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the rest of the work by Alexander Hamilton

The foregoing I believe to be in the Hand writing of Mr Jefferson formerly President of the United States.

Jany 13. 1829. J. Harrison

I concur in opinion with Mr Harrison that the above is in the hand writing of Thomas Jefferson formerly President of the United States

13 Jany 1829. Joseph Nourse

For Mrs Church from her Sister
Elizabeth

THE Hamilton

FEDERALIST:

A COLLECTION

OF

ESSAYS,

WRITTEN IN FAVOUR OF THE

NEW CONSTITUTION,

AS AGREED UPON BY THE FEDERAL CONVENTION, SEPTEMBER 17, 1787.

IN TWO VOLUMES.

VOL. I.

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IT is supposed that a collection of the papers which have made their appearance in the Gazettes of this City, under the Title of the FEDERALIST, may not be without effect in assisting the public judgment on the momentous question of the Constitution for the United States, now under the consideration of the people of America. A desire to throw full light upon so interesting a subject has led, in a great measure unavoidably, to a more copious discussion than was at first intended. And the undertaking not being yet completed, it is judged adviseable to divide the collection into two Volumes, of which the ensuing Numbers constitute the first. The second Volume will follow as speedily as the Editor can get it ready for publication.

The particular circumstances under which these papers have been written, have rendered it impracticable to avoid violations of

method and repetitions of ideas which cannot but displease a critical reader. The latter defect has even been intentionally indulged, in order the better to impress particular arguments which were most material to the general scope of the reasoning. Respect for public opinion, not anxiety for the literary character of the performance, dictates this remark. The great wish is, that it may promote the cause of truth, and lead to a right judgment of the true interests of the community.

New-York, March 17, 1788.

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THE

THE

FEDERALIST:

ADDRESSED TO THE

PEOPLE OF THE STATE OF NEW-YORK.

NUMBER I.

Introduction.

AFTER an unequivocal experience of the inefficacy of the ſubſiſting federal government, you are called upon to deliberate on a new conſtitution for the United States of America. The ſubject ſpeaks its own importance; comprehending in its conſequences, nothing leſs than the exiſtence of the UNION, the ſafety and welfare of the parts of which it is compoſed, the fate of an empire, in many reſpects, the moſt intereſting in the world. It has been frequently remarked, that it ſeems to have been reſerved to the people of this country, by their conduct and example, to decide the important queſtion, whether ſocieties of men are really capable or not, of eſtabliſhing good government from reflection and choice, or whether they are forever deſtined to depend, for their political conſtitutions, on accident and force. If there be any truth in the remark, the criſis, at which we are arrived, may with propriety be regarded as the æra in which

that decision is to be made; and a wrong election of the part we shall act, may, in this view, deserve to be considered as the general misfortune of mankind.

This idea will add the inducements of philanthropy to those of patriotism to heighten the solicitude, which all considerate and good men must feel for the event. Happy will it be if our choice should be directed by a judicious estimate of our true interests, unperplexed and unbiassed by considerations not connected with the public good. But this is a thing more ardently to be wished, than seriously to be expected. The plan offered to our deliberations, affects too many particular interests, innovates upon too many local institutions, not to involve in its discussion a variety of objects foreign to its merits, and of views, passions and prejudices little favourable to the discovery of truth.

Among the most formidable of the obstacles, which the new constitution will have to encounter, may readily be distinguished the obvious interest of a certain class of men in every state to resist all changes which may hazard a diminution of the power, emolument and consequence of the offices they hold under the state-establishments—and the perverted ambition of another class of men, who will either hope to aggrandise themselves by the confusions of their country, or will flatter themselves with fairer prospects of elevation from the subdivision of the empire into several partial confederacies, than from its union under one government.

It is not, however, my design to dwell upon observations of this nature. I am well aware that it would be disingenuous to resolve indiscriminately the opposition of any set of men (merely because their situations might subject them to suspicion) into interested or ambitious views: Candour will oblige us to admit, that even such men may be actuated by upright intentions; and it cannot be doubted, that much of the opposition which has made its appearance, or may

hereafter

hereafter make its appearance, will spring from sources, blameless at least, if not respectable, the honest errors of minds led astray by preconceived jealousies and fears. So numerous indeed and so powerful are the causes, which serve to give a false bias to the judgment, that we upon many occasions, see wise and good men on the wrong as well as on the right side of questions, of the first magnitude to society. This circumstance, if duly attended to, would furnish a lesson of moderation to those, who are ever so thoroughly persuaded of their being in the right, in any controversy. And a further reason for caution, in this respect, might be drawn from the reflection, that we are not always sure, that those who advocate the truth are influenced by purer principles than their antagonists. Ambition, avarice, personal animosity, party opposition, and many other motives, not more laudable than these, are apt to operate as well upon those who support as upon those who oppose the right side of a question. Were there not even these inducements to moderation, nothing could be more illjudged than that intolerant spirit, which has, at all times, characterised political parties For, in politics as in religion, it is equally absurd to aim at making proselytes by fire and sword. Heresies in either can rarely be cured by persecution.

And yet however just these sentiments must appear to candid men, we have already sufficient indications, that it will happen in this as in all former cases of great national discussion. A torrent of angry and malignant passions will be let loose. To judge from the conduct of the opposite parties, we shall be led to conclude, that they will mutually hope to evince the justness of their opinions, and to increase the number of their converts by the loudness of their declamations, and by the bitterness of their invectives. An enlightened zeal for the energy and efficiency of government will be stigmatised, as the off-spring of a temper fond of despotic power and hostile to the principles of li-

berty. An overſcrupulous jealouſy of danger to the rights of the people, which is more commonly the fault of the head than of the heart, will be repreſented as mere pretence and artifice; the ſtale bait for popularity at the expence of public good. It will be forgotten, on the one hand, that jealouſy is the uſual concomitant of violent love, and that the noble enthuſiaſm of liberty is too apt to be infected with a ſpirit of narrow and illiberal diſtruſt. On the other hand, it will be equally forgotten, that the vigour of government is eſſential to the ſecurity of liberty; that, in the contemplation of a ſound and well informed judgment, their intereſts can never be ſeparated; and that a dangerous ambition more often lurks behind the ſpecious maſk of zeal for the rights of the people, than under the forbidding appearances of zeal for the firmneſs and efficiency of government. Hiſtory will teach us, that the former has been found a much more certain road to the introduction of deſpotiſm, than the latter, and that of thoſe men who have overturned the liberties of republics the greateſt number have begun their carreer, by paying an obſequious court to the people, commencing demagogues and ending tyrants.

In the courſe of the preceeding obſervations I have had an eye, my fellow citizens, to putting you upon your guard againſt all attempts, from whatever quarter, to influence your deciſion in a matter of the utmoſt moment to your welfare by any impreſſions, other than thoſe which may reſult from the evidence of truth. You will, no doubt, at the ſame time, have collected from the general ſcope of them that they proceed from a ſource not unfriendly to the new conſtitution. Yes, my countrymen, I own to you, that, after having given it an attentive conſideration, I am clearly of opinion, it is your intereſt to adopt it. I am convinced, that this is the ſafeſt courſe for your liberty, your dignity, and your happineſs. I affect not reſerves, which I do not feel. I will not amuſe you with an

appearance

appearance of deliberation, when I have decided. I frankly acknowledge to you my convictions, and I will freely lay before you the reasons on which they are founded. The consciousness of good intentions disdains ambiguity. I shall not however multiply professions on this head. My motives must remain in the depositary of my own breast: My arguments will be open to all, and may be judged of by all. They shall at least be offered in a spirit, which will not disgrace the cause of truth.

I propose in a series of papers, to discuss the following interesting particulars—*The utility of the UNION to your political prosperity.—The insufficiency of the present confederation to preserve that Union.—The necessity of a government at least equally energetic with the one proposed to the attainment of this object—The conformity of the proposed constitution to the true principles of republican government.—Its analogy to your own state constitution*—and lastly, *the additional security, which its adoption will afford to the preservation of that species of government, to liberty and to property.*

In the progress of this discussion I shall endeavour to give a satisfactory answer to all the objections which shall have made their appearance, that may seem to have any claim to your attention.

It may perhaps be thought superfluous to offer arguments to prove the utility of the UNION, a point, no doubt, deeply engraved on the hearts of the great body of the people in every State, and one, which it may be imagined has no adversaries. But the fact is, that we already hear it whispered in the private circles of those who oppose the new constitution, that the Thirteen States are of too great extent for any general system, and that we must of necessity resort to separate confederacies of distinct portions of the whole.* This doctrine will, in all probability, be

* The same idea, tracing the arguments to their consequences, is held out in several of the late publications against the new constitution.

gradually propagated, till it has votaries enough to countenance an open avowal of it. For nothing can be more evident, to thoſe who are able to take an enlarged view of the ſubject, than the alternative of an adoption of the new conſtitution, or a diſmemberment of the Union. It will therefore be of uſe to begin by examining the advantages of that Union, the certain evils and the probable dangers, to which every ſtate will be expoſed from its diſſolution.—This ſhall accordingly conſtitute the ſubject of my next addreſs.

PUBLIUS.

NUMBER II.

Concerning Dangers from foreign Force and Influence.

WHEN the people of America reflect that they are now called upon to decide a queſtion, which, in its conſequences, muſt prove one of the moſt important, that ever engaged their attention, the propriety of their taking a very comprehenſive, as well as a very ſerious view of it, will be evident.

Nothing is more certain than the indiſpenſable neceſſity of government; and it is equally undeniable, that whenever and however it is inſtituted, the people muſt cede to it ſome of their natural rights, in order to veſt it with requiſite powers. It is well worthy of conſideration therefore, whether it would conduce more to the intereſt of the people of America, that they ſhould, to all general purpoſes, be one nation, under one federal government, than that they ſhould divide themſelves into ſeparate confederacies, and give to the head of each, the ſame kind of powers which they are adviſed to place in one national government.

It has until lately been a received and uncontradicted opinion, that the proſperity of the people of America

America depended on their continuing firmly united, and the wiſhes, prayers, and efforts of our beſt and wiſeſt citizens have been conſtantly directed to that object. But politicians now appear, who inſiſt that this opinion is erroneous, and that inſtead of looking for ſafety and happineſs in union, we ought to ſeek it in a diviſion of the ſtates into diſtinct confederacies or ſovereignties. However extraordinary this new doctrine may appear, it nevertheleſs has its advocates; and certain characters who were much oppoſed to it formerly, are at preſent of the number. Whatever may be the arguments or inducements, which have wrought this change in the ſentiments and declarations of theſe gentlemen, it certainly would not be wiſe in the people at large to adopt theſe new political tenets without being fully convinced that they are founded in truth and ſound Policy.

It has often given me pleaſure to obſerve, that independent America was not compoſed of detached and diſtant territories, but that one connected, fertile, wide ſpreading country, was the portion of our weſtern ſons of liberty. Providence has in a particular manner bleſſed it with a variety of ſoils and productions, and watered it with innumerable ſtreams, for the delight and accommodation of its inhabitants. A ſucceſſion of navigable waters forms a kind of chain round its borders, as if to bind it together; while the moſt noble rivers in the world, running at convenient diſtances, preſent them with highways for the eaſy communication of friendly aids, and the mutual tranſportation and exchange of their various commodities.

With equal pleaſure I have as often taken notice, that Providence has been pleaſed to give this one connected country, to one united people, a people deſcended from the ſame anceſtors, ſpeaking the ſame language, profeſſing the ſame religion, attached to the ſame principles of government, very ſimilar in their manners and cuſtoms, and who, by their joint counſels, arms and efforts, fighting ſide by ſide throughout

throughout a long and bloody war, have nobly eſtabliſhed their general liberty and independence.

This country and this people ſeem to have been made for each other, and it appears as if it was the deſign of Providence, that an inheritance ſo proper and convenient for a band of brethren, united to each other by the ſtrongeſt ties, ſhould never be ſplit into a number of unſocial, jealous and alien ſovereignties.

Similar ſentiments have hitherto prevailed among all orders and denominations of men among us. To all general purpoſes we have uniformly been one people—each individual citizen every where enjoying the ſame national rights, privileges, and protection. As a nation we have made peace and war—as a nation we have vanquiſhed our common enemies—as a nation we have formed alliances and made treaties, and entered into various compacts and conventions with foreign ſtates.

A ſtrong ſenſe of the value and bleſſings of Union induced the people, at a very early period, to inſtitute a federal government to preſerve and perpetuate it. They formed it almoſt as ſoon as they had a political exiſtence; nay at a time, when their habitations were in flames, when many of their citizens were bleeding, and when the progreſs of hoſtility and deſolation left little room for thoſe calm and mature enquiries and reflections, which muſt ever precede the formation of a wiſe and well balanced government for a free people. It is not to be wondered at that a government inſtituted in times ſo inauſpicious, ſhould on experiment be found greatly deficient and inadequate to the purpoſe it was intended to anſwer.

This intelligent people perceived and regretted theſe defects. Still continuing no leſs attached to union, than enamoured of liberty, they obſerved the danger, which immediately threatned the former and more remotely the latter; and being perſuaded that ample

ample security for both, could only be found in a national government more wisely framed, they, as with one voice, convened the late Convention at Philadelphia, to take that important subject under consideration.

This Convention, composed of men who possessed the confidence of the people, and many of whom had become highly distinguished by their patriotism, virtue and wisdom, in times which tried the minds and hearts of men, undertook the arduous task. In the mild season of peace, with minds unoccupied by other subjects, they passed many months in cool uninterrupted and daily consultations: And finally, without having been awed by power, or influenced by any passions, except love for their country, they presented and recommended to the people the plan produced by their joint and very unanimous counsels.

Admit, for so is the fact, that this plan is only *recommended*, not imposed, yet let it be remembered, that it is neither recommended to *blind* approbation, nor to *blind* reprobation; but to that sedate and candid consideration, which the magnitude and importance of the subject demand, and which it certainly ought to receive. But, as has been already remarked, it is more to be wished than expected that it may be so considered and examined. Experience on a former occasion teaches us not to be too sanguine in such hopes. It is not yet forgotten, that well grounded apprehensions of imminent danger induced the people of America to form the memorable Congress of 1774. That body recommended certain measures to their constituents, and the event proved their wisdom; yet it is fresh in our memories how soon the press began to teem with pamphlets and weekly papers against those very measures. Not only many of the officers of government who obeyed the dictates of personal interest, but others from a mistaken estimate of consequences, from the undue influence of ancient attachments, or whose ambition aimed at objects which did

not

not correſpond with the public good, were indefatigable in their endeavours to perſuade the people to reject the advice of that patriotic Congreſs. Many indeed were deceived and deluded, but the great majority of the people reaſoned and decided judiciouſly; and happy they are in reflecting that they did ſo.

They conſidered that the Congreſs was compoſed of many wiſe and experienced men. That being convened from different parts of the country, they brought with them and communicated to each other a variety of uſeful information. That in the courſe of the time they paſſed together in enquiring into and diſcuſſing the true intereſts of their country, they muſt have acquired very accurate knowledge on that head. That they were individually intereſted in the public liberty and proſperity, and therefore that it was not leſs their inclination, than their duty, to recommend only ſuch meaſures, as after the moſt mature deliberation they really thought prudent and adviſable.

Theſe and ſimilar conſiderations then induced the people to rely greatly on the judgment and integrity of the Congreſs; and they took their advice, notwithſtanding the various arts and endeavours uſed to deter and diſſuade them from it. But if the people at large had reaſon to confide in the men of that Congreſs, few of whom had then been fully tried or generally known, ſtill greater reaſon have they now to reſpect the judgment and advice of the Convention, for it is well known that ſome of the moſt diſtinguiſhed members of that Congreſs, who have been ſince tried and juſtly approved for patriotiſm and abilities, and who have grown old in acquiring political information, were alſo members of this Convention, and carried into it their accumulated knowledge and experience.

It is worthy of remark that not only the firſt, but every ſucceeding Congreſs, as well as the late Convention, have invariably joined with the people in thinking that the proſperity of America depended on its Union. To preſerve and perpetuate it, was the great

great object of the people in forming that Convention, and it is also the great object of the plan which the Convention has advised them to adopt. With what propriety therefore, or for what good purposes, are attempts at this particular period, made by some men, to depreciate the importance of the Union? or why is it suggested that three or four confederacies would be better than one? I am persuaded in my own mind, that the people have always thought right on this subject, and that their universal and uniform attachment to the cause of the Union, rests on great and weighty reasons, which I shall endeavour to develope and explain in some ensuing papers. They who promote the idea of substituting a number of distinct confederacies in the room of the plan of the Convention, seem clearly to foresee that the rejection of it would put the continuance of the Union in the utmost jeopardy—that certainly would be the case, and I sincerely wish that it may be as clearly foreseen by every good citizen, that whenever the dissolution of the Union arrives, America will have reason to exclaim in the words of the Poet, "FAREWELL, A "LONG FAREWELL, TO ALL MY GREATNESS."

PUBLIUS.

NUMBER III.

The same Subject continued.

IT is not a new observation that the people of any country (if like the Americans intelligent and well informed) seldom adopt, and steadily persevere for many years, in an eroneous opinion respecting their interests. That consideration naturally tends to create great respect for the high opinion which the people of America have so long and uniformly entertained of the importance of their continuing firmly united under one

one federal government, vested with sufficient powers for all general and national purposes.

The more attentively I consider and investigate the reasons which appear to have given birth to this opinion, the more I become convinced that they are cogent and conclusive.

Among the many objects to which a wise and free people find it necessary to direct their attention, that of providing for their *safety* seems to be the first. The *safety* of the people doubtless has relation to a great variety of circumstances and considerations, and consequently affords great latitude to those who wish to define it precisely and comprehensively.

At present I mean only to consider it as it respects security for the preservation of peace and tranquility, as well against dangers, from *foreign arms and influence*, as from dangers of the *like kind* arising from domestic causes. As the former of these comes first in order, it is proper it should be the first discussed. Let us therefore proceed to examine whether the people are not right in their opinion, that a cordial Union under an efficient national Government, affords them the best security that can be devised against *hostilities* from abroad.

The number of wars which have happened or will happen in the world, will always be found to be in proportion to the number and weight of the causes, whether *real* or *pretended*, which *provoke* or *invite* them. If this remark be just, it becomes useful to inquire, whether so many *just* causes of war are likely to be given by *united* America, as by *disunited* America; for if it should turn out that united America will probably give the fewest, then it will follow that, in this respect, the Union tends most to preserve the people in a state of peace with other nations.

The *just* causes of war for the most part arise either from violations of treaties, or from direct violence. America has already formed treaties with no less than six foreign nations, and all of them, except Prussia, are

are maritime, and therefore able to annoy and injure us: She has also extensive commerce with Portugal, Spain, and Britain, and with respect to the two latter, has in addition the circumstance of neighbourhood to attend to.

It is of high importance to the peace of America, that she observe the laws of nations towards all these powers, and to me it appears evident that this will be more perfectly and punctually done by one national government, than it could be either by thirteen separate states, or by three or four distinct confederacies. For this opinion various reasons may be assigned.

When once an efficient national government is established, the best men in the country will not only consent to serve, but also will generally be appointed to manage it; for although town or county, or other contracted influence may place men in state assemblies, or senates, or courts of justice, or executive departments; yet more general and extensive reputation for talents and other qualifications, will be necessary to recommend men to offices under the national government, especially as it will have the widest field for choice, and never experience that want of proper persons, which is not uncommon in some of the states. Hence it will result, that the administration, the political counsels, and the judicial decisions of the national government will be more wise, systematical and judicious, than those of individual states, and consequently more satisfactory with respect to other nations, as well as more *safe* with respect to us.

Under the national government, treaties and articles of treaties, as well as the laws of nations, will always be expounded in one sense, and executed in the same manner—whereas adjudications on the same points and questions, in thirteen states, or in three or four confederacies, will not always accord or be consistent; and that as well from the variety of independent courts and judges appointed by different and independent governments, as from the different local

laws and intereſts which may affect and influence them. The wiſdom of the Convention in committing ſuch queſtions to the juriſdiction and judgment of courts appointed by, and reſponſible only to one national government, cannot be too much commended.

The proſpect of preſent loſs or advantage, may often tempt the governing party in one or two ſtates to ſwerve from good faith and juſtice; but thoſe temptations not reaching the other ſtates, and conſequently having little or no influence on the national government, the temptations will be fruitleſs, and good faith and juſtice be preſerved. The caſe of the treaty of peace with Britain, adds great weight to this reaſoning.

If even the governing party in a ſtate ſhould be diſpoſed to reſiſt ſuch temptations, yet as ſuch temptations may, and commonly do reſult from circumſtances peculiar to the ſtate, and may affect a great number of the inhabitans, the governing party may not always be able if willing to prevent the injuſtice meditated, or to puniſh the agreſſors. But the national government, not being affected by thoſe local circumſtances, will neither be induced to commit the wrong themſelves, nor want power or inclination to prevent, or puniſh its commiſſion by others.

So far therefore as either deſigned or accidental violations of treaties and of the laws of nations afford *juſt* cauſes of war, they are leſs to be apprehended under one general government, than under ſeveral leſſer ones, and in that reſpect, the former moſt favors the *ſafety* of the people.

As to thoſe juſt cauſes of war which proceed from direct and unlawful violence, it appears equally clear to me, that one good national government affords vaſtly more ſecurity againſt dangers of that ſort, than can be derived from any other quarter.——

Such violencies are more frequently occaſioned by the paſſions and intereſts of a part than of the whole, of one or two ſtates than of the union.—

Not

Not a ſingle Indian war has yet been produced by aggreſſions of the preſent federal government, feeble as it is, but there are ſeveral inſtances of Indian hoſtilities having been provoked by the improper conduct of individual ſtates, who either unable or unwilling to reſtrain or puniſh offences, have given occaſion to the ſlaughter of many innocent inhabitants.——

The neighbourhood of Spaniſh and Britiſh territories, bordering on ſome ſtates, and not on others, naturally confines the cauſes of quarrel more immediately to the borderers. The bordering ſtates, if any, will be thoſe who, under the impulſe of ſudden irritation, and a quick ſenſe of apparent intereſt or injury, will be moſt likely by direct violence, to excite war with thoſe nations; and nothing can ſo effectually obviate that danger, as a national government, whoſe wiſdom and prudence will not be diminiſhed by the paſſions which actuate the parties immediately intereſted.

