on a former occasion given his sentiments on the plan proposed by Mr. R. he would now avoiding repetition as much as possible give his reasons in favor of that proposed by himself. He preferred it because it accorded 1. with the powers of the Convention, 2. with the sentiments of the people. If the confederacy was radically wrong, let us return to our States, and obtain larger powers, not assume them of ourselves. . . . Our object is not such a

Government as may be best in itself, but such a one as our Constituents have authorized us to prepare, and as they will approve. If we argue the matter on the supposition that no Confederacy at present exists, it can not be denied that all the States stand on the footing of equal sovereignty. All therefore must concur before any can be bound. If a proportional representation be right, why do we not vote so here? If we argue on the fact that a federal compact actually exists, and consult the articles of it we still find an equal Sovereignty to be the basis of it. He reads the 5th art: of the Confederation giving each State a vote— & the 13th declaring that no alteration shall be made without unanimous consent. This is the nature of all treaties. . . . It is urged that two branches in the Legislature are necessary. Why? for the purpose of a check. But the reason for the precaution is not applicable to this case. Within a particular State, where party heats prevail, such a check may be necessary. In such a body as Congress it is less necessary, and besides, the delegations of the different States are checks on each other. Do the people at large complain of Congress? No, what they wish is that Congress may have more power. If the power now proposed be not eno', the people hereafter will make additions to it. With proper powers Congress will act with more energy & wisdom than the proposed National Legislature; being fewer in number, and more secreted & refined by the mode of election. The plan of Mr. R. will also be enormously expensive. Allowing Georgia & Delaware two representatives each in the popular branch the aggregate number of that branch will be 180. Add to it half as many for the other branch and you have 270. Members coming once at least a year from the most distant as well as the most central parts of the republic. In the present deranged state of our finances can so expensive a system be seriously thought of? By enlarging the powers of Congress the greatest part of this expence will be saved, and all purposes will be answered. At least a trial ought to be made.

Mr. [James] Wilson [Pennsylvania] entered into a contrast of the principal points of the two plans so far he said as there had been time to examine the one last proposed. These points were 1. in the Virginia plan there are 2 & in some degree 3 branches in the Legislature: in the plan from N.J. there is to be a single legislature only—2. Representation of the people at large is the basis of the one:—the State Legislatures, the pillars of the other—3. proportional representation prevails in one:— equality of suffrage in the other—4. A single Executive Magistrate is at the head of the one:— a plurality is held out in the other.—5. in the one the majority of the people of the U. S. must prevail:—in the other a minority may prevail. 6. the National Legislature is to make laws in all cases to which the separate States are incompetent &—:—in place of this Congress are to have additional

power in a few cases only—7. A negative on the laws of the States:—in place of this coercion to be substituted—8. The Executive to be removeable on impeachment & conviction;—in one plan: in the other to be removeable at the instance of a majority of the Executives of the States—9. Revision of the laws provided for in one:— no such check in the other—10. inferior national tribunals in one:— none such in the other. 11. In the one jurisdiction of National tribunals to extend &c—; an appellate jurisdiction only allowed in the other. 12. Here the jurisdiction is to extend to all cases affecting the National peace & harmony: there, a few cases only are marked out. 13. finally the ratification is in this to be by the people themselves:— in that by the legislative authorities according to the 13 art: of the Confederation.

With regard to the power of the Convention, he conceived himself authorized to conclude nothing, but to be at liberty to propose any thing. In this particular he felt himself perfectly indifferent to the two plans.

With regard to the sentiments of the people, he conceived it difficult to know precisely what they are. Those of the particular circle in which one moved, were commonly mistaken for the general voice. He could not persuade himself that the State Governments & Sovereignties were so much the idols of the people, nor a National Government so obnoxious to them, as some supposed. . . . Where do the people look at present for relief from the evils of which they complain? Is it from an internal reform of their Governments? no, Sir. It is from the National Councils that relief is expected. For these reasons he did not fear, that the people would not follow us into a national Government and it will be a further recommendation of Mr. R.'s plan that it is to be submitted to them, and not to the Legislatures, for ratification.

Proceeding now to the 1st point on which he had contrasted the two plans, he observed that anxious as he was for some augmentation of the federal powers, it would be with extreme reluctance indeed that he could ever consent to give powers to Congress he had two reasons either of which was sufficient. 1. Congress as a Legislative body does not stand on the people. 2. it is a single body. 1. He would not repeat the remarks he had formerly made on the principles of Representation, he would only say that an inequality in it, has ever been a poison contaminating every branch of Government. . . . The Impost, so anxiously wished for by the public was defeated not by any of the larger States in the Union. 2. Congress is a single Legislature. Despotism comes on Mankind in different Shapes, sometimes in an Executive, sometimes in a Military, one. Is there no danger of a Legislative despotism? Theory & practice both proclaim it. If the Legislative authority be not restrained, there can be neither liberty nor stability; and it can only be

restrained by dividing it within itself, into distinct and independent branches. In a single House there is no check, but the inadequate one, of the virtue & good sense of those who compose it.

