

other popular leaders, became mercenary instruments for inveigling their countrymen. The more effectually to nourish discord and disorder, the Romans had, to the astonishment of those who confided in their sincerity, already proclaimed universal liberty^(a) throughout Greece. With the same insidious views, they now seduced the members from the league, by representing to their pride, the violation it committed on their sovereignty. By these arts, this Union, the last hope of Greece, the last hope of antient liberty, was torne into pieces; and such imbecility and distraction introduced, that the arms of Rome found little difficulty in completing the ruin which their arts had commenced. The Achæans were cut to pieces; and Achaia loaded with chains, under which it is groaning at this hour.

I have thought it not superfluous to give the outlines of this important portion of history; both because it teaches more than one lesson; and because, as a supplement to the outlines of the Achæan constitution, it emphatically illustrates the tendency of fœderal bodies, rather to anarchy among the members, than to tyranny in the head.

(a) *This was but another name more specious for the independence of the members on the fœderal head.*

1. Abbé Millot, *Elements of Ancient History*. Translated from the French (2 vols., New York, [1797]), I, Book II, chapter IV, 183-84. This work, the first part of Millot's *Elements of General History*, was first published in 1772.

2. *Observations sur l'Histoire de la Grèce* in *Œuvres Complètes de l'Abbé de Mably* (19 vols., Toulouse and Nismes, 1793), V, Book IV, 207-9. Mably's history of Greece was first published in 1749.

331. From Roger Sherman New Haven, 8 December¹

Dear Sir

I am informed that you wish to know my opinion with respect to the new Constitution lately formed by the federal convention, and the Objections made against it.

I suppose it is the general opinion that the present Government of the United States is not Sufficient to give them Credit and respectability Abroad or Security at home. But little faith or confidence can be placed in a government that has only power to enter into engagements, but no power to fulfil them.

To form a just opinion of the new constitution it Should be considered, whether the powers to be thereby vested in the federal government are Sufficient, and only Such as are necessary to Secure the Common interests of the States; and whether the exercise of those powers is placed in Safe hands. - In every government there is a trust, which may be abused; but the greatest Security against abuse is, that the interest of those in whom the powers of government are vested is the

same as that of the people they govern, and that they are dependent on the Suffrage of the people for their appointment to, and continuance in Office, this is a much greater Security than a declaration of rights, or restraining clauses upon paper.

The rights of the people under the new constitution will be Secured by a representation in proportion to their numbers in one branch of the legislature, and the rights of the particular State governments by their equal representation in the other branch.

The President, Vice President, and Senators, tho' chosen for fixed periods, are re eligible as often as the electors Shall think proper, which will be a very great Security for their fidelity in Office, and will likewise give much greater Stability and energy to government than an exclusion by rotation. - The greatest possible Security that a people can have for their civil rights and liberties, is, that no laws can be made to bind them, nor any taxes be imposed upon them without their consent by representatives chosen by themselves. This was the great point contended for in our contest with Great Britain; and will not this be fully Secured to us under the new constitution?

Declarations of rights in England were charters granted by Princes, or Acts of Parliament made to limit the prerogatives of the crown, but not to abridge the powers of the Legislature. - These observations duly considered will obviate most of the objections that have been made against the constitution. - The powers vested in the federal government are only Such as respect the common interests of the Union, and are particularly defined, So that each State retains it's Sovereignty in what respects its own internal government, and a right to exercise every power of a Sovereign State not delegated to the united States. And tho' the general government in matters within its jurisdiction is paramount to the constitutions & laws of the particular States, yet all acts of the Congress not warranted by the constitution would be void. Nor could they be enforced contrary to the Sense of a majority of the States. - One excellency of the constitution is that when the government of the united States acts within its proper bounds it will be the interest of the legislatures of the particular States to Support it, but when it over leaps those bounds and interferes with the rights of the State governments it they will be their interest powerful enough to check it; but the powers of each distinction between their jurisdictions will be So obvious, that there will be no great danger of interference or contention between the governments of the particular States & the United States.