But not only fewer juſt cauſes of war will be given by the national government, but it will alſo be more in their power to accommodate and ſettle them amicably. They will be more temperate and cool, and in that reſpect, as well as in others, will be more in capacity to act with circumſpection than the offending ſtate. The pride of ſtates as well as of men, naturally diſpoſes them to juſtify all their actions, and oppoſes their acknowleging, correcting or repairing their errors and offences. The national government in ſuch caſes will not be affected by this pride, but will proceed with moderation and candour to conſider and decide on the means moſt proper to extricate them from the difficulties which threaten them.

Beſides it is well known that acknowledgments, explanations and compenſations are often accepted as ſatisfactory from a ſtrong united nation, which would be rejected as unſatisfactory if offered by a ſtate or confederacy of little conſideration or power.

In the year 1685 the ſtate of Genoa having offended Louis XIVth. endeavoured to appeaſe him.

He demanded that they ſhould ſend their *Doge* or chief magiſtrate, accompanied by four of their Senators to *France* to aſk his pardon and receive his terms. They were obliged to ſubmit to it for the ſake of peace. Would he on any occaſion either have demanded or have received the like humiliation from Spain, or Britain, or any other *powerful* nation.

PUBLIUS.

NUMBER IV.

The ſame Subject continued.

MY laſt paper aſſigned ſeveral reaſons why the ſafety of the people would be beſt ſecured by Union againſt the danger it may be expoſed to by *juſt* cauſes of war given to other nations; and thoſe reaſons ſhew that ſuch cauſes would not only be more rarely given, but would alſo be more eaſily accommodated by a national government, than either by the ſtate governments, or the propoſed confederacies.

But the ſafety of the people of America againſt dangers from *foreign* force, depends not only on their forbearing to give *juſt* cauſes of war to other nations, but alſo on their placing and continuing themſelves in ſuch a ſituation as not to *invite* hoſtility or inſult; for it need not be obſerved, that there are *pretended* as well as juſt cauſes of war.

It is too true, however diſgraceful it may be to human nature, that nations in general will make war whenever they have a proſpect of getting any thing by it, nay that abſolute monarchs will often make war when their nations are to get nothing by it, but for purpoſes and objects merely perſonal, ſuch as, a thirſt for military glory, revenge for perſonal affronts, ambition or private compacts to aggrandize or ſupport their particular families, or partizans. Theſe

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and a variety of motives, which affect only the mind of the ſovereign, often lead him to engage in wars not ſanctified by juſtice, or the voice and intereſts of his people. But independent of theſe inducements to war, which are moſt prevalent in abſolute monarchies, but which well deſerve our attention, there are others which affect nations as often as kings; and ſome of them will on examination be found to grow out of our relative ſituation and circumſtances.

With France and with Britain we are rivals in the fiſheries, and can ſupply their markets cheaper than they can themſelves, notwithſtanding any efforts to prevent it by bounties on their own, or duties on foreign fiſh.

With them and moſt other European nations, we are rivals in navigation and the carrying trade; and we ſhall deceive ourſelves if we ſuppoſe that any of them will rejoice to ſee it flouriſh: for as our carrying trade cannot increaſe, without in ſome degree diminiſhing their's, it is more their intereſt and will be more their policy, to reſtrain, than to promote it.

In the trade to China and India, we interfere with more than one nation, inaſmuch as it enables us to partake in advantages which they had in a manner monopolized, and as we thereby ſupply ourſelves with commodities which we uſed to purchaſe from them.

The extenſion of our own commerce in our own veſſels, cannot give pleaſure to any nations who poſſeſs territories on or near this continent, becauſe the cheapneſs and excellence of our productions, added to the circumſtance of vicinity, and the enterprize and addreſs of our merchants and navigators, will give us a greater ſhare in the advantages which thoſe territories afford, than conſiſts with the wiſhes or policy of their reſpective ſovereigns.

Spain thinks it convenient to ſhut the Miſſiſippi againſt us on the one ſide, and Britain excludes us from the St. Lawrence on the other; nor will either of them permit the other waters, which are between

them and us, to become the means of mutual intercourse and traffic.

From these and such like considerations, which might if consistent with prudence, be more amplified and detailed, it is easy to see that jealousies and uneasinesses may gradually slide into the minds and cabinets of other nations; and that we are not to expect they should regard our advancement in union, in power and consequence by land and by sea, with an eye of indifference and composure.

The people of America are aware that inducements to war may arise out of these circumstances, as well as from others not so obvious at present; and that whenever such inducements may find fit time and opportunity for operation, pretences to colour and justify them will not be wanting. Wisely therefore do they consider union and a good national government as necessary to put and keep them in *such a situation* as instead of *inviting* war, will tend to repress and discourage it. That situation consists in the best possible state of defence, and necessarily depends on the government, the arms and the resources of the country.

As the safety of the whole is the interest of the whole, and cannot be provided for without government, either one or more or many, let us inquire whether one good government is not, relative to the object in question, more competent than any other given number whatever.

One government can collect and avail itself of the talents and experience of the ablest men, in whatever part of the union they may be found. It can move on uniform principles of policy. It can harmonize, assimilate, and protect the several parts and members, and extend the benefit of its foresight and precautions to each. In the formation of treaties it will regard the interest of the whole, and the particular interests of the parts as connected with that of the whole. It can apply the resources and power of the whole to the defence

defence of any particular part, and that more eaſily and expeditiouſly than ſtate governments, or ſeparate confederacies can poſſibly do, for want of concert and unity of ſyſtem. It can place the militia under one plan of diſcipline, and by putting their officers in a proper line of ſubordination to the chief magiſtrate, will in a manner conſolidate them into one corps, and thereby render them more efficient than if divided into thirteen or into three or four diſtinct independent bodies.

What would the militia of Britain be, if the Engliſh militia obeyed the government of England, if the Scotch militia obeyed the government of Scotland, and if the Welch militia obeyed the government of Wales! Suppoſe an invaſion, would thoſe three governments (if they agreed at all) be able with all their reſpective forces, to operate againſt the enemy ſo effectually as the ſingle government of Great Britain would?

We have heard much of the fleets of Britain, and the time may come, if we are wiſe, when the fleets of America may engage attention. But if one national government had not ſo regulated the navigation of Britain as to make it a nurſery for ſeamen—if one national government had not called forth all the national means and materials for forming fleets, their proweſs and their thunder would never have been celebrated. Let England have its navigation and fleet—let Scotland have its navigation and fleet—let Wales have its navigation and fleet—let Ireland have its navigation and fleet—let thoſe four of the conſtituent parts of the Britiſh empire be under four independent governments, and it is eaſy to perceive how ſoon they would each dwindle into comparitive inſignificance.

Apply theſe facts to our own caſe. Leave America divided into thirteen, or if you pleaſe into three or four independent governments, what armies could they raiſe and pay, what fleets could they ever hope to have? If one was attacked would the other fly to its ſuccour, and

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ſpend their blood and money in its defence? would there be no danger of their being flattered into neutrality by ſpecious promiſes, or ſeduced by a too great fondneſs for peace to decline hazarding their tranquility and preſent ſafety for the ſake of neighbours, of whom perhaps they have been jealous, and whoſe importance they are content to ſee diminiſhed? Although ſuch conduct would not be wiſe it would nevertheleſs be natural. The hiſtory of the ſtates of Greece, and of other countries abound with ſuch inſtances, and it is not improbable that what has ſo often happened, would under ſimilar circumſtances happen again.

But admit that they might be willing to help the invaded ſtate or confederacy. How and when, and in what proportion ſhall aids of men and money be afforded? who ſhall command the allied armies, and from which of them ſhall he receive his orders? Who ſhall ſettle the terms of peace, and in caſe of diſputes what umpire ſhall decide between them, and compel acquieſcence? Various difficulties and inconveniences would be inſeparable from ſuch a ſituation; whereas one government watching over the general and common intereſts, and combining and directing the powers and reſources of the whole, would be free from all theſe embarraſſments and conduce far more to the ſafety of the people.

But whatever may be our ſituation, whether firmly united under one national government, or ſplit into a number of confederacies, certain it is, that foreign nations will know and view it exactly as it is; and they will act towards us accordingly. If they ſee that our national government is efficient and well adminiſtred—our trade prudently regulated—our militia properly organized and diſciplined—our reſources and finances diſcreetly managed—our credit re-eſtabliſhed—our people free, contented, and united, they will be much more diſpoſed to cultivate our friendſhip, than provoke our reſentment. If on the other hand they find us either deſtitute of an effectual government,

ment, (each ſtate doing right or wrong as to its rulers may ſeem convenient), or ſplit into three or four independent and probably diſcordant republics or confederacies, one inclining to Britain, another to France, and a third to Spain, and perhaps played off againſt each other by the three, what a poor pitiful figure will America make in their eyes! How liable would ſhe become not only to their contempt, but to their outrage; and how ſoon would dear bought experience proclaim, that when a people or family ſo divide, it never fails to be againſt themſelves.

PUBLIUS.

NUMBER V.

The ſame Subject continued.

QUEEN Ann, in her letter of the 1ſt July, 1706, to the Scotch Parliament, makes ſome obſervations on the importance of the *Union* then forming between England and Scotland, which merit our attention. I ſhall preſent the public with one or two extracts from it. "An entire and perfect union will be the "ſolid foundation of laſting peace: It will ſecure your "religion, liberty, and property, remove the animo-"ſities amongſt yourſelves, and the jealouſies and "differences betwixt our two kingdoms. It muſt "encreaſe your ſtrength, riches, and trade; and by "this union the whole iſland, being joined in affec-"tion and free from all apprehenſions of different "intereſt, will be *enabled to reſiſt all its enemies.*" "We moſt earneſtly recommend to you calmneſs and "unanimity in this great and weighty affair, that the "union may be brought to a happy concluſion, being "the only *effectual* way to ſecure our preſent and "future happineſs; and diſappoint the deſigns of "our and your enemies, who will doubtleſs, on this "occaſion,

"occaſion, *uſe their utmoſt endeavours to prevent or* "*delay this union.*"

It was remarked in the preceding paper, that weakneſs and diviſions at home, would invite dangers from abroad, and that nothing would tend more to ſecure us from them than union, ſtrength, and good government within ourſelves. This ſubject is copious and cannot eaſily be exhauſted.

The hiſtory of Great-Britain is the one with which we are in general the beſt acquainted, and it gives us many uſeful leſſons. We may profit by their experience, without paying the price which it coſt them. Although it ſeems obvious to common ſenſe, that the people of ſuch an iſland ſhould be but one nation, yet we find that they were for ages divided into three, and thoſe three were almoſt conſtantly embroiled in quarrels and wars with one another. Notwithſtanding their true intereſt, with reſpect to the continental nations, was really the ſame, yet by the arts and policy and practices of thoſe nations, their mutual jealouſies were perpetually kept enflamed, and for a long ſeries of years they were far more inconvenient and troubleſome, than they were uſeful and aſſiſting to each other.

Should the people of America divide themſelves into three or four nations, would not the ſame thing happen? Would not ſimilar jealouſies ariſe; and be in like manner cheriſhed? Inſtead of their being "joined in affection and free from all apprehenſion "of different intereſts," envy and jealouſy would ſoon extinguiſh confidence and affection, and the partial intereſts of each confederacy inſtead of the general intereſts of all America, would be the only objects of their policy and purſuits. Hence like moſt other *bordering* nations, they would always be either involved in diſputes and war, or live in the conſtant apprehenſion of them.

The moſt ſanguine advocates for three or four confederacies, cannot reaſonably ſuppoſe that they would long

long remain exactly on an equal footing in point of ſtrength, even if it was poſſible to form them ſo at firſt—but admitting that to be practicable, yet what human contrivance can ſecure the continuance of ſuch equality? Independent of thoſe local circumſtances which tend to beget and encreaſe power in one part, and to impede its progreſs in another, we muſt advert to the effects of that ſuperior policy and good management which would probably diſtinguiſh the government of one above the reſt, and by which their relative equality in ſtrength and conſideration, would be deſtroyed. For it cannot be preſumed that the ſame degree of ſound policy, prudence, and foreſight, would uniformly be obſerved by each of theſe confederacies, for a long ſucceſſion of years.

Whenever, and from whatever cauſes, it might happen; and happen it would, that any one of theſe nations or confederacies ſhould riſe on the ſcale of political importance much above the degree of their neighbours, that moment would thoſe neighbours behold her with envy and with fear: Both thoſe paſſions would lead them to countenance, if not to promote, whatever might promiſe to diminiſh her importance; and would alſo reſtrain them from meaſures calculated to advance, or even to ſecure her proſperity. Much time would not be neceſſary to enable her to diſcern theſe unfriendly diſpoſitions. She would ſoon begin, not only to loſe confidence in her neighbours, but alſo to feel a diſpoſition equally unfavorable to them: Diſtruſt naturally creates diſtruſt, and by nothing is good will and kind conduct more ſpeedily changed, than by invidious jealouſies and uncandid imputations, whether expreſſed or implied.

The North is generally the region of ſtrength, and many local circumſtances render it probable, that the moſt Northern of the propoſed confederacies would, at a period not very diſtant, be unqueſtionably more formidable than any of the others. No ſooner would this become evident, than the *Northern Hive* would excite the

the ſame ideas and ſenſations in the more Southern parts of America, which it formerly did in the Southern parts of Europe: Nor does it appear to be a raſh conjecture, that its young ſwarms might often be tempted to gather honey in the more blooming fields and milder air of their luxurious and more delicate neighbours.

They who well conſider the hiſtory of ſimilar diviſions and confederacies, will find abundant reaſon to apprehend, that thoſe in contemplation would in no other ſenſe be neighbours, than as they would be borderers; that they would neither love nor truſt one another, but on the contrary would be a prey to diſcord, jealouſy and mutual injuries; in ſhort that they would place us exactly in the ſituation in which ſome nations doubtleſs wiſh to ſee us, viz. *formidable only to each other.*

From theſe conſiderations it appears that thoſe perſons are greatly miſtaken, who ſuppoſe that alliances offenſive and defenſive might be formed between theſe confederacies, and would produce that combination and union of wills, of arms, and of reſources, which would be neceſſary to put and keep them in a formidable ſtate of defence againſt foreign enemies.

When did the independent ſtates into which Britain and Spain were formerly divided, combine in ſuch alliances, or unite their forces againſt a foreign enemy? The propoſed confederacies will be *diſtinct nations.* Each of them would have its commerce with foreigners to regulate by diſtinct treaties; and as their productions and commodities are different, and proper for different markets, ſo would thoſe treaties be eſſentially different. Different commercial concerns muſt create different intereſts, and of courſe different degrees of political attachment to, and connection with different foreign nations. Hence it might and probably would happen, that the foreign nation with whom the *Southern* confederacy might be at war, would be the one, with whom the *Northern* confederacy would be the moſt deſirous of preſerving peace and friendſhip. An

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alliance so contrary to their immediate interest would not therefore be easy to form, nor if formed, would it be observed and fulfilled with perfect good faith.

Nay it is far more probable that in America, as in Europe, neighbouring nations, acting under the impulse of opposite interests, and unfriendly passions, would frequently be found taking different sides. Considering our distance from Europe, it would be more natural for these confederacies to apprehend danger from one another, than from distant nations, and therefore that each of them should be more desirous to guard against the others, by the aid of foreign alliances, than to guard against foreign dangers by alliances between themselves. And here let us not forget how much more easy it is to receive foreign fleets into our ports, and foreign armies into our country, than it is to persuade or compel them to depart. How many conquests did the Romans and others make in the character of allies, and what innovations did they under the same character introduce into the governments of those whom they pretended to protect?

Let candid men judge then whether the division of America into any given number of independent sovereignties would tend to secure us against the hostilities and improper interference of foreign nations.

PUBLIUS.

NUMBER VI.

Concerning Dangers from War between the States.

THE three last numbers of this paper have been dedicated to an enumeration of the dangers to which we should be exposed, in a state of disunion, from the arms and arts of foreign nations. I shall now proceed to delineate dangers of a different, and,

perhaps, ſtill more alarming kind, thoſe which will in all probability flow from diſſentions between the ſtates themſelves, and from domeſtic factions and convulſions. Theſe have been already in ſome inſtances ſlightly anticipated; but they deſerve a more particular and more full inveſtigation.

A man muſt be far gone in Utopian ſpeculations who can ſeriouſly doubt, that if theſe ſtates ſhould either be wholly diſunited, or only united in partial confederacies, the ſubdiviſions into which they might be thrown would have frequent and violent conteſts with each other. To preſume a want of motives for ſuch conteſts, as an argument againſt their exiſtence, would be to forget that men are ambitious, vindictive and rapacious. To look for a continuation of harmony between a number of independent unconnected ſovereignties, ſituated in the ſame neighbourhood, would be to diſregard the uniform courſe of human events, and to ſet at defiance the accumulated experience of ages.

The cauſes of hoſtility among nations are innumerable. There are ſome which have a general and almoſt conſtant operation upon the collective bodies of ſociety: Of this deſcription are the love of power, or the deſire of pre-eminence and dominion—the jealouſy of power, or the deſire of equality and ſafety. There are others which have a more circumſcribed, though an equally operative influence, within their ſpheres: Such are the rivalſhips and competitions of commerce between commercial nations. And there are others, not leſs numerous than either of the former, which take their origin entirely in private paſſions; in the attachments, enmities, intereſts, hopes and fears of leading individuals in the communities of which they are members. Men of this claſs, whether the favourites of a king or of a people, have in too many inſtances abuſed the confidence they poſſeſſed; and aſſuming the pretext of ſome public motive, have not ſcrupled to ſacrifice the national tranquility to perſonal advantage, or perſonal gratification.

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The celebrated Pericles, in compliance with the reſentments of a proſtitute,* at the expence of much of the blood and treaſure of his countrymen, attacked, vanquiſhed and deſtroyed the city of the *Samnians*. The ſame man, ſtimulated by private pique againſt the *Magarenſians*,† another nation of Greece, or to avoid a proſecution with which he was threatened as an accomplice in a ſuppoſed theft of the ſtatuary *Phidias*,‡ or to get rid of the accuſations prepared to be brought againſt him for diſſipating the funds of the ſtate in the purchaſe of popularity,‖ or from a combination of all theſe cauſes, was the primitive author of that famous and fatal war, diſtinguiſhed in the Grecian annals by the name of the *Peloponneſian* war; which, after various viciſſitudes, intermiſſions and renewals, terminated in the ruin of the Athenian commonwealth.

The ambitious cardinal, who was prime miniſter to Henry VIIIth. permitting his vanity to aſpire to the tripple-crown,§ entertained hopes of ſucceeding in the acquiſition of that ſplendid prize by the influence of the emperor Charles Vth. To ſecure the favour and intereſt of this enterpriſing and powerful monarch, he precipitated England into a war with France, contrary to the plaineſt dictates of policy, and at the hazard of the ſafety and independence, as well of the kindom over which he preſided by his councils, as of Europe in general. For if there ever was a ſovereign who bid fair to realiſe the project of univerſal monarchy it was the emperor Charles Vth. of whoſe intrigues Wolſey was at once the inſtrument and the dupe.

* Aspasia, vide Plutarch's life of Pericles.
† ——————Idem.
‡ ——————Idem. Phidias was ſuppoſed to have ſtolen ſome public gold with the connivance of Pericles for the embelliſhment of the ſtatue of Minerva.
‖ ——————Idem.
§ Worn by the Popes.

The influence which the biggotry of one female,* the petulancies of another,† and the cabals of a third,‡ had in the contemporary policy, ferments and pacifications of a conſiderable part of Europe are topics that have been too often deſcanted upon not to be generally known.

To multiply examples of the agency of perſonal conſiderations in the production of great national events, either foreign or domeſtic, according to their direction, would be an unneceſſary waſte of time. Thoſe who have but a ſuperficial acquaintance with the ſources from which they are to be drawn will themſelves recollect a variety of inſtances; and thoſe who have a tolerable knowledge of human nature will not ſtand in need of ſuch lights, to form their opinion either of the reality or extent of that agency. Perhaps however a reference, tending to illuſtrate the general principle, may with propriety be made to a caſe which has lately happened among ourſelves. If SHAYS had not been a *deſperate actor* it is much to be doubted whether Maſſachuſetts would have been plunged into a civil war.

But notwithſtanding the concurring teſtimony of experience, in this particular, there are ſtill to be found viſionary, or deſigning men, who ſtand ready to advocate the paradox of perpetual peace between the States, though diſmembered and alienated from each other. The genius of republics (ſay they) is pacific; the ſpirit of commerce has a tendency to ſoften the manners of men and to extinguiſh thoſe inflammable humours which have ſo often kindled into wars. Commercial republics, like ours, will never be diſpoſed to waſte themſelves in ruinous contentions with each other. They will be governed by mutual intereſt, and will cultivate a ſpirit of mutual amity and concord.

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* Madame de Maintenon.
† Dutcheſs of Marlborough.
‡ Madame de Pompadoure.

Is it not (we may ask these projectors in politics) the true interest of all nations to cultivate the same benevolent and philosophic spirit? If this be their true interest, have they in fact pursued it? Has it not, on the contrary, invariably been found, that momentary passions and immediate interests have a more active and imperious control over human conduct than general or remote considerations of policy, utility or justice? Have republics in practice been less addicted to war than monarchies? Are not the former administred by *men* as well as the latter? Are there not aversions, predilections, rivalships and desires of unjust acquisition that affect nations as well as kings? Are not popular assemblies frequently subject to the impulses of rage, resentment, jealousy, avarice, and of other irregular and violent propensities? Is it not well known that their determinations are often governed by a few individuals, in whom they place confidence, and are of course liable to be tinctured by the passions and views of those individuals? Has commerce hitherto done any thing more than change the objects of war? Is not the love of wealth as domineering and enterprising a passion as that of power or glory? Have there not been as many wars founded upon commercial motives, since that has become the prevailing system of nations, as were before occasioned by the cupidity of territory or dominion? Has not the spirit of commerce in many instances administred new incentives to the appetite both for the one and for the other?—Let experience the least fallible guide of human opinions be appealed to for an answer to these inquiries.