On another great point, the contrast was equally favorable to the plan reported by the Committee of the whole. It vested the Executive powers in a single Magistrate. The plan of N. Jersey, vested them in a plurality. In order to controul the Legislative authority, you must divide it. In order to controul the Executive you must unite it. One man will be more responsible than three. Three will contend among themselves till one becomes the master of his colleagues. In the triumvirates of Rome first Caesar, then Augustus, are witnesses of this truth. The Kings of Sparta, & the Consuls of Rome prove also the factious consequences of dividing the Executive Magistracy. . . .

Mr. [Charles] PINKNEY [South Carolina], the whole comes to this as he conceived. Give N. Jersey an equal vote, and she will dismiss her scruples, and concur in the National system. He thought the Convention authorized to go any length in recommending, which they found necessary to remedy the evils which produced this Convention. . . .

Democracy and the Lower House Notes from May 31, 1787

In committee of the whole on Mr. Randolph's propositions.

The 3d Resolution "that the National Legislature ought to consist of two branches" was agreed to without debate or dissent, except that of Pennsylvania, given probably from complaisance to Doctor Franklin, who was understood to be partial to a single House of legislation.

Resolution 4, first clause "that the members of the first branch of the National Legislature ought to be elected by the people of the several States" being taken up,

Mr. Sherman [Conn.] opposed the election by the people, insisting that it ought to be by the State Legislatures. The people, he said, immediately should have as little to do as may be about the government. They want information, and are constantly liable to be misled.

Mr. Gerry [Mass.]. The evils we experience flow from the excess of democracy. The people do not want virtue, but are the dupes of pretended patriots. In Massachusetts it had been fully confirmed by experience that they are daily misled into the most baneful measures and opinions by the false reports circulated by designing men, and which no one on the spot can refute. One principal evil arises from the want of due provision for those employed in the administration of government. It would seem to be a

maxim of democracy to starve the public servants. He mentioned the popular clamour in Massachusetts for the reduction of salaries and the attack made on that of the Governor, though secured by the spirit of the Constitution itself. He had he said been too republican heretofore: he was still however republican, but had been taught by experience the danger of the levelling spirit.

Mr. Mason [Va.] argued strongly for an election of the larger branch by the people. It was to be the grand depository of the democratic principle of the Government. It was, so to speak, to be our House of Commons. It ought to know and sympathise with every part of the community; and ought therefore to be taken not only from different parts of the whole republic, but also from different districts of the larger members of it, which had in several instances, particularly in Virginia, different interests and views arising from difference of produce, of habits, etc., etc. He admitted that we had been too democratic, but was afraid we should incautiously run into the opposite extreme. We ought to attend to the rights of every class of the people. He had often wondered at the indifference of the superior classes of society to this dictate of humanity and policy; considering that however affluent their circumstances, or elevated their situations might be, the course of a few years not only might but certainly would distribute their posterity throughout the lowest classes of society. Every selfish motive, therefore, every family attachment, ought to recommend such a system of policy as would provide no less carefully for the rights and happiness of the lowest than of the highest orders of citizens.

Mr. Wilson [Penn.] contended strenuously for drawing the most numerous branch of the Legislature immediately from the people. He was for raising the federal pyramid to a considerable altitude, and for that reason wished to give it as broad a basis as possible. No government could long subsist without the confidence of the people. In a republican government this confidence was peculiarly essential. . . .

Mr. Madison considered the popular election of one branch of the National Legislature as essential to every plan of free government. He observed that in some of the States one branch of the Legislature was composed of men already removed from the people by an intervening body of electors. That if the first branch of the general legislature should be elected by the State Legislatures, the second branch elected by the first, the Executive by the second together with the first; and other appointments again made for subordinate purposes by the Executive, the people would be lost sight of altogether; and the necessary sympathy between them and their rulers and officers, too little felt. He was an advocate for the policy of refining the popular appointments by successive filtrations, but thought it might be pushed too far. . . .

Mr. Gerry did not like the election by the people. . . . Experience he said had shewn that the State legislatures drawn immediately from the people did not always possess their confidence. . . . He seemed to think the people might nominate a certain number out of which the State legislatures should be bound to choose.