The unanimity of the convention is a remarkable circumstance in favour of the constitution, that all the States present concurred in it, and all the members but three out of forty two Signed it, and Governor

Randolph, declared, that tho' he did not think fit to Sign it, he had no fixed determination to oppose it, nor have I heard that he has Since made any opposition to it.²

The other two Honorable Gentlemen whom I esteem for their patriotism and good Sense have published their objections,³ which deserve Some notice; and I think the foregoing observations on the principles of the Constitution must evince that their fears are groundless. The peoples right of election is doubly Secured, the legislatures of the particular States have right to regulate it. and if they Should fail to do it properly, it may be done by congress. and what possible motive can either have to injure the people in the exercise of that right.—the qualifications of the electors are to remain as fixed by the State constitutions. It is objected that the number of representatives will be too Small—but it is my opinion that it will be quite large enough if extended as far as the constitution will admit, the present number in both branches will consist of Ninety one members which is the Same number that the States have a right to elect under the confederation,⁴ and I have heard no complaint that the number is not Sufficient to give information, of the circumstances of the States and to transact the general affairs of the union; nor have any of the States thought fit to keep up the full representation that they are intitled to. ~~It may be Said, that the powers of the Congress are increased, its true~~ nor will the additional powers of congress make it necessary to increase the number of members they will have the additional powers of regulating commerce, establishing a uniform rule of naturalization, and laws on the Subject of bankruptcies, and to provide for the punishment of counterfeiting coins and Securities of the united States, and to prescribe a uniform mode of organizing, arming and training the Militia under the authority of the Several States, and to promote the progress of Science by Securing, to persons for a limited time the benefit of their writings & inventions. The other powers are the Same as Congress have under the articles of confederation with this difference, that they will have authority to carry into effect, what they have now a right to require to be done by the States.

It was thought necessary in order to carry into effect the laws of the union, and to preserve justice and harmony among the States, to extend the judicial powers of the confederacy, they cannot be extended beyond the enumerated cases, but may be limited by Congress, and doubtless will be restricted to Such cases of importance & magnitude as cannot Safely be trusted to the final decision of the courts of the particular States, the Supreme court may have a circuit through the States to make the trials as convenient, and as little expensive to the parties as may be; and the trial by jury will doubtless be allowed in Cases proper for that

kind of trial, nor will the people in general be at all affected by the judiciary of the United States, perhaps not one to an hundred of the citizens will ever have a cause that can come within its jurisdiction, for all causes between citizens of the Same States, except where they claim lands under grants of different States, must be finally decided by the courts of the State to which they belong.

The power of making war and raising and Supporting Armies is now vested in Congress, who are not restrained from keeping up armies in time of peace, but by the new constitution no appropriation of money for that purpose can be in force longer than two years, but the Security is that the power is in the legislature who are the representatives of the people and can have no motive to keep up armies unnecessarily.

In order to [have] a well regulated government, the legislature, should be dependant on the people, and be vested with a plenitude of power, for all the purposes, for which it is instituted, to be exercised for the public good, as occasion may require, powers are dangerous only when trusted in officers not under the controul of the laws; but by the new constitution, Congress are vested with power to make all laws which shall be necessary and proper for carrying into execution, all the powers vested in the government of the united States, or in any department or officer thereof

1. Dft, Sherman Collection, CtY. The letter has no addressee. Portions of this draft letter are found in Sherman's "A Citizen of New Haven," *Connecticut Courant*, 7 January (CC:421) and in an undated manuscript in Sherman's handwriting entitled "Observations on the New federal Constitution" (Mfm:Conn. 63).

2. For Edmund Randolph's reasons for not signing the Constitution, see CC:75 and 385.

3. For Elbridge Gerry's objections, see CC:227-A. For George Mason's objections, see CC:138 and 276.

4. See CC:192, note 2.

332. James Kent to Nathaniel Lawrence Poughkeepsie, 8 December¹

I have only a moment to do our Friendship the compliment of a Line—I have nothing to inform you from this Quarter that deserves much Attention—The Minds of our better Sort of People are engrossed & much animated by the great political question—As you appear by your last Letter not to have absolutely made up your Mind I am in hopes you will embark at last fervently with me in the federal faith—If you should not I shall think the same of your political Discernment & Virtue & probably with some little additional Diffidence of the Strength & Justice of my own Opinion—As yet Sir all I can read & reflect serves but to convince me of the high expediency of adopting the Government & that it is take it *all in all* about as good & perfect a System as the various Interests &