Sparta, Athens, Rome and Carthage were all republics; two of them, Athens and Carthage, of the commercial kind. Yet were they as often engaged in wars, offensive and defensive, as the neighbouring monarchies of the same times. Sparta was little better than a well regulated camp; and Rome was never sated of carnage and conquest.

Carthage, though a commercial republic, was the aggreſſor in the very war that ended in her deſtruction. Hannibal had carried her arms into the heart of Italy and to the gates of Rome, before Scipio, in turn, gave him an overthrow in the territories of Carthage and made a conqueſt of the commonwealth.

Venice in latter times figured more than once in wars of ambition; till becoming an object of terror to the other Italian ſtates, Pope Julius the Second found means to accompliſh that formidable league*, which gave a deadly blow to the power and pride of that haughty republic.

The provinces of Holland, till they were overwhelmed in debts and taxes, took a leading and conſpicuous part in the wars of Europe. They had furious conteſts with England for the dominion of the ſea; and were among the moſt perſevering and moſt implacable of the opponents of Lewis XIV.

In the government of Britain the repreſentatives of the people compoſe one branch of the national legiſlature. Commerce has been for ages the predominant purſuit of that country. Few nations nevertheleſs have been more frequently engaged in war; and the wars, in which that kingdom has been engaged, have in numerous inſtances proceeded from the people. There have been, if I may ſo expreſs it, almoſt as many popular as royal wars. The cries of the nation and the importunities of their repreſentatives have, upon various occaſions, dragged their monarchs into war, or continued them in it, contrary to their inclinations, and, ſometimes, contrary to the real intereſts of the ſtate. In that memorable ſtruggle for ſuperiority, between the rival houſes of *Auſtria* and *Bourbon* which ſo long kept Europe in a flame, it is well known that the antipathies of the Engliſh againſt the French, ſeconding the ambition, or rather the avarice of a favourite

* THE LEAGUE OF CAMBRAY, comprehending the Emperor, the King of France, the King of Arragon, and moſt of the Italian Princes and States.

favourite leader,* protracted the war beyond the limits marked out by ſound policy and for a conſiderable time in oppoſition to the views of the court.

The wars of theſe two laſt mentioned nations have in a great meaſure grown out of commercial conſiderations.—The deſire of ſupplanting and the fear of being ſupplanted, either in particular branches of traffic, or in the general advantages of trade and navigation; and ſometimes even the more culpable deſire of ſharing in the commerce of other nations, without their conſent.

The laſt war but two between Britain and Spain ſprang from the attempts of the Engliſh merchants, to proſecute an illicit trade with the Spaniſh main. Theſe unjuſtifiable practices on their part produced ſeverities on the part of the Spaniards, towards the ſubjects of Great Britain, which were not more juſtifiable; becauſe they exceeded the bounds of a juſt retaliation, and were chargeable with inhumanity and cruelty. Many of the Engliſh who were taken on the Spaniſh coaſts were ſent to dig in the mines of Potoſi; and by the uſual progreſs of a ſpirit of reſentment, the innocent were after a while confounded with the guilty in indiſcriminate puniſhment. The complaints of the merchants kindled a violent flame throughout the nation, which ſoon after broke out in the houſe of commons, and was communicated from that body to the miniſtry. Letters of repriſal were granted and a war enſued, which in its conſequences overthrew all the alliances that but twenty years before had been formed, with ſanguine expectations of the moſt beneficial fruits.

From this ſummary of what has taken place in other countries, whoſe ſituations have borne the neareſt reſemblance to our own, what reaſon can we have to confide in thoſe reveries, which would ſeduce us into an expectation of peace and cordiality between the members of the preſent confederacy, in a ſtate of ſeparation?

* The Duke of Marlborough.

separation? Have we not already seen enough of the fallacy and extravagance of those idle theories which have amused us with promises of an exemption from the imperfections, the weaknesses and the evils incident to society in every shape? Is it not time to awake from the deceitful dream of a golden age, and to adopt as a practical maxim for the direction of our political conduct, that we, as well as the other inhabitants of the globe, are yet remote from the happy empire of perfect wisdom and perfect virtue?

Let the point of extreme depression to which our national dignity and credit have sunk—let the inconveniences felt every where from a lax and ill administration of government—let the revolt of a part of the state of North Carolina—the late menacing disturbances in Pennsylvania, and the actual insurrections and rebellions in Massachusetts, declare!——

So far is the general sense of mankind from corresponding with the tenets of those, who endeavour to lull asleep our apprehensions of discord and hostility between the states, in the event of disunion, that it has from long observation of the progress of society become a sort of axiom in politics, that vicinity, or nearness of situation, constitutes nations natural enemies. An intelligent writer expresses himself on this subject to this effect—"NEIGHBOURING NATIONS "(says he) are naturally ENEMIES of each other, "unless their common weakness forces them to league "in a CONFEDERATE REPUBLIC, and their con- "stitution prevents the differences that neighbour- "hood occasions, extinguishing that secret jealousy, "which disposes all states to aggrandize themselves "at the expence of their neighbours.*" This passage, at the same time points out the EVIL and suggests the REMEDY.

PUBLIUS.

NUMBER

* Vide Principes des Negotiations par L'Abbe de Mably.

NUMBER VII.

The Subject continued and particular Causes enumerated.

IT is sometimes asked, with an air of seeming triumph, what inducements could the states have, if disunited, to make war upon each other? It would be a full answer to this question to say—precisely the same inducements which have, at different times, deluged in blood all the nations in the world. But unfortunately for us, the question admits of a more particular answer. There are causes of difference within our immediate contemplation, of the tendency of which, even under the restraints of a federal constitution, we have had sufficient experience to enable us to form a judgment of what might be expected, if those restraints were removed.

Territorial disputes have at all times been found one of the most fertile sources of hostility among nations. Perhaps the greatest proportion of the wars that have desolated the earth have sprung from this origin.—This cause would exist, among us, in full force. We have a vast tract of unsettled territory within the boundaries of the United States. There still are discordant and undecided claims between several of them; and the dissolution of the union would lay a foundation for similar claims between them all. It is well known, that they have heretofore had serious and animated discussions concerning the right to the lands which were ungranted at the time of the revolution, and which usually went under the name of crown-lands. The states within the limits of whose colonial governments they were comprised, have claimed them as their property; the others have contended that the rights of the crown in this article devolved upon the union; especially as to all that part of the Western territory which, either by actual possession, or through the submission of the Indian proprietors, was subjected

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to the jurisdiction of the King of Great-Britain, till it was relinquished in the treaty of peace. This, it has been said, was at all events an acquisition to the confederacy by compact with a foreign power. It has been the prudent policy of Congress to appease this controversy, by prevailing upon the states to make cessions to the United States for the benefit of the whole. This has been so far accomplished, as under a continuation of the union, to afford a decided prospect of an amicable termination of the dispute. A dismemberment of the confederacy however would revive this dispute, and would create others on the same subject. At present, a large part of the vacant Western territory is by cession at least, if not by any anterior right, the common property of the union. If that were at an end, the states which have made cessions, on a principle of federal compromise, would be apt, when the motive of the grant had ceased, to reclaim the lands as a reversion. The other states would no doubt insist on a proportion, by right of representation. Their argument would be that a grant, once made, could not be revoked; and that the justice of their participating in territory acquired, or secured by the joint efforts of the confederacy, remained undiminished. If contrary to probability it should be admitted by all the states, that each had a right to a share of this common stock, there would still be a difficulty to be surmounted, as to a proper rule of apportionment. Different principles would be set up by different states for this purpose; and as they would affect the opposite interests of the parties, they might not easily be susceptible of a pacific adjustment.

In the wide field of Western territory, therefore, we perceive an ample theatre for hostile pretensions, without any umpire or common judge to interpose between the contending parties. To reason from the past to the future we shall have good ground to apprehend, that the sword would sometimes be appealed to as the arbiter of their differences. The circumstances

ſtances of the diſpute between Connecticut and Pennſylvania, reſpecting the lands at Wyoming, admoniſh us, not to be ſanguine in expecting an eaſy accommodation of ſuch differences. The articles of confederation obliged the parties to ſubmit the matter to the deciſion of a federal court. The ſubmiſſion was made, and the court decided in favour of Pennſylvania. But Connecticut gave ſtrong indications of diſſatisfaction with that determination; nor did ſhe appear to be intirely reſigned to it, till by negotiation and management ſomething like an equivalent was found for the loſs ſhe ſuppoſed herſelf to have ſuſtained. Nothing here ſaid is intended to convey the ſlighteſt cenſure on the conduct of that State. She no doubt ſincerely believed herſelf to have been injured by the deciſion; and ſtates, like individuals, acquieſce with great reluctance in determinations to their diſadvantage.

Thoſe who had an opportunity of ſeeing the inſide of the tranſactions, which attended the progreſs of the controverſy between this ſtate and the diſtrict of Vermont, can vouch the oppoſition we experienced, as well from ſtates not intereſted as from thoſe which were intereſted in the claim; and can atteſt the danger to which the peace of the confederacy might have been expoſed, had this ſtate attempted to aſſert its rights by force. Two motives preponderated in that oppoſition—one a jealouſy entertained of our future power—and the other, the intereſt of certain individuals of influence in the neighbouring ſtates, who had obtained grants of lands under the actual government of that diſtrict. Even the ſtates which brought forward claims, in contradiction to ours, ſeemed more ſolicitous to diſmember this ſtate, than to eſtabliſh their own pretenſions. Theſe were New-Hampſhire, Maſſachuſetts and Connecticut. New-Jerſey and Rhode-Iſland, upon all occaſions, diſcovered a warm zeal for the independence of Vermont; and Maryland, until alarmed by the appearance of a connection between Canada

Canada and that place, entered deeply into the ſame views. Theſe being ſmall ſtates, ſaw with an unfriendly eye the perſpective of our growing greatneſs. In a review of theſe tranſactions we may trace ſome of the cauſes, which would be likely to embroil the ſtates with each other, if it ſhould be their unpropitious deſtiny to become diſunited.

The competitions of commerce would be another fruitful ſource of contention. The ſtates leſs favourably circumſtanced would be deſirous of eſcaping from the diſadvantages of local ſituation, and of ſharing in the advantages of their more fortunate neighbours. Each ſtate, or ſeparate confederacy, would purſue a ſyſtem of commercial polity peculiar to itſelf. This would occaſion diſtinctions, preferences and excluſions, which would beget diſcontent. The habits of intercourſe, on the baſis of equal privileges, to which we have been accuſtomed from the earlieſt ſettlement of the country, would give a keener edge to thoſe cauſes of diſcontent, than they would naturally have, independent of this circumſtance. *We ſhould be ready to denominate injuries thoſe things which were in reality the juſtifiable acts of independent ſovereignties conſulting a diſtinct intereſt.* The ſpirit of enterpriſe, which characteriſes the commercial part of America, has left no occaſion of diſplaying itſelf unimproved. It is not at all probable that this unbridled ſpirit would pay much reſpect to thoſe regulations of trade, by which particular ſtates might endeavour to ſecure excluſive benefits to their own citizens. The infractions of theſe regulations on one ſide, the efforts to prevent and repel them on the other, would naturally lead to outrages, and theſe to repriſals and wars.

The opportunities, which ſome ſtates would have of rendering others tributary to them, by commercial regulations, would be impatiently ſubmitted to by the tributary ſtates. The relative ſituation of New-York, Connecticut and New-Jerſey, would afford an example of this kind. New-York, from the neceſſities

of

of revenue, must lay duties on her importations. A great part of these duties must be paid by the inhabitants of the two other states in the capacity of consumers of what we import. New-York would neither be willing nor able to forego this advantage. Her citizens would not consent that a duty paid by them should be remitted in favour of the citizens of her neighbours; nor would it be practicable, if there were not this impediment in the way, to distinguish the customers in our own markets. Would Connecticut and New-Jersey long submit to be taxed by New-York for her exclusive benefit? Should we be long permitted to remain in the quiet and undisturbed enjoyment of a metropolis, from the possession of which we derived an advantage so odious to our neighbours, and, in their opinion, so oppressive? Should we be able to preserve it against the incumbent weight of Connecticut on the one side, and the co-operating pressure of New-Jersey on the other? These are questions that temerity alone will answer in the affirmative.

The public debt of the Union would be a further cause of collision between the separate states or confederacies. The apportionment, in the first instance, and the progressive extinguishment, afterwards, would be alike productive of ill humour and animosity. How would it be possible to agree upon a rule of apportionment satisfactory to all? There is scarcely any, that can be proposed, which is intirely free from real objections. These, as usual, would be exaggerated by the adverse interests of the parties. There are even dissimilar views among the states, as to the general principle of discharging the public debt. Some of them, either less impressed with the importance of national credit, or because their citizens have little, if any, immediate interest in the question, feel an indifference, if not a repugnance to the payment of the domestic debt, at any rate. These would be inclined to magnify the difficulties of a distribution. Others of them, a numerous body of whose citizens are credi-

tors to the public, beyond the proportion of the ſtate in the total amount of the national debt, would be ſtrenuous for ſome equitable and effectual proviſion. The procraſtinations of the former would excite the reſentments of the latter. The ſettlement of a rule would in the mean time be poſtponed, by real differences of opinion and affected delays. The citizens of the ſtates intereſted, would clamour, foreign powers would urge, for the ſatisfaction of their juſt demands; and the peace of the ſtates would be hazarded to the double contingency of external invaſion and internal contention.

Suppoſe the difficulties of agreeing upon a rule ſurmounted, and the apportionment made. Still there is great room to ſuppoſe, that the rule agreed upon would, upon experiment, be found to bear harder upon ſome ſtates than upon others. Thoſe which were ſufferers by it would naturally ſeek for a mitigation of the burthen. The others would as naturally be diſinclined to a reviſion, which was likely to end in an increaſe of their own incumbrances. Their refuſal would be too plauſible a pretext to the complaining ſtates to withhold their contributions, not to be embraced with avidity; and the non compliance of theſe ſtates with their engagements would be a ground of bitter diſſention and altercation. If even the rule adopted ſhould in practice juſtify the equality of its principle, ſtill delinquencies in payment, on the part of ſome of the States, would reſult from a diverſity of other cauſes—the real deficiency of reſources—the miſmanagement of their finances, accidental diſorders in the adminiſtration of the government—and in addition to the reſt the reluctance with which men commonly part with money for purpoſes, that have outlived the exigencies which produced them, and interfere with the ſupply of immediate wants. Delinquencies from whatever cauſes would be productive of complaints, recriminations and quarrels. There is perhaps nothing more likely to diſturb the tranquillity of nations, than their being bound to mutual contributions for

any

any common object, which does not yield an equal and coincident benefit. For it is an observation as true, as it is trite, that there is nothing men differ so readily about as the payment of money.

Laws in violation of private contracts as they amount to aggressions on the rights of those states, whose citizens are injured by them, may be considered as another probable source of hostility. We are not authorised to expect, that a more liberal or more equitable spirit would preside over the legislations of the individual states hereafter, if unrestrained by any additional checks, than we have heretofore seen, in too many instances, disgracing their several codes. We have observed the disposition to retaliation excited in Connecticut, in consequences of the enormities perpetrated by the legislature of Rhode-Island; and we may reasonably infer, that in similar cases, under other circumstances, a war not of *parchment* but of the sword would chastise such atrocious breaches of moral obligation and social justice.

The probability of incompatible alliances between the different states, or confederacies, and different foreign nations, and the effects of this situation upon the peace of the whole, have been sufficiently unfolded in some preceding papers. From the view they have exhibited of this part, of the subject, this conclusion is to be drawn, that America, if not connected at all, or only by the feeble tie of a simple league offensive and defensive, would by the operation of such opposite and jarring alliances be gradually entangled in all the pernicious labyrinths of European politics and wars; and by the destructive contentions of the parts, into which she was divided, would be likely to become a prey to the artifices and machinations of powers equally the enemies of them all. *Divide et impera** must be the motto of every nation, that either hates, or fears us.

PUBLIUS.

* Divide and command.

NUMBER VIII.

The Effects of internal War in producing ſtanding Armies and other Inſtitutions unfriendly to Liberty.

ASSUMING it therefore as an eſtabliſhed truth that the ſeveral ſtates, in caſe of diſunion, or ſuch combinations of them as might happen to be formed out of the wreck of the general confederacy, would be ſubject to thoſe viciſſitudes of peace and war, of friendſhip and enmity with each other, which have fallen to the lot of all neighbouring nations not united under one government, let us enter into a conciſe detail of ſome of the conſequences that would attend ſuch a ſituation.

War between the ſtates, in the firſt periods of their ſeparate exiſtence, would be accompanied with much greater diſtreſſes than it commonly is in thoſe countries, where regular military eſtabliſhments have long obtained. The diſciplined armies always kept on foot on the continent of Europe, though they bear a malignant aſpect to liberty and economy, have notwithſtanding been productive of the ſignal advantage of rendering ſudden conqueſts impracticable, and of preventing that rapid deſolation, which uſed to mark the progreſs of war, prior to their introduction. The art of fortification has contributed to the ſame ends. The nations of Europe are encircled with chains of fortified places, which mutually obſtruct invaſion. Campaigns are waſted in reducing two or three frontier garriſons, to gain admittance into an enemy's country. Similar impediments occur at every ſtep, to exhauſt the ſtrength and delay the progreſs of an invader. Formerly an invading army would penetrate into the heart of a neighbouring country, almoſt as ſoon as intelligence of its approach could be received;

ceived; but now a comparitively ſmall force of diſciplined troops, acting on the defenſive with the aid of poſts, is able to impede and finally to fruſtrate the enterpriſes of one much more conſiderable. The hiſtory of war, in that quarter of the globe, is no longer a hiſtory of nations ſubdued and empires overturned, but of towns taken and retaken, of battles that decide nothing, of retreats more beneficial than victories, of much effort and little acquiſition.

In this country the ſcene would be altogether reverſed. The jealouſy of military eſtabliſhments, would poſtpone them as long as poſſible. The want of fortifications leaving the frontiers of one ſtate open to another, would facilitate inroads. The populous ſtates would with little difficulty over-run their leſs populous neighbours. Conqueſts would be as eaſy to be made as difficult to be retained. War therefore would be deſultory and predatory. Plunder and devaſtation ever march in the train of irregulars. The calamities of individuals would make the principal figure in the events, which would characterize our military exploits.

This picture is not too highly wrought, though I confeſs, it would not long remain a juſt one. Safety from external danger is the moſt powerful director of national conduct. Even the ardent love of liberty will, after a time, give way to its dictates. The violent deſtruction of life and property incident to war—the continual effort and alarm attendant on a ſtate of continual danger, will compel nations the moſt attached to liberty, to reſort for repoſe and ſecurity, to inſtitutions, which have a tendency to deſtroy their civil and political rights. To be more ſafe they, at length, become willing to run the riſk of being leſs free.

The inſtitutions chiefly alluded to are STANDING ARMIES, and the correſpondent appendages of military eſtabliſhment. Standing armies, it is ſaid, are not provided againſt in the new conſtitution, and it is

thence inferred that they would exist under it.* This inference, from the very form of the proposition, is, at best, problematical and uncertain. But STANDING ARMIES, it may be replied, must inevitably result from a dissolution of the confederacy. Frequent war, and constant apprehension, which require a state of as constant preparation, will infallibly produce them. The weaker states, or confederacies, would first have recourse to them, to put themselves upon an equality with their more potent neighbours. They would endeavour to supply the inferiority of population and resources, by a more regular and effective system of defence, by disciplined troops and by fortifications. They would, at the same time, be necessitated to strengthen the executive arm of government; in doing which, their constitutions would acquire a progressive direction towards monarchy. It is of the nature of war to increase the executive at the expence of the legislative authority.

The expedients which have been mentioned would soon give the states, or confederacies, that made use of them, a superiority over their neighbours. Small states, or states of less natural strength, under vigorous governments, and with the assistance of disciplined armies, have often triumphed over large states, or states of greater natural strength, which have been destitute of these advantages. Neither the pride, nor the safety of the more important states, or confederacies, would permit them long to submit to this mortifying and adventitious inferiority. They would quickly resort to means similar to those by which it had been effected, to reinstate themselves in their lost pre-eminence. Thus we should in a little time see established in every part of this country, the same engines

* This objection will be fully examined in its proper place, and it will be shown that the only rational precaution which could have been taken on this subject has been taken; and a much better one than is to be found in any constitution that has been heretofore framed in America, most of which contain no guard at all on this subject.

engines of deſpotiſm which have been the ſcourge of the old world. This at leaſt would be the natural courſe of things, and our reaſonings will be the more likely to be juſt, in proportion as they are accommodated to this ſtandard.

Theſe are not vague inferences, drawn from ſuppoſed or ſpeculative defects in a conſtitution, the whole power of which is lodged in the hands of the people, or their repreſentatives and delegates, but they are ſolid concluſions drawn from the natural and neceſſary progreſs of human affairs.

It may perhaps be aſked, by way of objection to this, why did not ſtanding armies ſpring up out of the contentions which ſo often diſtracted the ancient republics of Greece? Different anſwers equally ſatisfactory, may be given to this queſtion. The induſtrious habits of the people of the preſent day, abſorbed in the purſuits of gain, and devoted to the improvements of agriculture and commerce, are incompatible with the condition of a nation of ſoldiers, which was the true condition of the people of thoſe republics. The means of revenue, which have been ſo greatly multiplied by the encreaſe of gold and ſilver, and of the arts of induſtry, and the ſcience of finance, which is the offspring of modern times, concurring with the habits of nations, have produced an intire revolution in the ſyſtem of war, and have rendered diſciplined armies, diſtinct from the body of the citizens, the inſeparable companion of frequent hoſtility.