Mr. Butler [S. C.] thought an election by the people an impracticable mode.

On the question for an election of the first branch of the National Legislature by the people:

Mass. ay. Conn. div. N.Y. ay. N.J. no. Penn. ay. Del. div. Va. ay. N.C. ay. S.C. no. Geo. ay.

Sectional Interests and Legislative Apportionment Madison's Notes for July 11, 1787

Mr. Randolph's motion requiring the Legislature to take a periodical census for the purpose of redressing inequalities in the representation, was resumed.

Mr. Sherman [Conn.] was against shackling the Legislature too much. We ought to choose wise and good men, and then confide in them.

Mr. Mason [Va.] The greater the difficulty we find in fixing a proper rule of representation, the more unwilling ought we to be, to throw the task from ourselves, on the General Legislature. He did not object to the conjectural ratio which was to prevail in the outset; but considered a revision from time to time according to some permanent and precise standard as essential to the fair representation required in the first branch. According to the present population of America, the northern part of it had a right to preponderate, and he could not deny it. But he wished it not to preponderate hereafter when the reason no longer continued. From the nature of man we may be sure that those who have power in their hands will not give it up while they can retain it. On the contrary we know they will always when they can rather increase it. If the southern States therefore should have three-quarters of the people of America within their limits, the Northern will hold fast the majority of representatives. One quarter will govern the three-quarters. The southern States will complain: but they may complain from generation to generation without redress. Unless some principle therefore which will do justice to them hereafter shall be inserted in the Constitution, disagreeable as the declaration was to him, he must declare he could neither vote for the system here, nor support it in his State. . . . He urged that numbers of inhabitants, though not always a precise standard of wealth, was sufficiently so for every substantial purpose.

Mr. Williamson [N.C.] was for making it the duty of the Legislature to do what was right and not leaving it at liberty to do or not do it. He moved that

Mr. Randolph's proposition be postponed in order to consider the following: "that in order to ascertain the alterations that may happen in the population and wealth of the several States, a census shall be taken of the free white inhabitants and three-fifths of those of other descriptions on the first year after this Government shall have been adopted, and every [blank] year thereafter; and that the representation be regulated accordingly."

Mr. Randolph agreed that Mr. Williamson's proposition should stand in the place of his. . . .

Mr. Butler [S.C.] and General [C. C.] Pinckney [S.C.] insisted that blacks be included in the rule of representation, equally with the whites: and for that purpose moved that the words "three-fifths" be struck out.

Mr. Gerry [Mass.] thought that three-fifths of them was to say the least the full proportion that could be admitted.

Mr. Gorham. [Mass.] This ratio was fixed by Congress as a rule of taxation. Then it was urged by the delegates representing the States having slaves that the blacks were still more inferior to freemen. At present when the ratio of representation is to be established, we are assured that they are equal to freemen. The arguments on the former occasion had convinced him that three-fifths was pretty near the just proportion, and he should vote according to the same opinion now.

Mr. Butler insisted that the labour of a slave in South Carolina was as productive and valuable as that of a freeman in Massachusetts, that as wealth was the great means of defence and utility to the nation they were equally valuable to it with freemen; and that consequently an equal representation ought to be allowed for them in a government which was instituted principally for the protection of property, and was itself to be supported by property.

Mr. Mason could not agree to the motion, notwithstanding it was favorable to Virginia, because he thought it unjust. It was certain that the slaves were valuable, as they raised the value of land, increased the exports and imports, and of course the revenue; would supply the means of feeding and supporting an army, and might in cases of emergency become themselves soldiers. As in these important respects they were useful to the community at large, they ought not to be excluded from the estimate of representation. He could not, however, regard them as equal to freemen, and could not vote for them as such. He added as worthy of remark, that the southern States have this peculiar species of property, over and above the other species of property common to all the States.

Mr. Williamson reminded Mr. Gorham that if the southern States contended for the inferiority of blacks to whites when taxation was in view, the eastern States on the same occasion contended for their equality. He did not, however, either then or now,

concur in either extreme, but approved of the ratio of three-fifths.

On Mr. Butler's motion for considering blacks as equal to whites in the apportionment of representation.

Mass. no. Conn. no. [N.Y. not on floor.] N.J. no. Pa. no. Del. ay. Md. no. Va. no. N.C. no. S.C. ay. Geo. ay. . . .

Mr. Rutledge contended for the admission of wealth in the estimate by which representation should be regulated. The western States will not be able to contribute in proportion to their numbers; they should not therefore be represented in that proportion. The Atlantic States will not concur in such a plan. He moved that "at the end of [blank] years after the first meeting of the Legislature, and of every [blank] years thereafter, the Legislature shall proportion the Representation according to the principles of wealth and population." . . .