There is a wide difference alſo, between military eſtabliſhments in a country, ſeldom expoſed by its ſituation to internal invaſions, and in one which is often ſubject to them, and always apprehenſive of them. The rulers of the former can have no good pretext, if they are even ſo inclined, to keep on foot armies ſo numerous as muſt of neceſſity be maintained in the latter. Theſe armies being, in the firſt caſe, rarely, if at all, called into activity for interior defence, the people are in no danger of being broken to mili-

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tary subordination. The laws are not accustomed to relaxations, in favour of military exigencies—the civil state remains in full vigor, neither corrupted nor confounded with the principles or propensities of the other state. The smallness of the army renders the natural strength of the community an overmatch for it, and the citizens, not habituated to look up to the military power for protection, or to submit to its oppressions, neither love nor fear the soldiery: They view them with a spirit of jealous acquiescence in a necessary evil, and stand ready to resist a power which they suppose may be exerted to the prejudice of their rights.

The army under such circumstances, may usefully aid the magistrate to suppress a small faction, or an occasional mob, or insurrection; but it will be unable to enforce encroachments against the united efforts of the great body of the people.

In a country, in the predicament last described, the contrary of all this happens. The perpetual menacings of danger oblige the government to be always prepared to repel it—its armies must be numerous enough for instant defence. The continual necessity for their services enhances the importance of the soldier, and proportionally degrades the condition of the citizen. The military state becomes elevated above the civil. The inhabitants of territories, often the theatre of war, are unavoidably subjected to frequent infringements on their rights, which serve to weaken their sense of those rights; and by degrees, the people are brought to consider the soldiery not only as their protectors, but as their superiors. The transition from this disposition to that of considering them as masters, is neither remote, nor difficult: But it is very difficult to prevail upon a people under such impressions, to make a bold, or effectual resistance, to usurpations, supported by the military power.

The kingdom of Great Britain falls within the first description. An insular situation, and a powerful marine, guarding it in a great measure against the

the poſſibility of foreign invaſion, ſuperſede the neceſſity of a numerous army within the kingdom. A ſufficient force to make head againſt a ſudden deſcent till the militia could have time to rally and embody, is all that has been deemed repuiſite. No motive of national policy has demanded, nor would public opinion have tolerated a larger number of troops upon its domeſtic eſtabliſhment. There has been, for a long time paſt, little room for the operation of the other cauſes, which have been enumerated as the conſequences of internal war. This peculiar felicity of ſituation has, in a great degree, contributed to preſerve the liberty, which that country to this day enjoys, in ſpite of the prevalent venality and corruption. If, on the contrary, Britain had been ſituated on the continent and had been compelled, as ſhe would have been, by that ſituation, to make her military eſtabliſhments at home co-extenſive with thoſe of the other great powers of Europe, ſhe, like them, would in all probability, be at this day a victim to the abſolute power of a ſingle man. 'Tis poſſible, though not eaſy, that the people of that iſland may be enſlaved from other cauſes, but it cannot be by the proweſs of an army ſo inconſiderable as that which has been uſually kept up within the kingdom.

If we are wiſe enough to preſerve the union, we may for ages enjoy an advantage ſimilar to that of an inſulted ſituation. Europe is at a great diſtance from us. Her colonies in our vicinity, will be likely to continue too much diſproportioned in ſtrength, to be able to give us any dangerous annoyance. Extenſive military eſtabliſhments cannot, in this poſition be neceſſary to our ſecurity. But if we ſhould be diſunited, and the integral parts ſhould either remain ſeparated, or which is moſt probable, ſhould be thrown together into two or three confederacies, we ſhould be in a ſhort courſe of time, in the predicament of the continental powers of Europe. Our liberties would be a prey to

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the means of defending ourſelves againſt the ambition and jealouſy of each other.

This is an idea not ſuperficial nor futile, but ſolid and weighty. It deſerves the moſt ſerious and mature conſideration of every prudent and honeſt man of whatever party. If ſuch men will make a firm and ſolemn pauſe, and meditate diſpaſſionately on the importance of this intereſting idea, if they will contemplate it, in all its attitudes, and trace it to all its conſequences, they will not heſitate to part with trivial objections to a conſtitution, the rejection of which would in all probability put a final period to the Union. The airy phantoms that flit before the diſtempered imaginations of ſome of its adverſaries, would quickly give place to the more ſubſtantial proſpects of dangers real, certain, and formidable.

PUBLIUS.

NUMBER IX.

The Utility of the Union as a Safeguard againſt domeſtic Faction and Inſurrection.

A Firm union will be of the utmoſt moment to the peace and liberty of the ſtates as a barrier againſt domeſtic faction and inſurrection. It is impoſſible to read the hiſtory of the petty republics of Greece and Italy, without feeling ſenſations of horror and diſguſt at the diſtractions with which they were continually agitated, and at the rapid ſucceſſion of revolutions, by which they were kept in a ſtate of perpetual vibration, between the extremes of tyranny and anarchy. If they exhibit occaſional calms, theſe only ſerve as ſhortlived contraſts to the furious ſtorms that are to ſucceed. If now and then intervals of felicity open themſelves to view, we behold them with a mixture of regret ariſing from the reflection, that the

the pleaſing ſcenes before us are ſoon to be overwhelmed by the tempeſtuous waves of ſedition and party rage. If momentary rays of glory break forth from the gloom, while they dazzle us with a tranſient and fleeting brilliancy, they at the ſame time admoniſh us to lament that the vices of government ſhould pervert the direction and tarniſh the luſtre of thoſe bright talents and exalted endowments, for which the favoured ſoils, that produced them, have been ſo juſtly celebrated.

From the diſorders that diſfigure the annals of thoſe republics, the advocates of deſpotiſm have drawn arguments, not only againſt the forms of republican government, but againſt the very principles of civil liberty. They have decried all free government, as inconſiſtent with the order of ſociety, and have indulged themſelves in malicious exultation over its friends and partizans. Happily for mankind, ſtupendous fabrics reared on the baſis of liberty, which have flouriſhed for ages, have in a few glorious inſtances refuted their gloomy ſophiſms. And, I truſt, America will be the broad and ſolid foundation of other edifices not leſs magnificent, which will be equally permanent monuments of their errors.

But it is not to be denied that the portraits they have ſketched of republican government, were too juſt copies of the originals from which they were taken. If it had been found impracticable, to have deviſed models of a more perfect ſtructure, the enlightened friends to liberty would have been obliged to abandon the cauſe of that ſpecies of government as indefenſible. The ſcience of politics, however, like moſt other ſciences, has received great improvement. The efficacy of various principles is now well underſtood, which were either not known at all, or imperfectly known to the ancients. The regular diſtribution of power into diſtinct departments—the introduction of legiſlative ballances and checks—the inſtitution of courts compoſed of judges, holding their offices during good

behaviour

behaviour—the repreſentation of the people in the legiſlature by deputies of their own election—theſe are either wholly new diſcoveries, or have made their principal progreſs towards perfection in modern times. They are means, and powerful means, by which the excellencies of republican government may be retained, and its imperfections leſſened or avoided. To this catalogue of circumſtances, that tend to the amelioration of popular ſyſtems of civil government, I ſhall venture, however novel it may appear to ſome, to add one more on a principle, which has been made the foundation of an objection to the new conſtitution, I mean the ENLARGEMENT of the ORBIT within which ſuch ſyſtems are to revolve, either in reſpect to the dimenſions of a ſingle ſtate, or to the conſolidation of ſeveral ſmaller ſtates into one great confederacy. The latter is that which immediately concerns the object under conſideration. It will however be of uſe to examine the principle in its application to a ſingle ſtate, which ſhall be attended to in another place.

The utility of a confederacy, as well to ſuppreſs faction and to guard the internal tranquility of ſtates, as to increaſe their external force and ſecurity, is in reality not a new idea. It has been practiced upon in different countries and ages, and has received the ſanction of the moſt applauded writers on the ſubjects of politics. The opponents of the PLAN propoſed have with great aſſiduity cited and circulated the obſervations of Monteſquieu on the neceſſity of a contracted territory for a republican government. But they ſeem not to have been appriſed of the ſentiments of that great man expreſſed in another part of his work, nor to have adverted to the conſequences of the principle to which they ſubſcribe, with ſuch ready acquieſcence.

When Monteſquieu recommends a ſmall extent for republics, the ſtandards he had in view were of dimenſions, far ſhort of the limits of almoſt every one of theſe ſtates. Neither Virginia, Maſſachuſetts, Pennſylvania,

Pennſylvania, New-York, North-Carolina nor Georgia, can by any means be compared with the models from which he reaſoned, and to which the terms of his deſcription apply. If we therefore take his ideas on this point, as the criterion of truth, we ſhall be driven to the alternative, either of taking refuge at once in the arms of monarchy, or of ſplitting ourſelves into an infinity of little, jealous, claſhing, tumultuous commonwealths, the wretched nurſeries of unceaſing diſcord and the miſerable objects of univerſal pity or contempt. Some of the writers, who have come forward on the other ſide of the queſtion, ſeem to have been aware of the dilemma; and have even been bold enough to hint at the diviſion of the larger ſtates, as a deſirable thing. Such an infatuated policy, ſuch a deſperate expedient, might, by the multiplication of petty offices anſwer the views of men, who poſſeſs not qualifications to extend their influence beyond the narrow circles of perſonal intrigue, but it could never promote the greatneſs or happineſs of the people of America.

Referring the examination of the principle itſelf to another place, as has been already mentioned, it will be ſufficient to remark here, that in the ſenſe of the author who has been moſt emphatically quoted upon the occaſion, it would only dictate a reduction of the SIZE of the more conſiderable MEMBERS of the union; but would not militate againſt their being all comprehended in one confederate government. And this is the true queſtion, in the diſcuſſion of which we are at preſent intereſted.

So far are the ſuggeſtions of Monteſquieu from ſtanding in oppoſition to a general union of the ſtates, that he explicitly treats of a CONFEDERATE REPUBLIC as the expedient for extending the ſphere of popular government and reconciling the advantages of monarchy with thoſe of republicaniſm.

"It is very probable (ſays he*) that mankind would "have been obliged, at length, to live conſtantly

* Spirit of Laws, Vol. I. Book IX. Chap. I.

" under the government of a SINGLE PERSON, had " they not contrived a kind of conſtitution, that has all " the internal advantages of a republican, together " with the external force of a monarchical govern- " ment. I mean a CONFEDERATE REPULLIC.

" This form of government is a convention, by " which ſeveral ſmaller *ſtates* agree to become mem- " bers of a larger *one*, which they intend to form. It " is a kind of aſſemblage of ſocieties, that conſtitute a " new one, capable of encreaſing by means of new " aſſociations, till they arrive to ſuch a degree of " power as to be able to provide for the ſecurity of " the united body.

" A republic of this kind, able to withſtand an ex- " ternal force, may ſupport itſelf without any internal " corruption. The form of this ſociety prevents all " manner of inconveniences.

" If a ſingle member ſhould attempt to uſurp the " ſupreme authority, he could not be ſuppoſed to have " an equal authority and credit in all the confederate " ſtates. Were he to have too great influence over " one, this would alarm the reſt. Were he to ſubdue " a part, that which would ſtill remain free might " oppoſe him with forces, independent of thoſe which " he had uſurped, and overpower him before he could " be ſettled in his uſurpation.

" Should a popular inſurrection happen in one of " the confederate ſtates, the others are able to quell " it. Should abuſes creep into one part, they are " reformed by thoſe that remain ſound. The ſtate " may be deſtroyed on one ſide, and not on the other; " the confederacy may be diſſolved, and the confe- " derates preſerve their ſovereignty.

" As this government is compoſed of ſmall republics " it enjoys the internal happineſs of each, and with " reſpect to its external ſituation it is poſſeſſed, by " means of the aſſociation of all the advantages of " large monarchies."

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I have thought it proper to quote at length these interesting passages, because they contain a luminous abrigement of the principal arguments in favour of the union, and must effectually remove the false impressions, which a misapplication of other parts of the work was calculated to produce. They have at the same time an intimate connection with the more immediate design of this paper; which is to illustrate the tendency of the union to repress domestic faction and insurrection.

A distinction, more subtle than accurate, has been raised between a *confederacy* and a *consolidation* of the states. The essential characteristic of the first is said to be, the restriction of its authority to the members in their collective capacities, without reaching to the individuals of whom they are composed. It is contended that the national council ought to have no concern with any object of internal administration. An exact equality of suffrage between the members has also been insisted upon as a leading feature of a confederate government. These positions are in the main arbitrary; they are supported neither by principle nor precedent. It has indeed happened that governments of this kind have generally operated in the manner, which the distinction, taken notice of, supposes to be inherent in their nature—but there have been in most of them extensive exceptions to the practice, which serve to prove, as far as example will go, that there is no absolute rule on the subject. And it will be clearly shewn, in the course of this investigation, that as far as the principle contended for has prevailed, it has been the cause of incurable disorder and imbecility in the government.

The definition of a *confederate republic* seems simply to be, an "assemblage of societies," or an association of two or more states into one state. The extent, modifications and objects of the federal authority are mere matters of discretion. So long as the separate organization of the members be not abolished, so

long as it exists by a constitutional necessity for local purposes, though it should be in perfect subordination to the general authority of the union, it would still be, in fact and in theory, an association of states, or a confederacy. The proposed constitution, so far from implying an abolition of the state governments, makes them constituent parts of the national sovereignty by allowing them a direct representation in the senate, and leaves in their possession certain exclusive and very important portions of sovereign power.—This fully corresponds, in every rational import of the terms, with the idea of a federal government.

In the Lycian confederacy, which consisted of twenty-three CITIES, or republics, the largest were intitled to *three* votes in the COMMON COUNCIL, those of the middle class to *two*, and the smallest to *one*. The COMMON COUNCIL had the appointment of all the judges and magistrates of the respective CITIES. This was certainly the most delicate species of interference in their internal administration; for if there be any thing that seems exclusively appropriated to the local jurisdictions, it is the appointment of their own officers. Yet Montesquieu, speaking of this association, says, "Were I to give a model of an excellent "confederate republic, it would be that of Lycia." Thus we perceive that the distinctions insisted upon were not within the contemplation of this enlightened civilian, and we shall be led to conclude, that they are the novel refinements of an erroneous theory.

PUBLIUS.

NUMBER X.

The same Subject continued.

AMONG the numerous advantages promised by a well constructed union, none deserves to be more accurately developed than its tendency to break and control the violence of faction. The friend of popular governments,

governments, never finds himself so much alarmed for their character and fate, as when he contemplates their propensity to this dangerous vice. He will not fail therefore to set a due value on any plan which, without violating the principles to which he is attached, provides a proper cure for it. The instability, injustice and confusion introduced into the public councils, have in truth been the mortal diseases under which popular governments have every where perished; as they continue to be the favorite and fruitful topics from which the adversaries to liberty derive their most specious declamations. The valuable improvements made by the American constitutions on the popular models, both ancient and modern, cannot certainly be too much admired; but it would be an unwarrantable partiality, to contend that they have as effectually obviated the danger on this side as was wished and expected. Complaints are every where heard from our most considerate and virtuous citizens, equally the friends of public and private faith, and of public and personal liberty; that our governments are too unstable; that the public good is disregarded in the conflicts of rival parties; and that measures are too often decided, not according to the rules of justice, and the rights of the minor party; but by the superior force of an interested and overbearing majority. However anxiously we may wish that these complaints had no foundation, the evidence of known facts will not permit us to deny that they are in some degree true. It will be found indeed, on a candid review of our situation, that some of the distresses under which we labor, have been erroneously charged on the operation of our governments; but it will be found at the same time, that other causes will not alone account for many of our heaviest misfortunes; and particularly, for that prevailing and increasing distrust of public engagements, and alarm for private rights, which are echoed from one end of the continent to the other. These must be chiefly, if not

wholly, effects of the unſteadineſs and injuſtice, with which a factious ſpirit has tainted our public adminiſtration.

By a faction I underſtand a number of citizens, whether amounting to a majority or minority of the whole, who are united and actuated by ſome common impulſe of paſſion, or of intereſt, adverſe to the rights of other citizens, or to the permanent and aggregate intereſts of the community.

There are two methods of curing the miſchiefs of faction: The one, by removing its cauſes; the other, by controling its effects.

There are again two methods of removing the cauſes of faction: The one by deſtroying the liberty which is eſſential to its exiſtence; the other, by giving to every citizen the ſame opinions, the ſame paſſions, and the ſame intereſts.

It could never be more truly ſaid than of the firſt remedy, that it is worſe than the diſeaſe. Liberty is to faction, what air is to fire, an aliment without which it inſtantly expires. But it could not be a leſs folly to aboliſh liberty, which is eſſential to political life, becauſe it nouriſhes faction, than it would be to wiſh the annihilation of air, which is eſſential to animal life, becauſe it imparts to fire its deſtructive agency.

The ſecond expedient is as impracticable, as the firſt would be unwiſe. As long as the reaſon of man continues fallible, and he is at liberty to exerciſe it, different opinions will be formed. As long as the connection ſubſiſts between his reaſon and his ſelf-love, his opinions and his paſſions will have a reciprocal influence on each other; and the former will be objects to which the latter will attach themſelves. The diverſity in the faculties of men from which the rights of property originate, is not leſs an inſuperable obſtacle to an uniformity of intereſts. The protection of theſe faculties is the firſt object of government. From the protection of different and unequal faculties of acquiring property, the poſſeſſion of different degrees

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and kinds of property immediately results: And from the influence of these on the sentiments and views of the respective proprietors, ensues a division of the society into different interests and parties.

The latent causes of faction are thus sown in the nature of man; and we see them every where brought into different degrees of activity, according to the different circumstances of civil society. A zeal for different opinions concerning religion, concerning government, and many other points, as well of speculation as of practice; an attachment to different leaders ambitiously contending for pre-eminence and power; or to persons of other descriptions whose fortunes have been interesting to the human passions, have in turn divided mankind into parties, inflamed them with mutual animosity, and rendered them much more disposed to vex and oppress each other, than to co-operate for their common good. So strong is this propensity of mankind to fall into mutual animosities, that where no substantial occasion presents itself, the most frivolous and fanciful distinctions have been sufficient to kindle their unfriendly passions, and excite their most violent conflicts. But the most common and durable source of factions, has been the various and unequal distribution of property. Those who hold, and those who are without property, have ever formed distinct interests in society. Those who are creditors, and those who are debtors, fall under a like discrimination. A landed interest, a manufacturing interest, a mercantile interest, a monied interest, with many lesser interests, grow up of necessity in civilized nations, and divide them into different classes, actuated by different sentiments and views. The regulation of these various and interfering interests forms the principal task of modern legislation, and involves the spirit of party and faction in the necessary and ordinary operations of government.

No man is allowed to be a judge in his own cause; because his interest would certainly bias his judgment,

ment, and, not improbably, corrupt his integrity. With equal, nay with greater reaſon, a body of men, are unfit to be both judges and parties, at the ſame time; yet, what are many of the moſt important acts of legiſlation, but ſo many judicial determinations, not indeed concerning the rights of ſingle perſons, but concerning the rights of large bodies of citizens; and what are the different claſſes of legiſlators, but advocates and parties to the cauſes which they determine? Is a law propoſed concerning private debts? It is a queſtion to which the creditors are parties on one ſide, and the debtors on the other. Juſtice ought to hold the balance between them. Yet the parties are and muſt be themſelves the judges; and the moſt numerous party, or, in other words, the moſt powerful faction muſt be expected to prevail. Shall domeſtic manufactures be encouraged, and in what degree, by reſtrictions on foreign manufactures? Are queſtions which would be differently decided by the landed and the manufacturing claſſes; and probably by neither, with a ſole regard to juſtice and the public good. The apportionment of taxes on the various deſcriptions of property, is an act which ſeems to require the moſt exact impartiality, yet there is perhaps no legiſlative act in which greater opportunity and temptation are given to a predominant party, to trample on the rules of juſtice. Every ſhilling with which they over-burden the inferior number, is a ſhilling ſaved to their own pockets.

It is in vain to ſay, that enlightened ſtateſmen will be able to adjuſt theſe claſhing intereſts, and render them all ſubſervient to the public good. Enlightened ſtateſmen will not always be at the helm: Nor, in many caſes, can ſuch an adjuſtment be made at all, without taking into view indirect and remote conſiderations, which will rarely prevail over the immediate intereſt which one party may find in diſregarding the rights of another, or the good of the whole.

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The inference to which we are brought, is, that the *causes* of faction cannot be removed; and that relief is only to be ſought in the means of controling its *effects*.

If a faction conſiſts of leſs than a majority, relief is ſupplied by the republican principle, which enables the majority to defeat its ſiniſter views by regular vote: It may clog the adminiſtration, it may convulſe the ſociety; but it will be unable to execute and maſk its violence under the forms of the conſtitution. When a majority is included in a faction, the form of popular government on the other hand enables it to ſacrifice to its ruling paſſion or intereſt, both the public good and the rights of other citizens. To ſecure the public good, and private rights againſt the danger of ſuch a faction, and at the ſame time to preſerve the ſpirit and the form of popular government, is then the great object to which our enquiries are directed. Let me add that it is the great deſideratum, by which alone this form of government can be reſcued from the opprobrium under which it has ſo long labored, and be recommended to the eſteem and adoption of mankind.

By what means is this object attainable? Evidently by one of two only. Either the exiſtence of the ſame paſſion or intereſt in a majority at the ſame time, muſt be prevented; or the majority, having ſuch co-exiſtent paſſion or intereſt, muſt be rendered, by their number and local ſituation, unable to concert and carry into effect ſchemes of oppreſſion. If the impulſe and the opportunity be ſuffered to coincide, we well know that neither moral nor religious motives can be relied on as an adequate control. They are not found to be ſuch on the injuſtice and violence of individuals, and loſe their efficacy in proportion to the number combined together; that is, in proportion as their efficacy becomes needful.