Mr. Gouverneur Morris. . . . He could not persuade himself that numbers would be a just rule at any time. The remarks of [Mr. Mason] relative to the western country had not changed his opinion on that head. Among other objections, it must be apparent they would not be able to furnish men equally enlightened, to share in the administration of our common interests. The busy haunts of men, not the remote wilderness, was the proper school of political talents. If the western people get the power into their hands, they will ruin the Atlantic interests. The back members are always most averse to the best measures. He mentioned the case of Pennsylvania formerly. The lower part of the State had the power in the first instance. They kept it in their own hands, and the country was the better for it. Another objection with him against admitting the blacks into the census, was that the people of Pennsylvania would revolt at the idea of being put on a footing with slaves. They would reject any plan that was to have such an effect. . . .

Mr. Madison [Va.]. . . . To reconcile the gentleman with himself, it must be imagined that he determined the human character by the points of the compass. The truth was that all men having power ought to be distrusted to a certain degree. The case of Pennsylvania had been mentioned, where it was admitted that those who were possessed of the power in the original settlement, never admitted the new settlements to a due share of it. England was a still more striking example. The power there had long been in the hands of the boroughs, of the minority; who had opposed and defeated every reform which had been attempted. Virginia was in a less degree another example. With regard to the western States, he was clear and firm in opinion that no unfavorable distinctions were admissible either in point of justice or policy. He thought also that the hope of contributions to the Treasury from them had been

much underrated. . . . He could not agree that any substantial objection lay against fixing numbers for the perpetual standard of Representation. It was said that Representation and taxation were to go together; that taxation and wealth ought to go together, that population and wealth were not measures of each other. He admitted that in different climates, under different forms of Government, and in different stages of civilization, the inference was perfectly just. He would admit that in no situation numbers of inhabitants were an accurate measure of wealth. He contended however that in the United States it was sufficiently so for the object in contemplation. Altho' their climate varied considerably, yet as the governments, the laws, and the manners of all were nearly the same, and the intercourse between different parts perfectly free, population, industry, arts, and the value of labour, would constantly tend to equalize themselves. . . .

On the question on the first clause of Mr. Williamson's motion as to taking a census of the free inhabitants, it passed in the affirmative. Mass. ay. Cont. ay. N.J. ay. Pa. ay. Del. no. Md. no. Va. ay. N.C. ay. S.C. no. Geo. no.

The next clause as to three-fifths of the negroes being considered,

Mr. King [Mass.], being much opposed to fixing numbers as the rule of representation, was particularly so on account of the blacks. He thought the admission of them along with whites at all, would excite great discontents among the States having no slaves. . . .

Mr. Wilson did not well see on what principle the admission of blacks in the proportion of three-fifths could be explained. Are they admitted as citizens? then why are they not admitted on an equality with white citizens? are they admitted as property? then why is not other property admitted into the computation? These were difficulties however which he thought must be overruled by the necessity of compromise. He had some apprehensions also from the tendency of the blending of the blacks with the whites, to give disgust to the people of Pennsylvania as had been intimated by his colleague. But he differed from him in thinking numbers of inhabitants so incorrect a measure of wealth. He had seen the western settlements of Pennsylvania, and on a comparison of them with the city of Philadelphia could discover little other difference, than that property was more unequally divided among individuals here than there. Taking the same number in the aggregate in the two situations he believed there would be little difference in their wealth and ability to contribute to the public wants.

Mr. Gouverneur Morris was compelled to declare himself reduced to the dilemma of doing injustice to the southern States or to human nature, and he must therefore do it to the former. For he could never agree to give such encouragement to the slave trade as would be given by allowing them a

representation for their negroes, and he did not believe those States would ever confederate on terms that would deprive them of that trade.

On the question for agreeing to include three-fifths of the blacks:

Mass. no. Cont. ay. N.J. no. Pa. no. Del. no. Md. no. Va. ay. N.C. ay. S.C. no. Geo. ay.*

*Later this provision was passed.

Qualifications for voters Madison's Notes for August 7, 1787

Mr. Gouverneur Morris [Pa.] moved to . . . restrain the right of suffrage to freeholders.

Mr. Fitzsimons [Penn.] seconded the motion.

Mr. Williamson [N.C.] was opposed to it.

Mr. Wilson [Pa.] . . . It was difficult to form any uniform rule of qualifications for all the States. Unnecessary innovations he thought too should be avoided. It would be very hard and disagreeable for the same persons at the same time to vote for Representatives in the State Legislature and to be excluded from a vote for those in the National Legislature.

Mr. Gouverneur Morris. Such a hardship would be neither great nor novel. The people are accustomed to it and not dissatisfied with it in several of the States. In some the qualifications are different for the choice of the Governor and of the Representatives; in others for different houses of the Legislature. . . .

Mr. Ellsworth [Conn.] thought the qualifications of the electors stood on the most proper footing. The right of suffrage was a tender point, and strongly guarded by most of the State Constitutions. The people will not readily subscribe to the National Constitution if it should subject them to be disfranchised. The States are the best judges of the circumstances and temper of their own people.

Col. Mason [Va.]. The force of habit is certainly not attended to by those gentlemen who wish for innovations on this point. Eight or nine States have extended the right of suffrage beyond the freeholders; what will the people there say if they should be disfranchised? A power to alter the qualifications would be a dangerous power in the hands of the Legislature.

Mr. Butler [S.C.]. There is no right of which the people are more jealous than that of suffrage. Abridgments of it tend to the same revolution as in Holland where they have at length thrown all power into the hands of the Senates, who fill up vacancies themselves, and form a rank aristocracy.

Mr. Dickinson [Pa.] had a very different idea of the tendency of vesting the right of suffrage in the freeholders of the country. He considered them as the best guardians of liberty; and the restriction of the right to them as a necessary defence against the dangerous

influence of those multitudes without property and without principle with which our country like all others, will in time abound. As to the unpopularity of the innovation, it was in his opinion chimerical. The great mass of our citizens is composed at this time of freeholders, and will be pleased with it.

Mr. Ellsworth. How shall the freehold be defined? Ought not every man who pays a tax, to vote for the representative who is to levy and dispose of his money? Shall the wealthy merchants and manufacturers, who will bear a full share of the public burdens, be not allowed a voice in the imposition of them? Taxation and representation ought to go together.

Mr. Gouverneur Morris. He had long learned not to be the dupe of words. The sound of aristocracy, therefore, had no effect on him. It was the thing, not the name, to which he was opposed, and one of his principal objections to the Constitution as it is now before us, is that it threatens this country with an aristocracy. The aristocracy will grow out of the House of Representatives. Give the votes to people who have no property, and they will sell them to the rich who will be able to buy them. We should not confine our attention to the present moment. The time is not distant when this country will abound with mechanics and manufacturers who will receive their bread from their employers. Will such men be the secure and faithful guardians of liberty? Will they be the impregnable barrier against aristocracy? He was as little duped by the association of the words "taxation and representation." The man who does not give his vote freely is not represented. It is the man who dictates the vote. Children do not vote. Why? because they want prudence, because they have no will of their own. The ignorant and the dependent can be as little trusted with the public interest. He did not conceive the difficulty of defining "freeholders" to be insuperable. Still less, that the restriction could be unpopular. Nine-tenths of the people are at present freeholders, and these will certainly be pleased with it. As to merchants, etc., if they have wealth and value the right, they can acquire it. If not, they don't deserve it.

Col. Mason. We all feel too strongly the remains of antient [sic] prejudices, and view things too much through a British medium. A freehold is the qualification in England, and hence it is imagined to be the only proper one. The true idea in his opinion was that every man having evidence of attachment to and permanent common interest with the society ought to share in all its rights and privileges. Was this qualification restrained to freeholders? Does no other kind of property but land evidence a common interest in the proprietor? Does nothing besides property mark a permanent attachment? Ought the merchant, the monied man, the parent of a number of children whose fortunes are to be pursued in his own country, to be viewed as suspicious characters, and unworthy to be

trusted with the common rights of their fellow citizens?

Mr. Madison [Va.] The right of suffrage is certainly one of the fundamental articles of republican government, and ought not to be left to be regulated by the Legislature. A gradual abridgment of this right has been the mode in which aristocracies have been built on the ruins of popular forms. Whether the Constitutional qualification ought to be a freehold, would with him depend much on the probable reception such a change would meet with in States where the right was now exercised by every description of people. In several of the States a freehold was now the qualification. Viewing the subject in its merits alone, the freeholders of the country would be the safest depositories of Republican liberty. In future times a great majority of the people will not only be without landed, but any other sort of, property. These will either combine under the influence of their common situation; in which case, the rights of property and the public liberty will not be secure in their hands: or what is more probable, they will become the tools of opulence and ambition, in which case there will be equal danger on another side. . . .