From this view of the ſubject, it may be concluded, that a pure democracy, by which I mean a ſociety, conſiſting

conſiſting of a ſmall number of citizens, who aſſemble and adminiſter the government in perſon, can admit of no cure for the miſchiefs of faction. A common paſſion or intereſt will, in almoſt every caſe, be felt by a majority of the whole; a communication and concert reſults from the form of government itſelf; and there is nothing to check the inducements to ſacrifice the weaker party, or an obnoxious individual. Hence it is, that ſuch democracies have ever been ſpectacles of turbulence and contention; have ever been found incompatible with perſonal ſecurity, or the rights of property; and have in general been as ſhort in their lives, as they have been violent in their deaths.—Theoretic politicians, who have patronized this ſpecies of government, have erroneouſly ſuppoſed, that by reducing mankind to a perfect equality in their political rights, they would, at the ſame time, be perfectly equallized and aſſimilated in their poſſeſſions, their opinions, and their paſſions.

A republic, by which I mean a government in which the ſcheme of repreſentation takes place, opens a different proſpect, and promiſes the cure for which we are ſeeking. Let us examine the points in which it varies from pure democracy, and we ſhall comprehend both the nature of the cure, and the efficacy which it muſt derive from the union.

The two great points of difference between a democracy and a republic, are, firſt, the delegation of the government, in the latter, to a ſmall number of citizens elected by the reſt; ſecondly, the greater number of citizens, and greater ſphere of country, over which the latter may be extended.

The effect of the firſt difference is, on the one hand, to refine and enlarge the public views, by paſſing them through the medium of a choſen body of citizens, whoſe wiſdom may beſt diſcern the true intereſt of their country, and whoſe patriotiſm and love of juſtice, will be leaſt likely to ſacrifice it to temporary or partial conſiderations. Under ſuch a regulation, it may well happen

happen that the public voice pronounced by the representatives of the people, will be more consonant to the public good, than if pronounced by the people themselves convened for the purpose. On the other hand, the effect may be inverted. Men of factious tempers, of local prejudices, or of sinister designs, may by intrigue, by corruption, or by other means, first obtain the suffrages, and then betray the interests of the people. The question resulting is, whether small or extensive republics are most favourable to the election of proper guardians of the public weal; and it is clearly decided in favour of the latter by two obvious considerations.

In the first place it is to be remarked, that however small the republic may be, the representatives must be raised to a certain number, in order to guard against the cabals of a few; and that however large it may be, they must be limited to a certain number, in order to guard against the confusion of a multitude. Hence the number of representatives in the two cases not being in proportion to that of the constituents, and being proportionally greatest in the small republic, it follows, that if the proportion of fit characters be not less in the large than in the small republic, the former will present a greater option, and consequently a greater probability of a fit choice.

In the next place, as each representative will be chosen by a greater number of citizens in the large than in the small republic, it will be more difficult for unworthy candidates to practise with success the vicious arts, by which elections are too often carried; and the suffrages of the people being more free, will be more likely to centre on men who possess the most attractive merit, and the most diffusive and established characters.

It must be confessed, that in this, as in most other cases, there is a mean, on both sides of which inconveniencies will be found to lie. By enlarging too much the number of electors, you render the representative

ſentative too little acquainted with all their local circumſtances and leſſer intereſts; as by reducing it too much, you render him unduly attached to theſe, and too little fit to comprehend and purſue great and national objects. The federal conſtitution forms a happy combination in this reſpect; the great and aggregate intereſts being referred to the national, the local and particular to the ſtate legiſlatures

The other point of difference is, the greater number of citizens and extent of territory which may be brought within the compaſs of republican, than of democratic government; and it is this circumſtance principally which renders factious combinations leſs to to be dreaded in the former, than in the latter. The ſmaller the ſociety, the fewer probably will be the diſtinct parties and intereſts compoſing it; the fewer the diſtinct parties and intereſts, the more frequently will a majority be found of the ſame party; and the ſmaller the number of individuals compoſing a majority, and the ſmaller the compaſs within which they are placed, the more eaſily will they concert and execute their plans of oppreſſion. Extend the ſphere, and you take in a greater variety of parties and intereſts; you make it leſs probable that a majority of the whole will have a common motive to invade the rights of other citizens; or if ſuch a common motive exiſts, it will be more difficult for all who feel it to diſcover their own ſtrength, and to act in uniſon with each other. Beſides other impediments, it may be remarked, that where there is a conſciouſneſs of unjuſt or diſhonorable purpoſes, communication is always checked by diſtruſt, in proportion to the number whoſe concurrence is neceſſary.

Hence it clearly appears, that the ſame advantage, which a republic has over a democracy, in controling the effects of faction, is enjoyed by a large over a ſmall republic—is enjoyed by the union over the ſtates compoſing it. Does this advantage conſiſt in the ſubſtitution of repreſentatives, whoſe enlightened views and virtuous

virtuous sentiments render them superior to local prejudices, and to schemes of injustice? It will not be denied, that the representation of the union will be most likely to possess these requisite endowments. Does it consist in the greater security afforded by a greater variety of parties, against the event of any one party being able to outnumber and oppress the rest? In an equal degree does the encreased variety of parties, comprised within the union, encrease this security. Does it, in fine, consist in the greater obstacles opposed to the concert and accomplishment of the secret wishes of an unjust and interested majority? Here, again, the extent of the union gives it the most palpable advantage.

The influence of factious leaders may kindle a flame within their particular states, but will be unable to spread a general conflagration through the other states: A religious sect, may degenerate into a political faction in a part of the confederacy; but the variety of sects dispersed over the entire face of it, must secure the national councils against any danger from that source: A rage for paper money, for an abolition of debts, for an equal division of property, or for any other improper or wicked project, will be less apt to pervade the whole body of the union, than a particular member of it; in the same proportion as such a malady is more likely to taint a particular county or district, than an entire state.

In the extent and proper structure of the union, therefore, we behold a republican remedy for the diseases most incident to republican government. And according to the degree of pleasure and pride, we feel in being republicans, ought to be our zeal in cherishing the spirit, and supporting the character of federalists.

PUBLIUS.

NUMBER XI.

The Utility of the Union in Respect to Commerce and a Navy.

THE importance of the union, in a commercial light, is one of those points, about which there is least room to entertain a difference of opinion, and which has in fact commanded the most general assent of men, who have any acquaintance with the subject. This applies as well to our intercourse with foreign countries, as with each other.

There are appearances to authorise a supposition, that the adventurous spirit, which distinguishes the commercial character of America, has already excited uneasy sensations in several of the maritime powers of Europe. They seem to be apprehensive of our too great interference in that carrying trade, which is the support of their navigation and the foundation of their naval strength. Those of them, which have colonies in America, look forward, to what this country is capable of becoming, with painful solicitude. They foresee the dangers, that may threaten their American dominions from the neighbourhood of states, which have all the dispositions, and would possess all the means, requisite to the creation of a powerful marine. Impressions of this kind will naturally indicate the policy of fostering divisions among us, and of depriving us as far as possible of an ACTIVE COMMERCE in our own bottoms. This would answer the threefold purpose of preventing our interference in their navigation, of monopolising the profits of our trade, and of clipping the wings, by which we might soar to a dangerous greatness. Did not prudence forbid the detail, it would not be difficult to trace by facts the workings of this policy to the cabinets of ministers.

If

If we continue united, we may counteract a policy so unfriendly to our prosperity in a variety of ways. By prohibitory regulations, extending at the same time throughout the states, we may oblige foreign countries to bid against each other, for the privileges of our markets. This assertion will not appear chimerical to those who are able to appreciate the importance to any manufacturing nation of the markets of three millions of people—increasing in rapid progression, for the most part exclusively addicted to agriculture, and likely from local circumstances to remain in this disposition; and the immense difference there would be to the trade and navigation of such a nation, between a direct communication in its own ships, and an indirect conveyance of its products and returns, to and from America, in the ships of another country. Suppose, for instance, we had a government in America, capable of excluding Great-Britain (with whom we have at present no treaty of commerce) from all our ports, what would be the probable operation of this step upon her politics? Would it not enable us to negotiate with the fairest prospect of success for commercial privileges of the most valuable and extensive kind in the dominions of that kingdom? When these questions have been asked, upon other occasions, they have received a plausible but not a solid or satisfactory answer. It has been said, that prohibitions on our part would produce no change in the system of Britain; because she could prosecute her trade with us, through the medium of the Dutch, who would be her immediate customers and pay-masters for those articles which were wanted for the supply of our markets. But would not her navigation be materially injured, by the loss of the important advantage of being her own carrier in that trade? Would not the principal part of its profits be intercepted by the Dutch, as a compensation for their agency and risk? Would not the mere circumstance of freight occasion a considerable deduction? Would not so circuitous an

intercourſe facilitate the competitions of other nations, by enchancing the price of Britiſh commodities in our markets, and by transferring to other hands the management of this intereſting branch of the Britiſh commerce?

A mature conſideration of the objects, ſuggeſted by theſe queſtions, will juſtify a belief, that the real diſadvantages to Great Britain, from ſuch a ſtate of things, conſpiring with the prepoſſeſſions of a great part of the nation in favour of the American trade, and with the importunities of the Weſt-India iſlands, would produce a relaxation in her preſent ſyſtem, and would let us into the enjoyment of privileges in the markets of thoſe iſlands and elſewhere, from which our trade would derive the moſt ſubſtantial benefits. Such a point gained from the Britiſh government, and which could not be expected without an equivalent in exemptions and immunities in our markets, would be likely to have a correſpondent effect on the conduct of other nations, who would not be inclined to ſee themſelves altogether ſupplanted in our trade.

A further reſource for influencing the conduct of European nations towards us, in this reſpect would ariſe from the eſtabliſhment of a federal navy. There can be no doubt, that the continuance of the union, under an efficient government, would put it in our power, at a period not very diſtant, to create a navy, which, if it could not vie with thoſe of the great maritime powers, would at leaſt be of reſpectable weight if thrown into the ſcale of either of two contending parties. This would be more particularly the caſe in relation to operations in the Weſt-Indies. A few ſhips of the line ſent opportunely to the reinforcement of either ſide, would often be ſufficient to decide the fate of a campaign, on the event of which intereſts of the greateſt magnitude were ſuſpended. Our poſition is in this reſpect a very commanding one. And if to this conſideration we add that of the uſefulneſs of

ſupplies,

supplies from this country, in the prosecution of military operations in the West-Indies, it will readily be perceived, that a situation so favourable would enable us to bargain with great advantage for commercial privileges. A price would be set not only upon our friendship, but upon our neutrality. By a steady adherance to the union we may hope ere long to become the arbiter of Europe in America; and to be able to incline the balance of European competitions in this part of the world as our interest may dictate.

But in the reverse of this eligible situation we shall discover, that the rivalships of the parts would make them checks upon each other, and would frustrate all the tempting advantages, which nature has kindly placed within our reach. In a state so insignificant, our commerce would be a prey to the wanton intermeddlings of all nations at war with each other; who, having nothing to fear from us, would with little scruple or remorse supply their wants by depredations on our property, as often as it fell in their way. The rights of neutrality will only be respected, when they are defended by an adequate power. A nation, despicable by its weakness, forfeits even the privilege of being neutral.

Under a vigorous national government, the natural strength and resources of the country, directed to a common interest, would baffle all the combinations of European jealousy to restrain our growth. This situation would even take away the motive to such combinations, by inducing an impracticability of success. An active commerce, an extensive navigation, a flourishing marine would then be the inevitable offspring of moral and physical necessity. We might defy the little arts of little politicians to control, or vary, the irresistible and unchangeable course of nature.

But in a state of disunion these combinations might exist, and might operate with success. It would be

in the power of the maritime nations, availing themselves of our universal impotence, to prescribe the conditions of our political existence; and as they have a common interest in being our carriers, and still more in preventing our being theirs, they would in all probability combine to embarrass our navigation in such a manner, as would in effect destroy it, and confine us to a PASSIVE COMMERCE. We should thus be compelled to content ourselves with the first price of our commodities, and to see the profits of our trade snatched from us to enrich our enemies and persecutors. That unequalled spirit of enterprise, which signalises the genius of the American merchants and navigators, and which is in itself an inexhaustible mine of national wealth, would be stifled and lost; and poverty and disgrace would overspread a country, which with wisdom might make herself the admiration and envy of the world.

There are rights of great moment to the trade of America, which are rights of the union—I allude to the fisheries, to the navigation of the Lakes and to that of the Mississippi. The dissolution of the confederacy would give room for delicate questions, concerning the future existence of these rights; which the interest of more powerful partners would hardly fail to solve to our disadvantage. The disposition of Spain with regard to the Mississippi needs no comment. France and Britain are concerned with us in the fisheries; and view them as of the utmost moment to their navigation. They, of course, would hardly remain long indifferent to that decided mastery of which experience has shown us to be possessed in this valuable branch of traffic; and by which we are able to undersell those nations in their own markets. What more natural, than that they should be disposed to exclude, from the lists, such dangerous competitors?

This branch of trade ought not to be considered as a partial benefit. All the navigating states may in different degrees advantageously participate in it, and under

under circumſtances of a greater extenſion of mercantile capital would not be unlikely to do it. As a nurſery of ſeamen it now is, or when time ſhall have more nearly aſſimilated the principles of navigation in the ſeveral ſtates, will become an univerſal reſource. To the eſtabliſhment of a navy it muſt be indiſpenſible.

To this great national object, a NAVY, union will contribute in various ways. Every inſtitution will grow and flouriſh in proportion to the quantity and extent of the means concentered towards its formation and ſupport. A navy of the United States, as it would embrace the reſources of all, is an object far leſs remote than a navy of any ſingle ſtate, or partial confederacy, which would only embrace the reſources of a part. It happens indeed that different portions of confederated America poſſeſs each ſome peculiar advantage for this eſſential eſtabliſhment. The more Southern ſtates furniſh in greater abundance certain kinds of naval ſtores—tar, pitch and turpentine. Their wood for the conſtruction of ſhips is alſo of a more ſolid and laſting texture. The difference in the duration of the ſhips of which the navy might be compoſed, if chiefly conſtructed of Southern wood would be of ſignal importance either in the view of naval ſtrength or of national economy. Some of the Southern and of the middle ſtates yield a greater plenty of iron and of better quality. Seamen muſt chiefly be drawn from the Nothern hive. The neceſſity of naval protection to external or maritime commerce, and the conduciveneſs of that ſpecies of commerce to the proſperity of a navy, are points too manifeſt to require a particular elucidation. They, by a kind of reaction, mutually beneficial, promote each other.

An unreſtrained intercourſe between the ſtates themſelves will advance the trade of each, by an interchange of their reſpective productions, not only for the ſupply of reciprocal wants at home, but for exportation to foreign markets. The veins of commerce in every

part

part will be replenished, and will acquire additional motion and vigour from a free circulation of the commodities of every part. Commercial enterprise will have much greater scope, from the diversity in the productions of different states. When the staple of one fails, from a bad harvest or unproductive crop, it can call to its aid the staple of another. The variety not less than the value of products for exportation, contributes to the activity of foreign commerce. It can be conducted upon much better terms, with a large number of materials of a given value, than with a small number of materials of the same value; arising from the competitions of trade and from the fluctuations of markets. Particular articles may be in great demand at certain periods, and unsaleable at others; but if there be a variety of articles, it can scarcely happen that they should all be at one time in the latter predicament; and on this account the operations of the merchant would be less liable to any considerable obstruction or stagnation. The speculative trader will at once perceive the force of these observations; and will acknowledge, that the aggregate ballance of the commerce of the United States, would bid fair to be much more favourable than that of the Thirteen States, without union, or with partial unions.

It may perhaps be replied to this, that whether the states are united, or disunited, there would still be an intimate intercourse between them which would answer the same ends: But this intercourse would be fettered, interrupted and narrowed by a multiplicity of causes; which in the course of these papers have been amply detailed. An unity of commercial, as well as political interests, can only result from an unity of government.

There are other points of view, in which this subject might be placed, of a striking and animating kind. But they would lead us too far into the regions of futurity, and would involve topics not proper for a newspaper discussion. I shall briefly observe, that

our situation invites, and our interest prompts us, to aim at an ascendant in the system of American affairs. The world may politically, as well as geographically, be divided into four parts, each having a distinct set of interests. Unhappily for the other three, Europe by her arms and by her negociations, by force and by fraud, has, in different degrees, extended her dominion over them all. Africa, Asia, and America, have successively felt her domination. The superiority she has long maintained, has tempted her to plume herself as the mistress of the world, and to consider the rest of mankind as created for her benefit. Men, admired as profound philosophers, have, in direct terms, attributed to her inhabitants a physical superiority; and have gravely asserted that all animals, and with them the human species, degenerate in America—that even dogs cease to bark after having breathed a while in our atmosphere*. Facts have too long supported these arrogant pretensions of the European:—It belongs to us to vindicate the honor of the human race, and to teach that assuming brother moderation. Union will enable us to do it. Disunion will add another victim to his triumphs. Let Americans disdain to be the instruments of European greatness! Let the Thirteen States, bound together in a strict and indissoluble union, concur in erecting one great American system, superior to the controul of all transatlantic force or influence, and able to dictate the terms of the connection between the old and the new world!

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*Recherches philosophiques sur les Americains.

NUMBER XII.

The Utility of the Union in respect to Revenue.

THE effects of union, upon the commercial prosperity of the states, have been sufficiently delineated. Its tendency to promote the interests of revenue will be the subject of our present enquiry.

The prosperity of commerce is now perceived and acknowledged, by all enlightened statesmen to be the most useful as well as the most productive source of national wealth; and has accordingly become a primary object of their political cares. By multiplying the means of gratification, by promoting the introduction and circulation of the precious metals, those darling objects of human avarice and enterprise, it serves to vivify and invigorate all the channels of industry, and to make them flow with greater activity and copiousness. The assiduous merchant, the laborious husbandman, the active mechanic, and the industrious manufacturer, all orders of men look forward with eager expectation and growing alacrity to this pleasing reward of their toils. The often-agitated question between agriculture and commerce, has from indubitable experience received a decision, which has silenced the rivalships that once subsisted between them, and has proved, to the entire satisfaction of their friends, that their interests are intimately blended and interwoven. It has been found, in various countries, that in proportion as commerce has flourished land has risen in value. And how could it have happened otherwise? Could that which procures a freer vent for the products of the earth—which furnishes new incitements to the cultivators of land—which is the most powerful instrument in increasing the quantity of money in a state—could that, in fine, which is the faithful handmaid of labour and industry, in every shape, fail to augment the value of that article, which is

is the prolific parent of far the greateſt part of the objects, upon which they are exerted? It is aſtoniſhing that ſo ſimple a truth ſhould ever have had an adverſary; and it is one, among a multitude of proofs, how apt a ſpirit of ill informed jealouſy or of too great abſtraction and refinement is to lead men aſtray from the plaineſt paths of reaſon and conviction.

The ability of a country to pay taxes muſt always be proportioned, in a great degree, to the quantity of money in circulation and to the celerity with which it circulates. Commerce, contributing to both theſe objects, muſt of neceſſity render the payment of taxes eaſier, and facilitate the requiſite ſupplies to the treaſury. The hereditary dominions of the emperor of Germany contain a great extent of fertile, cultivated and populous territory, a large proportion of which is ſituated in mild and luxuriant climates. In ſome parts of this territory are to be found, the beſt gold and ſilver mines in Europe. And yet, from the want of the foſtering influence of commerce, that monarch can boaſt but ſlender revenues. He has ſeveral times been compelled to owe obligations to the pecuniary ſuccours of other nations, for the preſervation of his eſſential intereſts; and is unable, upon the ſtrength of his own reſources, to ſuſtain a long or continued war.

But it is not in this aſpect of the ſubject alone that union will be ſeen to conduce to the purpoſes of revenue. There are other points of view, in which its influence will appear more immediate and deciſive. It is evident from the ſtate of the country, from the habits of the people, from the experience we have had on the point itſelf, that it is impracticable to raiſe any very conſiderable ſums by direct taxation. Tax laws have in vain been multiplied—new methods to enforce the collection have in vain been tried—the public expectation has been uniformly diſappointed, and the treaſuries of the ſtates have remained empty. The popular ſyſtem of adminiſtration, inherent in the nature of popular government, coinciding with the

real

real ſcarcity of money, incident to a languid and mutilated ſtate of trade, has hitherto defeated every experiment for extenſive collections, and has at length taught the different legiſlatures the folly of attempting them.

No perſon acquainted with what happens in other countries, will be ſurpriſed at this circumſtance. In ſo opulent a nation as that of Britain, where direct taxes, from ſuperior wealth, muſt be much more tolerable, and, from the vigor of the government, much more practicable, than in America, far the greateſt part of the national revenue is derived from taxes of the indirect kind; from impoſts and from exciſes. Duties on imported articles form a large branch of this latter deſcription.

In America, it is evident, that we muſt a long time, depend for the means of revenue, chiefly on ſuch duties. In moſt parts of it, exciſes muſt be confined within a narrow compaſs. The genius of the people will ill-brook the inquiſitive and peremptory ſpirit of exciſe laws. The pockets of the farmers on the other hand will reluctantly yield but ſcanty ſupplies in the unwelcome ſhape of impoſitions on their houſes and lands—and perſonal property is too precarious and inviſible a fund to be laid hold of in any other way, than by the imperceptible agency of taxes on conſumption.

If theſe remarks have any foundation, that ſtate of things, which will beſt enable us to improve and extend ſo valuable a reſource, muſt be the beſt adapted to our political welfare. And it cannot admit of a ſerious doubt, that this ſtate of things muſt reſt on the baſis of a general union. As far as this would be conducive to the intereſts of commerce, ſo far it muſt tend to the extenſion of the revenue to be drawn from that ſource. As far as it would contribute to rendering regulations for the collection of the duties more ſimple and efficacious, ſo far it muſt ſerve to anſwer the purpoſes of making the ſame rate of duties more

productive,

productive, and of putting it into the power of the government to increaſe the rate, without prejudice to trade.

The relative ſituation of theſe ſtates—the number of rivers with which they are interſected, and of bays that waſh their ſhores—the facility of communication in every direction—the affinity of language and manners—the familiar habits of intercourſe; all theſe are circumſtances that would conſpire to render an illicit trade between them a matter of little difficulty; and would inſure frequent evaſions of the commercial regulations of each other. The ſeparate ſtates, or confederacies, would be neceſſitated by mutual jealouſy to avoid the temptations to that kind of trade by the lowneſs of their duties. The temper of our governments, for a long time to come, would not permit thoſe rigorous precautions, by which the European nations guard the avenues into their reſpective countries, as well by land as by water, and which even there are found inſufficient obſtacles to the adventurous ſtratagems of avarice.