Dr. Franklin [Pa.] It is of great consequence that we should not depress the virtue and public spirit of our common people; of which they displayed a great deal during the war, and which contributed principally to the favorable issue of it. . . . He did not think that the elected had any right in any case to narrow the privileges of the electors. . . . He was persuaded also that such a restriction as was proposed would give great uneasiness in the populous States. The sons of a substantial farmer, not being themselves freeholders, would not be pleased at being disfranchised, and there are a great many persons of that description.

Mr. Mercer [Md.] The Constitution is objectionable in many points, but in none more than the present. He objected to the footing on which the qualification was put, but particularly to the mode of election by the people. The people can not know and judge of the characters of candidates. The worst possible choice will be made. . . .

Mr. Rutledge [Va.] thought the idea of restraining the right of suffrage to the freeholders a very unadvised one. It would create division among the people and make enemies of all those who should be excluded.

Slavery and the Importation of Slaves Madison's Notes for August 22, 25, 1787

Mr. Sherman [Conn.] . . . disapproved of the slave trade; yet as the States were now possessed of the right to import slaves, as the public good did not require it to be taken from them, and as it was expedient to have

as few objections as possible to the proposed scheme of government, he thought it best to leave the matter as we find it. He observed that the abolition of slavery seemed to be going on in the United States, and that the good sense of the several States would probably by degrees compleat it. He urged on the Convention the necessity of despatching its business.

Col. Mason [Va.] This infernal traffic originated in the avarice of British merchants. The British Government constantly checked the attempts of Virginia to put a stop to it. The present question concerns not the importing States alone but the whole Union. The evil of having slaves was experienced during the late war. Had slaves been treated as they might have been by the enemy, they would have proved dangerous instruments in their hands. . . . Maryland and Virginia he said had already prohibited the importation of slaves expressly. North Carolina had done the same in substance. All this would be in vain if South Carolina and Georgia be at liberty to import. The western people are already calling out for slaves for their new lands, and will fill that country with slaves if they can be got thro' South Carolina and Georgia. Slavery discourages arts and manufactures. The poor despise labor when performed by slaves. They prevent the immigration of whites, who really enrich and strengthen a country. They produce the most pernicious effect on manners. Every master of slaves is born a petty tyrant. They bring the judgment of Heaven on a country. As nations cannot be rewarded or punished in the next world, they must be in this. By an inevitable chain of causes and effects, Providence punishes national sins, by national calamities. He lamented that some of our eastern brethren had from a lust of gain embarked in this nefarious traffic. As to the States being in possession of the right to import, this was the case with many other rights, now to be properly given up. He held it essential in every point of view that the General Government should have power to prevent the increase of slavery.

Mr. Ellsworth [Conn.] As he had never owned a slave could not judge of the effects of slavery on character: he said, however, that if it was to be considered in a moral light we ought to go farther and free those already in the country. As slaves also multiply so fast in Virginia and Maryland that it is cheaper to raise than import them, whilst in the sickly rice swamps foreign supplies are necessary; if we go no farther than is urged, we shall be unjust towards South Carolina and Georgia. Let us not intermeddle. As population increases, poor laborers will be so plenty as to render slaves useless. Slavery in time will not be a speck in our country. Provision is already made in Connecticut for abolishing it, and the abolition has already taken place in Massachussets. As to the danger of insurrections from foreign influence, that will become a motive to kind treatment of the slaves.

Mr. Pinckney [S.C.] If slavery be wrong, it is justified by the example of all the world. He cited the case of Greece, Rome, and other antient [sic] States; the sanction given by France, England, Holland, and other modern States. In all ages one half of mankind have been slaves. If the southern States were let alone they will probably of themselves stop importations. He would himself as a citizen of South Carolina vote for it. An attempt to take away the right as proposed will produce serious objections to the Constitution, which he wished to see adopted.

General Pinckney [S.C.] declared it to be his firm opinion that if himself and all his colleagues were to sign the Constitution and use their personal influence, it would be of no avail towards obtaining the assent of their constituents. South Carolina and Georgia cannot do without slaves. As to Virginia, she will gain by stopping the importations. Her slaves will rise in value, and she has more than she wants. It would be unequal to require South Carolina and Georgia to confederate on such unequal terms. He said the royal assent before the Revolution had never been refused to South Carolina as to Virginia. He contended that the importation of slaves would be for the interest of the whole Union. The more slaves, the more produce to employ the carrying trade, the more consumption also; and the more of this, the more of revenue for the common treasury. . . .

Mr. Dickinson [Pa.] considered it as inadmissible on every principle of honor and safety that the importation of slaves should be authorised to the States by the Constitution. The true question was whether the national happiness would be promoted or impeded by the importation, and this question ought to be left to the National Government, not to the States particularly interested. . . .

Mr. Rutledge [Va.]. If the Convention thinks that North Carolina, South Carolina, and Georgia will ever agree to the plan, unless their right to import slaves be untouched, the expectation is vain. The people of those States will never be such fools as to give up so important an interest. . . .

Mr. Gouverneur Morris wished the whole subject to be committed, including the clauses relating to taxes on exports and to a navigation act. These things may form a bargain among the northern and southern States. . . .

General Pinckney moved to strike out the words "the year eighteen hundred" as the year limiting the importation of slaves, and to insert the words "the year eighteen hundred and eight".

Mr. Gorham seconded the motion.

Mr. Madison. Twenty years will produce all the mischief that can be apprehended from the liberty to import slaves. So long a term will be more dishonorable to the national character, than to say nothing about it in the Constitution.

On the motion; which passed in the affirmative.

N.H. ay. Mass. ay. Conn. ay. N.J. no. Pa. no. Del. no. Md. ay. Va. no. N.C. ay. S.C. ay. Geo. ay. . . .

The first part of the report was then agreed to, amended as follows,

The migration or importation of such persons as the several States now existing shall think proper to admit, shall not be prohibited by the Legislature prior to the year 1808.

N.H. Mass. Conn. Md. N.C. S.C. Geo.: ay
N.J. Pa. Del. Va. . . . no

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Thomas Jefferson (1743-1826)

On December 20, 1787, Thomas Jefferson, still serving as ambassador to France, wrote to James Madison concerning the proposed Constitution. In this letter, Jefferson praises some aspects of the framework for government and takes issue with others. He approves, for example, division of the government into three branches--Legislative, Executive, and Judiciary. He supports the compromise for direct, popular election of members of the House of Representatives, thereby assuring taxation with representation, and he applauds the compromise for "great and little states," with equal representation in the Senate and proportional representation in the House.

In the majority of his letter, however, Jefferson addresses "what I do not like" about the proposed Constitution. First and foremost, he is concerned about omission of a bill of rights, for "a bill of rights is what the people are entitled to against every government on earth." He disagrees with those who fear rebellion, and he is "not a friend to a very energetic government," which "is always oppressive." Shays' Rebellion in Massachusetts was but one rebellion in 13 states in 11 years, and "no country should be so long without one."

Secondly, Jefferson calls for "rotation in office, and most particularly in the case of the President." His argument is that "an incapacity to be elected a second time" is "the only effectual preventative" to election for life and consequent "disorders"--both domestic and international. (The term of office for the President of the United States was not limited until 1951, with the ratification of Amendment XXII, which stipulates that "no person shall be elected to the office of the President more than twice.")

Despite his concerns about the proposed Constitution, Jefferson underscores his confidence in the "good sense" of the "common people" and articulates "my principle that the will of the majority should always prevail." If the majority approve the proposed Constitution, Jefferson will "concur in it cheerfully," with faith in the majority and the amendment process to correct any wrongs.

JMW

To James Madison: On the Constitution

[Paris, Dec. 20, 1787]

... The season admitting only of operations in the Cabinet, and these being in a great measure secret, I have little to fill a letter. I will therefore make up the deficiency by adding a few words on the Constitution proposed by our Convention. I like much the general idea of framing a government which should go on of itself peaceably, without needing continual recurrence to the state legislatures. I like the organization of the government into Legislative, Judiciary & Executive. I like the power given the Legislature to levy taxes, and for that reason solely approve of the greater house being chosen by the people directly. For tho' I think a house chosen by them will be very illy qualified to legislate for the Union, for foreign nations &c. yet this evil does not weigh against the good of preserving inviolate the fundamental principle that the people are not to be taxed but by representatives chosen immediately by themselves. I am captivated by the compromise of the opposite claims of the great & little states, of the latter to equal, and the former to proportional influence. I am much pleased too with the substitution of the method of voting by persons, instead of that of voting by states: and I like the negative given to the Executive with a third of either house, though I should have liked it better had the Judiciary been associated for that purpose, or invested with a similar and separate power. There are other good things of less moment. I will now add what I do not like. First the omission of a bill of rights providing clearly & without the aid of sophisms for freedom of religion, freedom of the press, protection against standing armies, restriction against monopolies, the eternal & unremitting force of the habeas corpus laws, and trials by jury in all matters of fact triable by the laws of the land & not by the law of nations. To say, as Mr. Wilson does that a bill of