In France there is an army of patrols (as they are called) conſtantly employed to ſecure her fiſcal regulations againſt the inroads of the dealers in contraband. Mr. Neckar computes the number of theſe patrols at upwards of twenty thouſand. This proves the immenſe difficulty in preventing that ſpecies of traffic, where there is an inland communication, and ſhews in a ſtrong light the diſadvantages, with which the collection of duties in this country would be incumbered, if by diſunion the ſtates ſhould be placed in a ſituation with reſpect to each other, reſembling that of France with reſpect to her neighbours. The arbitrary and vexatious powers with which the patrols are neceſſarily armed would be intolerable in a free country.

If on the contrary there be but one government, pervading all the States, there will be as to the principal part of our commerce but ONE SIDE to guard,

the ATLANTIC COAST. Veſſels arriving directly from foreign countries, laden with valuable cargoes, would rarely chooſe to hazard themſelves to the complicated and critical perils, which would attend attempts to unlade prior to their coming into port. They would have to dread both the dangers of the coaſt, and of detection as well after as before their arrival at the places of their final deſtination. An ordinary degree of vigilance would be competent to the prevention of any material infractions upon the rights of the revenue. A few armed veſſels, judiciouſly ſtationed at the entrances of our ports, might at ſmall expence be made uſeful ſentinels of the laws. And the government having the ſame intereſt to provide againſt violations every where, the co-operation of its meaſures in each ſtate would have a powerful tendency to render them effectual. Here alſo we ſhould preſerve by union an advantage which nature holds out to us, and which would be relinquiſhed by ſeparation. The United States lie at a great diſtance from Europe and at a conſiderable diſtance from all other places, with which they would have extenſive connections of foreign trade. The paſſage from them to us in a few hours, or in a ſingle night, as between the coaſts of France and Britain and of other neighbouring nations would be impracticable. This is a prodigious ſecurity againſt a direct contraband with foreign countries; but a circuitous contraband to one ſtate through the medium of another, would be both eaſy and ſafe. The difference between a direct importation from abroad and an indirect importation, through the channel of a neighbouring ſtate, in ſmall parcels, according to time and opportunity, with the additional facilities of inland communication, muſt be palpable to every man of diſcernment.

It is, therefore, evident, that one national government would be able, at much leſs expence, to extend the duties on imports, beyond compariſon further, than would be practicable to the ſtates ſeparately, or

to

to any partial confederacies: Hitherto I believe it may safely be asserted that these duties have not upon an average exceeded in any state three per cent. In France they are estimated at about fifteen per cent, and in Britain the proportion is still greater. There seems to be nothing to hinder their being increased in this country, to at least treble their present amount. The single article of ardent spirits, under federal regulation, might be made to furnish a considerable revenue. Upon a ratio to the importation into this state, the whole quantity imported into the United States may at a low computation be estimated at four millions of gallons; which at a shilling per gallon would produce two hundred thousand pounds. That article would well bear this rate of duty; and if it should tend to diminish the consumption of it, such an effect would be equally favorable to the agriculture, to the economy, to the morals and to the health of the society. There is perhaps nothing so much a subject of national extravagance, as this very article.

What will be the consequence, if we are not able to avail ourselves of the resource in question in its full extent? A nation cannot long exist without revenue. Destitute of this essential support, it must resign its independence, and sink into the degraded condition of a province. This is an extremity to which no government will of choice accede. Revenue therefore must be had at all events. In this country, if the principal part be not drawn from commerce, it must fall with oppressive weight upon land. It has been already intimated that excises, in their true signification, are too little in unison with the feelings of the people, to admit of great use being made of that mode of taxation: nor indeed, in the states where almost the sole employment is agriculture, are the objects proper for excise sufficiently numerous, to permit very ample collections in that way. Personal estate, (as has been before remarked) from the difficulty of tracing it, cannot be subjected to large con-

tributions, by any other means than by taxes on consumption. In populous cities, it may be enough the subject of conjecture, to occasion the oppression of individuals, without much aggregate benefit to the state; but beyond these circles it must in a great measure escape the eye and the hand of the tax gatherer. As the necessities of the state, nevertheless, must be satisfied in some mode or other, the defect of other resources must throw the principal weight of the public burthens on the possessors of land. And as on the other hand the wants of the government can never obtain an adequate supply, unless all the sources of revenue are open to its demands, the finances of the community, under such embarrassments, cannot be put into a situation consistent with its respectability, or its security. Thus we shall not even have the consolations of a full treasury to atone for the oppression of that valuable class of the citizens, who are employed in the cultivation of the soil. But public and private distress will keep pace with each other in gloomy concert; and unite in deploring the infatuation of those councils, which led to disunion.

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The same Subject continued, with a View to Economy.

AS connected with the subject of revenue, we may with propriety consider that of economy. The money saved from one object may be usefully applied to another; and there will be so much the less to be drawn from the pockets of the people. If the states are united under one government, there will be but one national civil list to support; if they are divided into several confederacies, there will be as many different

ferent national civil lists to be provided for; and each of them, as to the principal departments coextensive with that which would be necessary for a government of the whole. The entire separation of the states into thirteen unconnected sovereignties is a project too extravagant and too replete with danger to have many advocates. The ideas of men who speculate upon the dismemberment of the empire, seem generally turned towards three confederacies; one consisting of the four Northern, another of the four middle, and a third of the five Southern states. There is little probability that there would be a greater number. According to this distribution, each confederacy would comprise an extent of territory larger than that of the kingdom of Great-Britain. No well informed man will suppose that the affairs of such a confederacy can be properly regulated by a government, less comprehensive in its organs or institutions, than that which has been proposed by the convention. When the dimensions of a state attain to a certain magnitude, it requires the same energy of government, and the same forms of administration, which are requisite in one of much greater extent. This idea admits not of precise demonstration, because there is no rule by which we can measure the momentum of civil power, necessary to the government of any given number of individuals; but when we consider that the Island of Britain, nearly commensurate with each of the supposed confederacies, contains about eight millions of people, and when we reflect upon the degree of authority required to direct the passions of so large a society to the public good, we shall see no reason to doubt that the like portion of power would be sufficient to perform the same task in a society far more numerous. Civil power properly organised and exerted is capable of diffusing its force to a very great extent; and can in a manner reproduce itself in every part of a great empire by a judicious arrangement of subordinate institutions.

The ſuppoſition, that each confederacy into which the ſtates would be likely to be divided, would require a government not leſs comprehenſive, than the one propoſed, will be ſtrengthened by another ſuppoſition, more probable than that which preſents us with three confederacies as the alternative to a general union. If we attend carefully to geographical and commercial conſiderations, in conjunction with the habits and prejudices of the different ſtates, we ſhall be led to conclude, that in caſe of diſunion they will moſt naturally league themſelves under two governments. The four Eaſtern ſtates, from all the cauſes that form the links of national ſympathy and connection, may with certainty be expected to unite. New-York, ſituated as ſhe is, would never be unwiſe enough to oppoſe a feeble and unſupported flank to the weight of that confederacy. There are obvious reaſons, that would facilitate her acceſſion to it. New-Jerſey is too ſmall a ſtate to think of being a frontier, in oppoſition to this ſtill more powerful combination; nor do there appear to be any obſtacles to her admiſſion into it. Even Pennſylvania would have ſtrong inducements to join the Northern league. An active foreign commerce on the baſis of her own navigation is her true policy, and coincides with the opinions and diſpoſitions of her citizens. The more Southern ſtates, from various circumſtances, may not think themſelves much intereſted in the encouragement of navigation. They may prefer a ſyſtem, which would give unlimited ſcope to all nations, to be the carriers as well as the purchaſers of their commodities. Pennſylvania may not chooſe to confound her intereſts in a connection ſo adverſe to her policy. As ſhe muſt at all events be a frontier, ſhe may deem it moſt conſiſtent with her ſafety to have her expoſed ſide turned towards the weaker power of the Southern, rather than towards the ſtronger power of the Northern confederacy. This would give her the faireſt chance to avoid being the FLANDERS of America. Whatever may be the determination

determination of Pennſylvania, if the Northern confederacy includes New-Jerſey, there is no likelihood of more than one confederacy to the South of that ſtate.

Nothing can be more evident than that the Thirteen States will be able to ſupport a national government, better than one half, or one third, or any number leſs than the whole. This reflection muſt have great weight in obviating that objection to the propoſed plan, which is founded on the principle of expence; an objection however, which, when we come to take a nearer view of it, will appear in every light to ſtand on miſtaken ground.

If in addition to the conſideration of a plurality of civil liſts, we take into view the number of perſons who muſt neceſſarily be employed to guard the inland communication, between the different confederacies, againſt illicit trade, and who in time will infallibly ſpring up out of the neceſſities of revenue; and if we alſo take into view the military eſtabliſhments, which it has been ſhewn would unavoidably reſult from the jealouſies and conflicts of the ſeveral nations, into which the ſtates would be divided, we ſhall clearly diſcover that a ſeparation would be not leſs injurious to the economy than to the tranquility, commerce, revenue and liberty of every part.

PUBLIUS.

NUMBER XIV.

An Objection drawn from the Extent of Country anſwered.

WE have ſeen the neceſſity of the union as our bulwark againſt foreign danger, as the conſervator of peace among ourſelves, as the guardian of our commerce and other common intereſts, as the only ſubſtitute for thoſe military eſtabliſhments which have

have subverted the liberties of the old world, and as the proper antidote for the diseases of faction, which have proved fatal to other popular governments, and of which alarming symptoms have been betrayed by our own. All that remains, within this branch of our enquiries, is to take notice of an objection, that may be drawn from the great extent of country which the union embraces. A few observations on this subject will be the more proper, as it is perceived that the adversaries of the new constitution are availing themselves of a prevailing prejudice, with regard to the practicable sphere of republican administration, in order to supply by imaginary difficulties, the want of those solid objections, which they endeavour in vain to find.

The error which limits republican government to a narrow district, has been unfolded and refuted in preceding papers. I remark here only, that it seems to owe its rise and prevalence chiefly to the confounding of a republic with a democracy: And applying to the former reasonings drawn from the nature of the latter. The true distinction between these forms was also adverted to on a former occasion. It is, that in a democracy, the people meet and exercise the government in person; in a republic they assemble and administer it by their representatives and agents. A democracy consequently must be confined to a small spot. A republic may be extended over a large region.

To this accidental source of the error may be added, the artifice of some celebrated authors, whose writings have had a great share in forming the modern standard of political opinions. Being subjects either of an absolute, or limited monarchy, they have endeavoured to heighten the advantages or palliate the evils of these forms; by placing in comparison with them, the vices and defects of the republican, and by citing as specimens of the latter, the turbulent democracies of ancient Greece, and modern Italy. Under the confusion of names, it has been an easy talk to transfer

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to a republic, obſervations applicable to a democracy only, and among others, the obſervation that it can never be eſtabliſhed but among a ſmall number of people, living within a ſmall compaſs of territory.

Such a fallacy may have been the leſs perceived, as moſt of the popular governments of antiquity were of the democratic ſpecies; and even in modern Europe, to which we owe the great principle of repreſentation, no example is ſeen of a government wholly popular, and founded at the ſame time wholly on that principle. If Europe has the merit of diſcovering this great mechanical power in government, by the ſimple agency of which, the will of the largeſt political body may be concentred, and its force directed to any object, which the public good requires: America can claim the merit of making the diſcovery the baſis of unmixed and extenſive republics. It is only to be lamented, that any of her citizens ſhould wiſh to deprive her of the additional merit of diſplaying its full efficacy in the eſtabliſhment of the comprehenſive ſyſtem now under her conſideration.

As the natural limit of a democracy is that diſtance from the central point, which will juſt permit the moſt remote citizens to aſſemble as often as their public functions demand; and will include no greater number than can join in thoſe functions; ſo the natural limit of a republic is that diſtance from the centre, which will barely allow the repreſentatives of the people to meet as often as may be neceſſary for the adminiſtration of public affairs. Can it be ſaid, that the limits of the United States exceed this diſtance? It will not be ſaid by thoſe who recollect that the Atlantic coaſt is the longeſt ſide of the union; that during the term of thirteen years, the repreſentatives of the ſtates have been almoſt continually aſſembled; and that the members from the moſt diſtant ſtates are not chargeable with greater intermiſſions of attendance, than thoſe from the ſtates in the neighbourhud of Congreſs.

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That we may form a juſter eſtimate with regard to this intereſting ſubject, let us reſort to the actual dimenſions of the union. The limits, as fixed by the treaty of peace are on the Eaſt the Atlantic, on the South the latitude of thirty one degrees, on the Weſt the Miſſiſſippi, and on the North an irregular line running in ſome inſtances beyond the forty-fifth degree, in others falling as low as the forty-ſecond. The Southern ſhore of lake Erie lies below that latitude. Computing the diſtance between the thirty-firſt and forty-fifth degrees, it amounts to nine hundred and ſeventy three common miles; computing it from thirty one to forty two degrees to ſeven hundred, ſixty four miles and an half. Taking the mean for the diſtance, the amount will be eight hundred, ſixty eight miles and three fourths. The mean diſtance from the Atlantic to the Miſſiſſippi, does not probably exceed ſeven hundred and fifty miles. On a compariſon of this extent, with that of ſeveral countries in Europe, the practicability of rendering our ſyſtem commenſurate to it, appears to be demonſtrable. It is not a great deal larger than Germany, where a diet, repreſenting the whole empire is continually aſſembled; or than Poland before the late diſmemberment, where another national diet was the depoſitary of the ſupreme power. Paſſing by France and Spain, we find that in Great Britain, inferior as it may be in ſize, the repreſentatives of the Northern extremity of the iſland, have as far to travel to the national council, as will be required of thoſe of the moſt remote parts of the union.

Favourable as this view of the ſubject may be, ſome obſervations remain which will place it in a light ſtill more ſatisfactory.

In the firſt place it is to be remembered, that the general government is not to be charged with the whole power of making and adminiſtering laws. Its juriſdiction is limited to certain enumerated objects, which concern all the members of the republic, but

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which are not to be attained by the ſeparate proviſions of any. The ſubordinate governments which can extend their care to all thoſe other objects, which can be ſeparately provided for, will retain their due authority and activity. Were it propoſed by the plan of the convention to aboliſh the governments of the particular ſtates, its adverſaries would have ſome ground for their objection, though it would not be difficult to ſhow that if they were aboliſhed, the general government would be compelled by the principle of ſelf preſervation, to reinſtate them in their proper juriſdiction.

A ſecond obſervation to be made is, that the immediate object of the federal conſtitution is to ſecure the union of the Thirteen primitive States, which we know to be practicable; and to add to them ſuch other ſtates, as may ariſe in their own boſoms, or in their neighbourhoods, which we cannot doubt to be equally practicable. The arrangements that may be neceſſary for thoſe angles and fractions of our territory, which lie on our north-weſtern frontier, muſt be left to thoſe whom further diſcoveries and experience will render more equal to the taſk.

Let it be remarked in the third place, that the intercourſe throughout the union will be daily facilitated by new improvements. Roads will every where be ſhortened, and kept in better order; accommodations for travellers will be multiplied and meliorated; an interior navigation on our eaſtern ſide will be opened throughout, or nearly throughout the whole extent of the Thirteen States. The communication between the Weſtern and Atlantic diſtricts, and between different parts of each, will be rendered more and more eaſy by thoſe numerous canals with which the beneficence of nature has interſected our country, and which art finds it ſo little difficult to connect and complete.

A fourth and ſtill more important conſideration is, that as almoſt every ſtate will on one ſide or other be a frontier, and will thus find in a regard to its ſafety, an

an inducement to make some sacrifices for the sake of the general protection; so the states which lie at the greatest distance from the heart of the union, and which of course may partake least of the ordinary circulation of its benefits, will be at the same time immediately contiguous to foreign nations, and will consequently stand on particular occasions, in greatest need of its strength and resources. It may be inconvenient for Georgia or the states forming our Western or North-Eastern borders, to send their representatives to the seat of government, but they would find it more so to struggle alone against an invading enemy, or even to support alone the whole expence of those precautions, which may be dictated by the neighbourhood of continual danger. If they should derive less benefit therefore from the union in some respects, than the less distant states, they will derive greater benefit from it in other respects, and thus the proper equilibrium will be maintained throughout.

I submit to you my fellow citizens, these considerations, in full confidence that the good sense which has so often marked your decisions, will allow them their due weight and effect; and that you will never suffer difficulties, however formidable in appearance or however fashionable the error on which they may be founded, to drive you into the gloomy and perilous scenes into which the advocates for disunion would conduct you. Hearken not to the unnatural voice which tells you that the people of America, knit together as they are by so many chords of affection, can no longer live together as members of the same family; can no longer continue the mutual guardians of their mutual happiness; can no longer be fellow citizens of one great respectable and flourishing empire. Hearken not to the voice which petulantly tells you that the form of government recommended for your adoption is a novelty in the political world; that it has never yet had a place in the theories of the wildest projectors; that it rashly attempts what it

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is impoſſible to accompliſh. No my countrymen, ſhut your ears againſt this unhallowed language. Shut your hearts againſt the poiſon which it conveys; the kindred blood which flows in the veins of American citizens, the mingled blood which they have ſhed in defence of their ſacred rights, conſecrate their union, and excite horror at the idea of their becoming aliens, rivals, enemies. And if novelties are to be ſhunned, believe me the moſt alarming of all novelties, the moſt wild of all projects, the moſt raſh of all attempts, is that of rending us in pieces, in order to preſerve our liberties and promote our happineſs. But why is the experiment of an extended republic to be rejected merely becauſe it may compriſe what is new? Is it not the glory of the people of America, that whilſt they have paid a decent regard to the opinions of former times and other nations, they have not ſuffered a blind veneration for antiquity, for cuſtom, or for names, to overrule the ſuggeſtions of their own good ſenſe, the knowledge of their own ſituation, and the leſſons of their own experience? To this manly ſpirit, poſterity will be indebted for the poſſeſſion, and the world for the example of the numerous innovations diſplayed on the American theatre, in favour of private rights and public happineſs. Had no important ſtep been taken by the leaders of the revolution for which a precedent could not be diſcovered, no government eſtabliſhed of which an exact model did not preſent itſelf, the people of the United States might, at this moment, have been numbered among the melancholy victims of miſguided councils, muſt at beſt have been labouring under the weight of ſome of thoſe forms which have cruſhed the liberties of the reſt of mankind. Happily for America, happily we truſt for the whole human race, they purſued a new and more noble courſe. They accompliſhed a revolution which has no parallel in the annals of human ſociety: They reared the fabrics of governments which have no model on the face of the globe. They formed the

design of a great confederacy, which it is incumbent on their ſucceſſors to improve and perpetuate. If their works betray imperfections, we wonder at the fewneſs of them. If they erred moſt in the ſtructure of the union, this was the work moſt difficult to be executed, this is the work which has been new modelled by the act of your convention, and it is that act on which you are now to deliberate and to decide.

PUBLIUS.

NUMBER XV.

Concerning the Defects of the preſent Confederation, in Relation to the Principle of Legiſlation for the States in their collective Capacities.

IN the courſe of the preceding papers, I have endeavoured, my fellow citizens, to place before you, in a clear and convincing light, the importance of union to your political ſafety and happineſs. I have unfolded to you a complication of dangers to which you would be expoſed ſhould you permit that ſacred knot, which binds the people of America together, to be ſevered or diſſolved by ambition or by avarice, by jealouſy or by miſrepreſentation. In the ſequel of the inquiry, through which I propoſe to accompany you, the truths intended to be inculcated will receive further confirmation from facts and arguments hitherto unnoticed. If the road, over which you will ſtill have to paſs, ſhould in ſome places appear to you tedious or irkſome, you will recollect, that you are in queſt of information on a ſubject the moſt momentous, which can engage the attention of a free people: That the field through which you have to travel is in itſelf ſpacious,

ſpacious, and that the difficulties of the journey have been unneceſſarily increaſed by the mazes with which ſophiſtry has beſet the way. It will be my aim to remove the obſtacles to your progreſs in as compendious a manner, as it can be done, without ſacrificing utility to diſpatch.

In purſuance of the plan, which I have laid down, for the diſcuſſion of the ſubject, the point next in order to be examined is the "inſufficiency of the preſent "confederation to the preſervation of the union." It may perhaps be aſked, what need is there of reaſoning or proof to illuſtrate a poſition, which is neither controverted nor doubted; to which the underſtandings and feelings of all claſſes of men aſſent; and which in ſubſtance is admitted by the opponents as well as by the friends of the new conſtitution?—It muſt in truth be acknowledged that however theſe may differ in other reſpects, they in general appear to harmoniſe in this ſentiment at leaſt, that there are material imperfections in our national ſyſtem, and that ſomething is neceſſary to be done to reſcue us from impending anarchy. The facts that ſupport this opinion are no longer objects of ſpeculation. They have forced themſelves upon the ſenſibility of the people at large, and have at length extorted from thoſe, whoſe miſtaken policy has had the principal ſhare in precipitating the extremity, at which we are arrived, a reluctant confeſſion of the reality of many of thoſe defects in the ſcheme of our federal government, which have been long pointed out and regretted by the intelligent friends of the union.