rights was not necessary because all is reserved in the case of the general government which is not given, while in the particular ones all is given which is not reserved, might do for the audience to whom it was addressed, but is surely a gratis dictum, opposed by strong inferences from the body of the instrument, as well as from the omission of the clause of our present confederation which had declared that in express terms. It was a hard conclusion to say because there has been no uniformity among the states as to the cases triable by jury, because some have been so incautious as to abandon this mode of trial, therefore the more prudent states shall be reduced to the same level of calamity. It would have been much more just & wise to have concluded the other way that as most of the states had judiciously preserved this palladium, those who had wandered should be brought back to it, and to have established general right instead of general wrong. Let me add that a bill of rights is what the people are entitled to against every government on earth, general or particular, & what no just government should refuse, or rest on inferences. The second feature I dislike, and greatly dislike, is the abandonment in every instance of the necessity of rotation in office, and most particularly in the case of the President. Experience concurs with reason in concluding that the first magistrate will always be re-elected if the Constitution permits it. He is then an officer for life. This once observed, it becomes of so much consequence to certain nations to have a friend or a foe at the head of our affairs that they will interfere with money & with arms. A Galloman or an Angloman will be supported by the nation he befriends. If once elected, and at a second or third election out voted by one or two votes, he will pretend false votes, foul play, hold possession of the reins of government, be supported by the States voting for him, especially if they are the central ones lying in a compact body themselves & separating their opponents: and they will be aided by one nation of Europe, while the majority are aided by another. The election of a President of America some years hence will be much more interesting to certain nations of Europe than ever the election of a king of Poland was. Reflect on all the instances in history ancient & modern, of elective monarchies, and say if they do not give foundation for my fears. The Roman emperors, the popes, while they were of any importance, the German emperors till they became hereditary in practice, the kings of Poland, the Deys of the Ottoman dependances. It may be said that if elections are to be attended with these disorders, the seldomer they are renewed the better. But experience shews that the only way to prevent disorder is to render them uninteresting by frequent changes. An incapacity to be elected a second time would have been the only effectual preventative. The power of removing him every fourth year by the vote of the people is a power which will not be exercised. The king of

Poland is removable every day by the Diet, yet he is never removed. Smaller objections are the Appeal in fact as well as law, and the binding all persons Legislative Executive & Judiciary by oath to maintain that constitution. I do not pretend to decide what would be the best method of procuring the establishment of the manifold good things in this constitution, and of getting rid of the bad. Whether by adopting it in hopes of future amendment, or, after it has been duly weighed & canvassed by the people, after seeing the parts they generally dislike, & those they generally approve, to say to them 'We see now what you wish. Send together your deputies again, let them frame a constitution for you omitting what you have condemned, & establishing the powers you approve. Even these will be a great addition to the energy of your government.'--At all events I hope you will not be discouraged from other trials, if the present one should fail of its full effect.--I have thus told you freely what I like & dislike: merely as a matter of curiosity, for I know your own judgment has been formed on all these points after having heard everything which could be urged on them. I own I am not a friend to a very energetic government. It is always oppressive. The late rebellion in Massachusetts has given more alarm than I think it should have done. Calculate that one rebellion in 13 states in the course of 11 years, is but one for each state in a century & a half. No country should be so long without one. Nor will any degree of power in the hands of government prevent insurrections. France, with all it's [sic] despotism, and two or three hundred thousand men always in arms has had three insurrections in the three years I have been here in every one of which greater numbers were engaged than in Massachusetts & a great deal more blood was spilt. In Turkey, which Montesquieu supposes more despotic, insurrections are the events of every day. In England, where the hand of power is lighter than here, but heavier than with us they happen every half dozen years. Compare again the ferocious depredations of their insurgents with the order, the moderation & the almost self extinguishment of ours. After all, it is my principle that the will of the majority should always prevail. If they approve the proposed Convention in all it's [sic] parts, I shall concur in it cheerfully, in hopes that they will amend it whenever they shall find it work wrong. I think our governments will remain virtuous for many centuries; as long as they are chiefly agricultural; and this will be as long as there shall be vacant lands in any part of America. When they get piled upon one another in large cities, as in Europe, they will become corrupt as in Europe. Above all things I hope the education of the common people will be attended to; convinced that on their good sense we may rely with the most security for the preservation of a due degree of liberty. I have tired you by this time with my disquisitions & will therefore only add assurances of

the sincerity of those sentiments of esteem & attachment with which I am Dear Sir your affectionate friend & servant

P. S. The instability of our laws is really an immense evil. I think it would be well to provide in our constitutions that there shall always be a twelve-month between the ingrossing a bill & passing it: that it should then be offered to its passage without changing a word: and that if circumstances should be thought to require a speedier passage, it should take two thirds of both houses instead of a bare majority.