We may indeed with propriety be ſaid to have reached almoſt the laſt ſtage of national humiliation. There is ſcarcely any thing that can wound the pride, or degrade the character of an independent nation, which we do not experience. Are there engagements to the performance of which we are held by every tie reſpectable among men? Theſe are the ſubjects of conſtant and unbluſhing violation. Do we owe debts

to foreigners and to our own citizens contracted in a time of imminent peril, for the preſervation of our political exiſtence? Theſe remain without any proper or ſatisfactory proviſion for their diſcharge. Have we valuable territories and important poſts in the poſſeſſion of a foreign power, which by expreſs ſtipulations ought long ſince to have been ſurrendered? Theſe are ſtill retained, to the prejudice of our intereſts not leſs than of our rights. Are we in a condition to reſent, or to repel the aggreſſion? We have neither troops nor treaſury nor government.* Are we even in a condition to remonſtrate with dignity? The juſt imputations on our own faith, in reſpect to the ſame treaty, ought firſt to be removed. Are we entitled by nature and compact to a free participation in the navigation of the Miſſiſſippi? Spain excludes us from it. Is public credit an indiſpenſable reſource in time of public danger? We ſeem to have abandoned its cauſe as deſperate and irretrievable. Is commerce of importance to national wealth? Ours is at the loweſt point of declenſion. Is reſpectability in the eyes of foreign powers a ſafeguard againſt foreign encroachments? The imbecillity of our government even forbids them to treat with us: Our ambaſſadors abroad are the mere pageants of mimic ſovereignty. Is a violent and unnatural decreaſe in the value of land a ſymptom of national diſtreſs? The price of improved land in moſt parts of the country is much lower than can be accounted for by the quantity of waſte land at market, and can only be fully explained by that want of private and public confidence, which are ſo alarmingly prevalent among all ranks and which have a direct tendency to depreciate property of every kind. Is private credit the friend and patron of induſtry? That moſt uſeful kind which relates to borrowing and lending is reduced within the narroweſt limits, and this ſtill more from an opinion of inſecurity than from a ſcarcity of money. To ſhorten an enumeration of

* I mean for the union.

of particulars which can afford neither pleaſure nor inſtruction it may in general be demanded, what indication is there of national diſorder, poverty and inſignificance that could befal a community ſo peculiarly bleſſed with natural advantages as we are, which does not form a part of the dark catalogue of our public misfortunes?

This is the melancholy ſituation to which we have been brought by thoſe very maxims and councils, which would now deter us from adopting the propoſed conſtitution; and which not content with having conducted us to the brink of a precipice, ſeem reſolved to plunge us into the abyſs, that awaits us below. Here, my countrymen, impelled by every motive that ought to influence an enlightened people, let us make a firm ſtand for our ſafety, our tranquility, our dignity, our reputation. Let us at laſt break the fatal charm which has too long ſeduced us from the paths of felicity and proſperity.

It is true, as has been before obſerved, that facts too ſtubborn to be reſiſted have produced a ſpecies of general aſſent to the abſtract propoſition that there exiſt material defects in our national ſyſtem; but the uſefulneſs of the conceſſion, on the part of the old adverſaries of federal meaſures, is deſtroyed by a ſtrenous oppoſition to a remedy, upon the only principles, that can give it a chance of ſucceſs. While they admit that the government of the United States is deſtitute of energy, they contend againſt conferring upon it thoſe powers which are requiſite to ſupply that energy: They ſeem ſtill to aim at things repugnant and irreconcilable—at an augmentation of federal authority without a dimunition of ſtate authority—at ſovereignty in the union and complete independence in the members. They ſtill, in fine, ſeem to cherish with blind devotion the political monſter of an *imperium in imperio*. This renders a full diſplay of the principal defects of the confederation neceſſary, in order to ſhew, that the evils we experience do not proceed

from minute or partial imperfections, but from fundamental errors in the ſtructure of the building which cannot be amended otherwiſe than by an alteration in the firſt principles and main pillars of the fabric.

The great and radical vice in the conſtruction of the exiſting confederation is in the principle of LEGISLATION for STATES or GOVERNMENTS, in their CORPORATE or COLLECTIVE CAPACITIES, and as contradiſtinguiſhed from the INDIVIDUALS of whom they conſiſt. Though this principle does not run through all the powers delegated to the union; yet it pervades and governs thoſe, on which the efficacy of the reſt depends. Except as to the rule of apportionment, the United States have an indefinite diſcretion to make requiſitions for men and money; but they have no authority to raiſe either by regulations extending to the individual citizens of America. The conſequence of this is, that though in theory their reſolutions concerning thoſe objects are laws, conſtitutionally binding on the members of the union, yet in practice they are mere recommendations, which the ſtates obſerve or diſregard at their option.

It is a ſingular inſtance of the capriciouſneſs of the human mind, that after all the admonitions we have had from experience on this head, there ſhould ſtill be found men, who object to the new conſtitution for deviating from a principle which has been found the bane of the old; and which is in itſelf evidently incompatible with the idea of GOVERNMENT; a principle in ſhort which, if it is to be executed at all, muſt ſubſtitute the violent and ſanguinary agency of the ſword to the mild influence of the magiſtracy.

There is nothing abſurd or impracticable in the idea of a league or alliance between independent nations, for certain defined purpoſes preciſely ſtated in a treaty; regulating all the details of time, place, circumſtance and quantity; leaving nothing to future diſcretion; and depending for its execution on the good faith of the parties. Compacts of this kind exiſt

exist among all civilized nations subject to the usual vicissitudes of peace and war, of observance and non-observance, as the interests or passions of the contracting powers dictate. In the early part of the present century, there was an epidemical rage in Europe for this species of compacts; from which the politicians of the times fondly hoped for benefits which were never realized. With a view to establishing the equilibrium of power and the peace of that part of the world, all the resources of negotiation were exhausted, and triple and quadruple alliances were formed; but they were scarcely formed before they were broken, giving an instructive but afflicting lesson to mankind, how little dependence is to be placed on treaties which have no other sanction than the obligations of good faith; and which oppose general considerations of peace and justice to the impulse of any immediate interest or passion.

If the particular states in this country are disposed to stand in a similar relation to each other, and to drop the project of a general DISCRETIONARY SUPERINTENDENCE, the scheme would indeed be pernicious, and would entail upon us all the mischiefs which have been enumerated under the first head; but it would have the merit of being at least consistent and practicable. Abandoning all views towards a confederate government, this would bring us to a simple alliance offensive and defensive; and would place us in a situation to be alternately friends and enemies of each other, as our mutual jealousies and rivalships nourished by the intrigues of foreign nations should prescribe to us.

But if we are unwilling to be placed in this perilous situation; if we will still adhere to the design of a national government, or which is the same thing of a superintending power under the direction of a common council, we must resolve to incorporate into our plan those ingredients which may be considered as forming the characteristic difference between a league and

and a government; we must extend the authority of the union to the persons of the citizens—the only proper objects of government.

Government implies the power of making laws. It is essential to the idea of a law, that it be attended with a sanction; or, in other words, a penalty or punishment for disobedience. If there be no penalty annexed to disobedience, the resolutions or commands which pretend to be laws, will in fact amount to nothing more than advice or recommendation. This penalty, whatever it may be, can only be inflicted in two ways; by the agency of the courts and ministers of justice, or by military force; by the COERTION of the magistracy, or by the COERTION of arms. The first kind can evidently apply only to men—the last kind must of necessity be employed against bodies politic, or communities or states. It is evident, that there is no process of a court by which their observance of the laws can in the last resort be enforced. Sentences may be denounced against them for violations of their duty; but these sentences can only be carried into execution by the sword. In an association where the general authority is confined to the collective bodies of the communities that compose it, every breach of the laws must involve a state of war, and military execution must become the only instrument of civil obedience. Such a state of things can certainly not deserve the name of government, nor would any prudent man choose to commit his happiness to it.

There was a time when we were told that breaches, by the states, of the regulations of the federal authority were not to be expected—that a sense of common interest would preside over the conduct of the respective members, and would beget a full compliance with all the constitutional requisitions of the union. This language at the present day would appear as wild as a great part of what we now hear from the same quarter will be thought, when we shall have received

received further lessons from that best oracle of wisdom, experience. It at all times betrayed an ignorance of the true springs by which human conduct is actuated, and belied the original inducements to the establishment of civil power. Why has government been instituted at all? Because the passions of men will not conform to the dictates of reason and justice, without constraint. Has it been found that bodies of men act with more rectitude or greater disinterestedness than individuals? The contrary of this has been inferred by all accurate observers of the conduct of mankind; and the inference is founded upon obvious reasons. Regard to reputation has a less active influence, when the infamy of a bad action is to be divided among a number, than when it is to fall singly upon one. A spirit of faction which is apt to mingle its poison in the deliberations of all bodies of men, will often hurry the persons of whom they are composed into improprieties and excesses, for which they would blush in a private capacity.

In addition to all this, there is in the nature of sovereign power an impatience of controul, which disposes those who are invested with the exercise of it, to look with an evil eye upon all external attempts to restrain or direct its operations. From this spirit it happens, that in every political association which is formed upon the principle of uniting in a common interest a number of lesser sovereignties, there will be found a kind of excentric tendency in the subordinate or inferior orbs, by the operation of which there will be a perpetual effort in each to fly off from the common centre. This tendency is not difficult to be accounted for. It has its origin in the love of power. Power controuled or abridged is almost always the rival and enemy of that power by which it is controuled or abridged. This simple proposition will teach us how little reason there is to expect, that the persons, entrusted with the administration of the affairs of the particular members of a confederacy, will at all times be

be ready, with perfect good humour and an unbiassed regard to the public weal, to execute the resolutions or decrees of the general authority. The reverse of this results from the constitution of man.

If therefore the measures of the confederacy cannot be executed, without the intervention of the particular administrations, there will be little prospect of their being executed at all. The rulers of the respective members, whether they have a constitutional right to do it or not, will undertake to judge of the propriety of the measures themselves. They will consider the conformity of the thing proposed or required to their immediate interests or aims; the momentary conveniences or inconveniences that would attend its adoption. All this will be done; and in a spirit of interested and suspicious scrutiny, without that knowledge of national circumstances and reasons of state, which is essential to a right judgment, and with that strong predilection in favor of local objects, which can hardly fail to mislead the decision. The same process must be repeated in every member of which the body is constituted; and the execution of the plans, framed by the councils of the whole, will always fluctuate on the discretion of the ill-informed and prejudiced opinion of every part. Those who have been conversant in the proceedings of popular assemblies; who have seen how difficult it often is, when there is no exterior pressure of circumstances, to bring them to harmonious resolutions on important points, will readily conceive how impossible it must be to induce a number of such assemblies, deliberating at a distance from each other, at different times, and under different impressions, long to cooperate in the same views and pursuits.

In our case, the concurrence of thirteen distinct sovereign wills is requisite under the confederation to the complete execution of every important measure, that proceeds from the union. It has happened as was to have been foreseen. The measures

ſures of the union have not been executed; and the delinquencies of the ſtates have ſtep by ſtep matured themſelves to an extreme; which has at length arreſted all the wheels of the national government, and brought them to an awful ſtand. Congreſs at this time ſcarcely poſſeſs the means of keeping up the forms of adminiſtration; till the ſtates can have time to agree upon a more ſubſtantial ſubſtitute for the preſent ſhadow of a federal government. Things did not come to this deſperate extremity at once. The cauſes which have been ſpecified produced at firſt only unequal and diſproportionate degrees of compliance with the requiſitions of the union. The greater deficiencies of ſome ſtates furniſhed the pretext of example and the temptation of intereſt to the complying, or to the leaſt delinquent ſtates. Why ſhould we do more in proportion than thoſe who are embarked with us in the ſame political voyage? Why ſhould we conſent to bear more than our proper ſhare of the common burthen? Theſe were ſuggeſtions which human ſelfiſhneſs could not withſtand, and which even ſpeculative men, who looked forward to remote conſequences, could not without heſitation combat. Each ſtate yielding to the perſuaſive voice of immediate intereſt or convenience has ſucceſſively withdrawn its ſupport, till the frail and tottering edifice ſeems ready to fall upon our heads and to cruſh us beneath its ruins.

PUBLIUS.

NUMBER XVI.

The ſame Subject continued, in Relation to the ſame Principles.

THE tendency of the principle of legiſlation for ſtates or communities, in their political capacities, as it has been exemplified by the experiment we have made of it, is equally atteſted by the events which

which have befallen all other governments of the confederate kind, of which we have any account, in exact proportion to its prevalence in thoſe ſyſtems. The confirmations of this fact will be worthy of a diſtinct and particular examination. I ſhall content myſelf with barely obſerving here, that of all the confederacies of antiquity which hiſtory has handed down to us, the Lycian and Achæan leagues, as far as there remain veſtiges of them, appear to have been moſt free from the fetters of that miſtaken principle, and were accordingly thoſe which have beſt deſerved, and have moſt liberally received the applauding ſuffrages of political writers.

This exceptionable principle may as truly as emphatically be ſtiled the parent of anarchy: It has been ſeen that delinquencies in the members of the union are its natural and neceſſary offspring; and that whenever they happen, the only conſtitutional remedy is force, and the immediate effect of the uſe of it, civil war.

It remains to enquire how far ſo odious an engine of government, in its application to us, would even be capable of anſwering its end. If there ſhould not be a large army, conſtantly at the diſpoſal of the national government, it would either not be able to employ force at all, or when this could be done, it would amount to a war between different parts of the confederacy, concerning the infractions of a league; in which the ſtrongeſt combination would be moſt likely to prevail, whether it conſiſted of thoſe who ſupported, or of thoſe who reſiſted the general authority. It would rarely happen that the delinquency to be redreſſed would be confined to a ſingle member, and if there were more than one, who had neglected their duty, ſimilarity of ſituation would induce them to unite for common defence. Independent of this motive of ſympathy, if a large and influential ſtate ſhould happen to be the aggreſſing member, it would commonly have weight enough with its neighbours, to win over ſome of them as aſſociates to its cauſe.

Specious

ſpecious arguments of danger to the general liberty could eaſily be contrived; plauſible excuſes for the deficiencies of the party, could, without difficulty be invented, to alarm the apprehenſions, inflame the paſſions, and conciliate the good will even of thoſe ſtates which were not chargeable with any violation, or omiſſion of duty. This would be the more likely to take place, as the delinquencies of the larger members might be expected ſometimes to proceed from an ambitious premeditation in their rulers, with a view to getting rid of all external controul upon their deſigns of perſonal agrandizement; the better to effect which, it is preſumable they would tamper beforehand with leading individuals in the adjacent ſtates. If aſſociates could not be found at home, recourſe would be had to the aid of foreign powers, who would ſeldom be diſinclined to encouraging the diſſentions of a confederacy, from the firm union of which they had ſo much to fear. When the ſword is once drawn, the paſſions of men obſerve no bounds of moderation. The ſuggeſtions of wounded pride, the inſtigations of irritated reſentment, would be apt to carry the ſtates, againſt which the arms of the union were exerted, to any extremes neceſſary to avenge the affront, or to avoid the diſgrace of ſubmiſſion. The firſt war of this kind would probably terminate in a diſſolution of the union.

This may be conſidered as the violent death of the confederacy. Its more natural death is what we now ſeem to be on the point of experiencing, if the federal ſyſtem be not ſpeedily renovated in a more ſubſtantial form. It is not probable, conſidering the genius of this country, that the complying ſtates would often be inclined to ſupport the authority of the union by engaging in a war againſt the non-complying ſtates. They would always be more ready to purſue the milder courſe of putting themſelves upon an equal footing with the delinquent members, by an imitation of their example. And the guilt of all would thus

become the security of all. Our past experience has exhibited the operation of this spirit in its full light. There would in fact be an insuperable difficulty in ascertaining when force could with propriety be employed. In the article of pecuniary contribution, which would be the most usual source of delinquency, it would often be impossible to decide whether it had proceeded from disinclination, or inability. The pretence of the latter would always be at hand. And the case must be very flagrant in which its fallacy could be detected with sufficient certainty to justify the harsh expedient of compulsion. It is easy to see that this problem alone, as often as it should occur, would open a wide field to the majority that happened to prevail in the national council, for the exercise of factious views, of partiality and of oppression.

It seems to require no pains to prove that the states ought not to prefer a national constitution, which could only be kept in motion by the instrumentality of a large army, continually on foot to execute the ordinary requisitions or decrees of the government. And yet this is the plain alternative involved by those who wish to deny it the power of extending its operations to individuals. Such a scheme, if practicable at all, would instantly degenerate into a military despotism; but it will be found in every light impracticable. The resources of the union would not be equal to the maintenance of an army considerable enough to confine the larger states within the limits of their duty; nor would the means ever be furnished of forming such an army in the first instance. Whoever considers the populousness and strength of several of these states singly at the present juncture, and looks forward to what they will become, even at the distance of half a century, will at once dismiss as idle and visionary any scheme, which aims at regulating their movements by laws, to operate upon them in their collective capacities, and to be executed by a coertion applicable to them in the same capacities. A project

of

of this kind is little less romantic than the monster-taming spirit, attributed to the fabulous heroes and demi-gods of antiquity.

Even in those confederacies, which have been composed of members smaller than many of our counties, the principle of legislation for sovereign states, supported by military coertion, has never been found effectual. It has rarely been attempted to be employed, but against the weaker members; and in most instances attempts to coerce the refractory and disobedient, have been the signals of bloody wars; in which one half of the confederacy has displayed its banners against the other half.

The result of these observations to an intelligent mind must be clearly this, that if it be possible at any rate to construct a federal government capable of regulating the common concerns and preserving the general tranquillity, it must be founded, as to the objects committed to its care, upon the reverse of the principle contended for by the opponents of the proposed constitution. It must carry its agency to the persons of the citizens. It must stand in need of no intermediate legislations; but must itself be impowered to employ the arm of the ordinary magistrate to execute its own resolutions. The majesty of the national authority must be manifested through the medium of the courts of justice. The government of the union, like that of each state, must be able to address itself immediately to the hopes and fears of individuals; and to attract to its support, those passions, which have the strongest influence upon the human heart. It must in short, possess all the means and have a right to resort to all the methods of executing the powers, with which it is entrusted, that are possessed and exercised by the governments of the particular states.

To this reasoning it may perhaps be objected, that if any state should be dissatisfied to the authority of the union, it could at any time obstruct the execution

of its laws, and bring the matter to the ſame iſſue of force, with the neceſſity of which the oppoſite ſcheme is reproached.

The plauſibility of this objection will vaniſh the moment we advert to the eſſential difference between a mere NON COMPLIANCE and a DIRECT and ACTIVE RESISTANCE. If the interpoſition of the ſtate-legiſlatures be neceſſary to give effect to a meaſure of the union, they have only NOT TO ACT, or TO ACT EVASIVELY, and the meaſure is defeated. This neglect of duty may be diſguiſed under affected but unſubſtantial proviſions, ſo as not to appear, and of courſe not to excite any alarm in the people for the ſafety of the conſtitution. The ſtate-leaders may even make a merit of their ſurreptitious invaſions of it, on the ground of ſome temporary convenience, exemption or advantage.

But if the execution of the laws of the national government, ſhould not require the intervention of the ſtate-legiſlatures; if they were to paſs into immediate operation upon the citizens themſelves, the particular governments could not interrupt their progreſs without an open and violent exertion of an unconſtitutional power. No omiſſions, nor evaſions would anſwer the end. They would be obliged to act, and in ſuch a manner, as would leave no doubt that they had encroached on the national rights. An experiment of this nature would always be hazardous in the face of a conſtitution in any degree competent to its own defence, and of a people enlightened enough to diſtinguiſh between a legal exerciſe and an illegal uſurpation of authority. The ſucceſs of it would require not merely a factious majority in the legiſlature, but the concurrence of the courts of juſtice, and of the body of the people. If the judges were not embarked in a conſpiracy with the legiſlature, they would pronounce the reſolutions of ſuch a majority to be contrary to the ſupreme law of the land, unconſtitutional and void. If the people were not tainted with the

ſpirit

spirit of their state representatives, they, as the natural guardians of the constitution, would throw their weight into the national scale, and give it a decided preponderancy in the contest. Attempts of this kind would not often be made with levity or rashness; because they could seldom be made without danger to the authors; unless in cases of a tyrannical exercise of the federal authority.

If opposition to the national government should arise from the disorderly conduct of refractory, or seditious individuals, it could be overcome by the same means which are daily employed against the same evil, under the state governments. The magistracy, being equally the ministers of the law of the land, from whatever source it might emanate, would doubtless be as ready to guard the national as the local regulations from the inroads of private licentiousness. As to those partial commotions and insurrections which sometimes disquiet society, from the intrigues of an inconsiderable faction, or from sudden or occasional ill humours that do not infect the great body of the community, the general government could command more extensive resources for the suppression of disturbances of that kind, than would be in the power of any single member. And as to those mortal feuds, which in certain conjunctures spread a conflagration through a whole nation, or through a very large proportion of it, proceeding either from weighty causes of discontent given by the government, or from the contagion of some violent popular paroxism, they do not fall within any ordinary rules of calculation. When they happen, they commonly amount to revolutions and dismemberments of empire. No form of government can always either avoid or controul them. It is in vain to hope to guard against events too mighty for human foresight or precaution, and it would be idle to object to a government because it could not perform impossibilities.

PUBLIUS.

NUMBER XVII.

The Subject continued, and illuſtrated by Examples to ſhow the Tendency of Federal Governments, rather to Anarchy among the Members than Tyranny in the Head.

AN objection of a nature different from that which has been ſtated and anſwered in my laſt addreſs, may perhaps be likewiſe urged againſt the principle of legiſlation for the individual citizens of America. It may be ſaid, that it would tend to render the government of the union too powerful, and to enable it to abſorb in itſelf thoſe reſiduary authorities, which it might be judged proper to leave with the ſtates for local purpoſes. Allowing the utmoſt latitude to the love of power, which any reaſonable man can require, I confeſs I am at a loſs to diſcover what temptation the perſons entruſted with the adminiſtration of the general government could ever feel to diveſt the ſtates of the authorities of that deſcription. The regulation of the mere domeſtic police of a ſtate appears to me to hold out ſlender allurements to ambition. Commerce, finance, negotiation and war ſeem to comprehend all the objects, which have charms for minds governed by that paſſion; and all the powers neceſſary to theſe objects ought in the firſt inſtance to be lodged in the national depoſitary. The adminiſtration of private juſtice between the citizens of the ſame ſtate, the ſuperviſion of agriculture and of other concerns of a ſimilar nature, all thoſe things in ſhort which are proper to be provided for by local legiſlation, can never be deſireable cares of a general juriſdiction. It is therefore improbable that there ſhould exiſt a diſpoſition in the federal councils to uſurp the powers with which they are connected; becauſe

becauſe the attempt to exerciſe thoſe powers would be as troubleſome as it would be nugatory; and the poſſeſſion of them, for that reaſon, would contribute nothing to the dignity, to the importance, or to the ſplendor of the national government.

But let it be admitted for argument ſake, that mere wantonneſs and luſt of domination would be ſufficient to beget that diſpoſion, ſtill it may be ſafely affirmed, that the ſenſe of the conſtituent body of the national repreſentatives, or in other words of the people of the ſeveral States would controul the indulgence of ſo extravagant an appetite. It will always be far more eaſy for the ſtate governments to encroach upon the national authorities, than for the national government to encroach upon the ſtate authorities. The proof of this propoſition turns upon the greater degree of influence, which the ſtate governments, if they adminiſter their affairs with uprightneſs and prudence, will generally poſſeſs over the people; a circumſtance which at the ſame time teaches us, that there is an inherent and intrinſic weakneſs in all federal conſtitutions; and that too much pains cannot be taken in their organization, to give them all the force which is compatible with the principles of liberty.

The ſuperiority of influence in favour of the particular governments would reſult partly from the diffuſive conſtruction of the national government; but chiefly from the nature of the objects to which the attention of the ſtate adminiſtrations would be directed.

It is a known fact in human nature that its affections are commonly weak in proportion to the diſtance or diffuſiveneſs of the object. Upon the ſame principle that a man is more attached to his family than to his neighbourhood, to his neighbourhood than to the community at large, the people of each ſtate would be apt to feel a ſtronger byaſs towards their local governments than towards the government of the union; unleſs the force of that principle ſhould be deſtroyed by a much better adminiſtration of the latter.

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This strong propensity of the human heart would find powerful auxiliaries in the objects of state regulation.

The variety of more minute interests, which will necessarily fall under the superintendence of the local administrations, and which will form so many rivulets of influence running through every part of the society, cannot be particularised without involving a detail too tedious and uninteresting to compensate for the instruction it might afford.

There is one transcendent advantage belonging to the province of the state governments which alone suffices to place the matter in a clear and satisfactory light—I mean the ordinary administration of criminal and civil justice. This of all others is the most powerful, most universal and most attractive source of popular obedience and attachment. It is this, which—being the immediate and visible guardian of life and property—having its benefits and its terrors in constant activity before the public eye—regulating all those personal interests and familiar concerns to which the sensibility of individuals is more immediately awake—contributes more than any other circumstance to impressing upon the minds of the people affection, esteem and reverence towards the government. This great cement of society which will diffuse itself almost wholly through the channels of the particular governments, independent of all other causes of influence, would ensure them so decided an empire over their respective citizens, as to render them at all times a complete counterpoise and not unfrequently dangerous rivals to the power of the union.

The operations of the national government on the other hand, falling less immediately under the observation of the mass of the citizens, the benefits derived from it will chiefly be perceived and attended to by speculative men. Relating to more general interests, they will be less apt to come home to the feelings of the people; and, in proportion, less likely to inspire a habitual

a habitual ſenſe of obligation and an active ſentiment of attachment.

The reaſoning on this head has been abundantly exemplified by the experience of all federal conſtitutions, with which we are acquainted, and of all others, which have borne the leaſt analogy to them.

Though the ancient feudal ſyſtems were not ſtrictly ſpeaking confederacies, yet they partook of the nature of that ſpecies of aſſociation. There was a common head, chieftain, or ſovereign, whoſe authority extended over the whole nation; and a number of ſubordinate vaſſals, or feudatories, who had large portions of land allotted to them and numerous trains of *inferior* vaſſals or retainers, who occupied and cultivated that land upon the tenure of fealty or obedience to the perſons of whom they held it. Each principal vaſſal was a kind of ſovereign within his particular demeſnes. The conſequences of this ſituation were a continual oppoſition to the authority of the ſovereign, and frequent wars between the great barons, or chief feudatories themſelves. The power of the head of the nation was commonly too weak either to preſerve the public peace or to protect the people againſt the oppreſſions of their immediate lords. This period of European affairs is emphatically ſtiled by hiſtorians the times of feudal anarchy.

When the ſovereign happened to be a man of vigorous and warlike temper and of ſuperior abilities, he would acquire a perſonal weight and influence, which anſwered for the time the purpoſes of a more regular authority. But in general the power of the barons triumphed over that of the prince; and in many inſtances his dominion was entirely thrown off, and the great fiefs were erected into independent principalities or ſtates. In thoſe inſtances in which the monarch finally prevailed over his vaſſals, his ſucceſs was chiefly owing to the tyranny of thoſe vaſſals over their dependents. The barons, or nobles equally the enemies of the ſovereign and the oppreſſors

of

of the common people were dreaded and detested by both; till mutual danger and mutual interest effected an union between them fatal to the power of the aristocracy. Had the nobles, by a conduct of clemency and justice, preserved the fidelity and devotion of their retainers and followers, the contests between them and the prince must almost always have ended in their favor and in the abridgement or subversion of the royal authority.

This is not an assertion founded merely in speculation or conjecture. Among other illustrations of its truth which might be cited, Scotland will furnish a cogent example. The spirit of clanship which was at an early day introduced into that kingdom, uniting the nobles and their dependents by ties equivalent to those of kindred, rendered the aristocracy a constant overmatch for the power of the monarch; till the incorporation with England subdued its fierce and ungovernable spirit, and reduced it within those rules of subordination, which a more rational and a more energetic system of civil polity had previously established in the latter kingdom.

The separate governments in a confederacy may aptly be compared with the feudal baronies; with this advantage in their favor, that from the reasons already explained, they will generally possess the confidence and good will of the people; and with so important a support will be able effectually to oppose all incroachments of the national government. It will be well if they are not able to counteract its legitimate and necessary authority. The points of similitude consist in the rivalship of power, applicable to both, and in the CONCENTRATION of large portions of the strength of the community into particular DEPOSITORIES, in one case at the disposal of individuals, in the other case at the disposal of political bodies.

A concise review of the events that have attended confederate governments will further illustrate this important

important doctrine; an inattention to which has been the great source of our political mistakes, and has given our jealousy a direction to the wrong side. This review shall form the subject of some ensuing papers.

PUBLIUS.

NUMBER XVIII.

The Subject continued, with farther Examples.

AMONG the confederacies of antiquity, the most considerable was that of the Grecian republics associated under the Amphyctionic council. From the best accounts transmitted of this celebrated institution, it bore a very instructive analogy to the present confederation of the American states.

The members retained the character of independent and sovereign states, and had equal votes in the federal council. This council had a general authority to propose and resolve whatever it judged necessary for the common welfare of Greece—to declare and carry on war—to decide in the last resort all controversies between the members—to fine the aggressing party—to employ the whole force of the confederacy against the disobedient—to admit new members. The Amphyctions were the guardians of religion, and of the immense riches belonging to the temple of Delphos, where they had the right of jurisdiction in controversies between the inhabitants and those who came to consult the oracle. As a further provision for the efficacy of the federal powers, they took an oath mutually to defend and protect the united cities, to punish the violators of this oath, and to inflict vengeance on sacrilegious despoilers of the temple.

In theory and upon paper, this apparatus of powers, seems amply sufficient for all general purposes. In several

ſeveral material inſtances, they exceed the powers enumerated in the articles of confederation. The Amphyctions had in their hands the ſuperſtition of the times, one of the principal engines by which government was then maintained; they had a declared authority to uſe coertion againſt refractory cities, and were bound by oath to exert this authority on the neceſſary occaſions.

Very different nevertheleſs was the experiment from the theory. The powers, like thoſe of the preſent congreſs, were adminiſtered by deputies appointed wholly by the cities in their political capacities; and exerciſed over them in the ſame capacities. Hence the weakneſs, the diſorders, and finally the deſtruction of the confederacy. The more powerful members, inſtead of being kept in awe and ſubordination, tyrannized ſucceſſively over all the reſt. Athens, as we learn from Demoſthenes, was the arbiter of Greece ſeventy three years. The Lacedemonians next governed it twenty nine years; at a ſubſequent period, after the battle of Leuctra, the Thebans had their turn of domination.

It happened but too often, according to Plutarch, that the deputies of the ſtrongeſt cities, awed and corrupted thoſe of the weaker, and that judgment went in favor of the moſt powerful party.

Even in the midſt of defenſive and dangerous wars with Perſia and Macedon, the members never acted in concert, and were more or fewer of them, eternally the dupes, or the hirelings of the common enemy. The intervals of foreign war, were filled up by domeſtic viciſſitudes, convulſions and carnage.

After the concluſion of the war with Xerxes, it appears that the Lacedemonians, required that a number of the cities ſhould be turned out of the confederacy for the unfaithful part they had acted. The Athenians finding that the Lacedemonians would loſe fewer partizans by ſuch a meaſure than themſelves, and would become maſters of the public deliberations, vigorouſly

vigorously opposed and defeated the attempt. This piece of history proves at once the inefficiency of the union; the ambition and jealousy of its most powerful members, and the dependent and degraded condition of the rest. The smaller members, though entitled by the theory of their system, to revolve in equal pride and majesty around the common center, had become in fact satellites of the orbs of primary magnitude.

Had the Greeks, says the Abbé Milot, been as wise as they were courageous, they would have been admonished by experience of the necessity of a closer union, and would have availed themselves of the peace which followed their success against the Persian arms, to establish such a reformation. Instead of this obvious policy, Athens and Sparta, inflated with the victories and the glory they had acquired, became first rivals, and then enemies; and did each other infinitely more mischief, than they had suffered from Xerxes. Their mutual jealousies, fears, hatreds and injuries, ended in the celebrated Peloponnesian war; which itself ended in the ruin and slavery of the Athenians, who had begun it.

As a weak government, when not at war, is ever agitated by internal dissentions; so these never fail to bring on fresh calamities from abroad. The Phocians having ploughed up some consecrated ground belonging to the temple of Apollo, the Amphyctionic council, according to the superstition of the age, imposed a fine on the sacrilegious offenders. The Phocians, being abetted by Athens and Sparta, refused to submit to the decree. The Thebans, with others of the cities, undertook to maintain the authority of the Amphyctions, and to avenge the violated god. The latter being the weaker party, invited the assistance of Philip of Macedon, who had secretly fostered the contest. Philip gladly seized the opportunity of executing the designs he had long planned against the liberties of Greece. By his intrigues and bribes he won over to

his intereſts the popular leaders of ſeveral cities; by their influence and votes, gained admiſſion into the Amphyctionic council; and by his arts and his arms, made himſelf maſter of the confederacy.

Such were the conſequences of the fallacious principle, on which this intereſting eſtabliſhment was founded. Had Greece, ſays a judicious obſerver on her fate, been united by a ſtricter confederation, and perſevered in her union, ſhe would never have worn the chains of Macedon; and might have proved a barrier to the vaſt projects of Rome.

The Achæan league, as it is called, was another ſociety of Grecian republics, which ſupplies us with valuable inſtruction.

The union here was far more intimate, and its organization much wiſer, than in the preceding inſtance. It will accordingly appear, that though not exempt from a ſimilar cataſtrophe, it by no means equally deſerved it.

The cities compoſing this league, retained their municipal juriſdiction, appointed their own officers, and enjoyed a perfect equality. The ſenate in which they were repreſented, had the ſole and excluſive right of peace and war—of ſending and receiving ambaſſadors—of entering into treaties and alliances—of appointing a chief magiſtrate or pretor, as he was called, who commanded their armies; and who with the advice and conſent of ten of the ſenators, not only adminiſtered the government in the receſs of the ſenate, but had a great ſhare in its deliberation, when aſſembled. According to the primitive conſtitution, there were two pretors aſſociated in the adminiſtration, but on trial, a ſingle one was preferred.

It appears that the cities had all the ſame laws and cuſtoms, the ſame weights and meaſures, and the ſame money. But how far this effect proceeded from the authority of the federal council, is left in uncertainty. It is ſaid only, that the cities were in a manner compelled to receive the ſame laws and

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uſages. When Lacedemon was brought into the league by Philopœmen, it was attended with an abolition of the inſtitutions and laws of Lycurgus, and an adoption of thoſe of the Achæans. The Amphyctionic confederacies, of which the had been a member, left her in the full exerciſe of her government and her legiſlation. This circumſtance alone proves a very material difference in the genius of the two ſyſtems.

It is much to be regretted that ſuch imperfect monuments remain of this curious political fabric. Could its interior ſtructure and regular operation be aſcertained, it is probable that more light would be thrown by it on the ſcience of federal government, than by any of the like experiments with which we are acquainted.

One important fact ſeems to be witneſſed by all the hiſtorians who take notice of Achæan affairs. It is, that as well after the renovation of the league by Aratus, as before its diſſolution by the arts of Macedon, there was infinitely more of moderation and juſtice in the adminiſtration of its government, and leſs of violence and ſedition in the people, than were to be found in any of the cities exerciſing *ſingly* all the prerogatives of ſovereignty. The abbé Mably in his obſervations on Greece, ſays that the popular government, which was ſo tempeſtuous elſewhere, cauſed no diſorders in the members of the Achæan republic, *becauſe it was there tempered by the general authority and laws of the confederacy*.

We are not to conclude too haſtily, however, that faction did not in a certain degree agitate the particular cities; much leſs, that a due ſubordination and harmony reigned in the general ſyſtem. The contrary is ſufficiently diſplayed in the viciſſitudes and fate of the republic.

Whilſt the Amphyctionic confederacy remained, that of the Achæans, which comprehended the leſs important cities only, made little figure on the theatre

of Greece. When the former became a victim to Macedon, the latter was ſpared by the policy of Philip and Alexander. Under the ſucceſſors of theſe princes, however, a different policy prevailed. The arts of diviſion were practiſed among the Achæans; each city was ſeduced into a ſeparate intereſt; the union was diſſolved. Some of the cities fell under the tyranny of Macedonian garriſons; others under that of uſurpers ſpringing out of their own confuſions. Shame and oppreſſion ere long awakened their love of liberty. A few cities re-united. Their example was followed by others, as opportunities were found of cutting off their tyrants. The league ſoon embraced almoſt the whole Peloponneſus. Macedon ſaw its progreſs; but was hindered by internal diſſentions from ſtopping it. All Greece caught the enthuſiaſm, and ſeemed ready to unite in one confederacy, when the jealouſy and envy in Sparta and Athens, of the riſing glory of the Achæans, threw a fatal damp on the enterprize. The dread of the Macedonian power induced the league to court the alliance of the kings of Egypt and Syria; who, as ſucceſſors of Alexander were rivals of the king of Macedon. This policy was defeated by Cleomenes, king of Sparta, who was led by his ambition to make an unprovoked attack on his neighbours the Achæans; and who as an enemy to Macedon, had intereſt enough with the Egyptian and Syrian princes, to effect a breach of their engagements with the league. The Achæans were now reduced to the dilemma of ſubmitting to Cleomenes, or of ſupplicating the aid of Macedon, its former oppreſſor. The latter expedient was adopted. The conteſt of the Greeks always afforded a pleaſing opportunity to that powerful neighbour, of intermeddling in their affairs. A Macedonian army quickly appeared: Cleomenes was vanquiſhed. The Achæans ſoon experienced, as often happens, that a victorious and powerful ally, is but another name for a maſter. All that their moſt abject compliances could

could obtain from him was a toleration of the exercise of their laws. Philip, who was now on the throne of Macedon, soon provoked, by his tyrannies, fresh combinations among the Greeks. The Achæans, though weakened by internal dissentions, and by the revolt of Messene one of its members, being joined by the Etolians and Athenians, erected the standard of opposition. Finding themselves, though thus supported unequal to the undertaking, they once more had recourse to the dangerous expedient of introducing the succour of foreign arms. The Romans to whom the invitation was made, eagerly embraced it. Philip was conquered: Macedon subdued. A new crisis ensued to the league. Dissentions broke out among its members. These the Romans fostered. Callicrates and 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 * 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 torn into pieces; and such imbecility and distraction introduced, that the arms of Rome found little difficulty in compleating 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

* This was but another name more specious for the independence of the members on the federal head.

Achæan conſtitution, it emphatically illuſtrates the tendency of federal bodies, rather to anarchy among the members than to tyranny in the head.

PUBLIUS.

NUMBER XIX.

The Subject continued, with farther Examples.

THE examples of antient confederacies, cited in my laſt paper, have not exhauſted the ſource of experimental inſtruction on this ſubject. There are exiſting inſtitutions, founded on a ſimilar principle, which merit particular conſideration. The firſt which preſents itſelf is the Germanic body.

In the early ages of chriſtianity Germany was occupied by ſeven diſtinct nations, who had no common chief. The Franks, one of the number, having conquered the Gauls, eſtabliſhed the kingdom which has taken its name from them. In the ninth century, Charlemagne, its warlike monarch, carried his victorious arms in every direction; and Germany became a part of his vaſt dominions. On the diſmemberment, which took place under his ſons, this part was erected into a ſeparate and independent empire. Charlemagne and his immediate deſcendants poſſeſſed the reality, as well as the enſigns and dignity of imperial power. But the principal vaſſals, whoſe fiefs had become hereditary, and who compoſed the national diets which Charlemagne had not aboliſhed, gradually threw off the yoke, and advanced to ſovereign juriſdiction and independence. The force of imperial ſovereignty was inſufficient to reſtrain ſuch powerful dependents; or to preſerve the unity and tranquility of the empire. The moſt furious private wars, accompanied with every ſpecies of calamity, were carried on between the different princes and ſtates. The

imperial

imperial authority, unable to maintain the public order, declined by degrees, till it was almost extinct in the anarchy, which agitated the long interval between the death of the last emperor of the Suabian, and the accession of the first emperor of the Austrian lines. In the eleventh century, the emperors enjoyed full sovereignty: In the fifteenth they had little more than the symbols and decorations of power.

Out of this feudal system, which has itself many of the important features of a confederacy, has grown the federal system, which constitutes the Germanic empire. Its powers are vested in a diet representing the component members of the confederacy; in the emperor who is the executive magistrate, with a negative on the decrees of the diet; and in the imperial chamber and aulic council, two judiciary tribunals having supreme jurisdiction in controversies which concern the empire, or which happen among its members.

The diet possesses the general power of legislating for the empire—of making war and peace—contracting alliances—assessing quotas of troops and money—constructing fortresses—regulating coin—admitting new members—and subjecting disobedient members to the ban of the empire, by which the party is degraded from his sovereign rights, and his possessions forfeited. The members of the confederacy are expressly restricted from entering into compacts, prejudicial to the empire, from imposing tolls and duties on their mutual intercourse, without the consent of the emperor and diet; from altering the value of money; from doing injustice to one another; or from affording assistance or retreat to disturbers of the public peace. And the ban is denounced against such as shall violate any of these restrictions. The members of the diet, as such, are subject in all cases to be judged by the emperor and diet, and in their private capacities, by the aulic council and imperial chamber.

The

The prerogotives of the emperor are numerous. The moſt important of them are, his excluſive right to make propoſitions to the diet—to negative its reſolutions—to name ambaſſadors—to confer dignities and titles—to fill vacant electorates—to found univerſities—to grant privileges not injurious to the ſtates of the empire—to receive and apply the public revenues—and generally to watch over the public ſafety. In certain caſes, the electors form a council to him. In quality of emperor he poſſeſſes no territory within the empire; nor receives any revenue for his ſupport. But his revenue and dominions, in other qualities, conſtitute him one of the moſt powerful princes in Europe.

From ſuch a parade of conſtitutional powers, in the repreſentatives and head of this confederacy, the natural ſuppoſition would be, that it muſt form an exception to the general character which belongs to its kindred ſyſtems. Nothing would be farther from the reality. The fundamental principle, on which it reſts, that the empire is a community of ſovereigns; that the diet is a repreſentation of ſovereigns; and that the laws are addreſſed to ſovereigns; render the empire a nerveleſs body; incapable of regulating its own members; inſecure againſt external dangers; and agitated with unceaſing fermentations in its own bowels.

The hiſtory of Germany is a hiſtory of wars between the emperor and the princes and ſtates; of wars among the princes and ſtates themſelves; of the licentiouſneſs of the ſtrong, and the oppreſſion of the weak; of foreign intruſions, and foreign intrigues; of requiſitions of men and money, diſregarded, or partially complied with; of attempts to enforce them, altogether abortive, or attended with ſlaughter and deſolation, involving the innocent with the guilty; of general imbecilty, confuſion and miſery.

In the ſixteenth century, the emperor with one part of the empire on his ſide, was ſeen engaged againſt the

the other princes and ſtates. In one of the conflicts, the emperor himſelf was put to flight, and very near being made priſoner by the elector of Saxony. The late king of Pruſſia was more than once pitted againſt his imperial ſovereign; and commonly proved an overmatch for him. Controverſies and wars among the members themſelves have been ſo common, that the German annals are crowded with the bloody pages which deſcribe them. Previous to the peace of Weſtphalia, Germany was deſolated by a war of thirty years, in which the emperor, with one half of the empire was on one ſide; and Sweden with the other half on the oppoſite ſide. Peace was at length negotiated and dictated by foreign powers; and the articles of it, to which foreign powers are parties, made a fundamental part of the Germanic conſtitution.

If the nation happens, on any emergency, to be more united by the neceſſity of ſelf defence; its ſituation is ſtill deplorable. Military preparations muſt be preceded by ſo many tedious diſcuſſions, ariſing from the jealouſies, pride, ſeparate views, and clafhing pretenſions, of ſovereign bodies; that before the diet can ſettle the arrangements, the enemy are in the field; and before the federal troops are ready to take it, are retiring into winter quarters.

The ſmall body of national troops which has been judged neceſſary in time of peace, is defectively kept up, badly paid, infected with local prejudices, and ſupported by irregular and diſproportionate contributions to the treaſury.

The impoſſibility of maintaining order, and diſpenſing juſtice among theſe ſovereign ſubjects, produced the experiment of dividing the empire into nine or ten circles or diſtricts; of giving them an interior organization; and of charging them with the military execution of the laws againſt delinquent and contumacious members. This experiment has only ſerved to demonſtrate more fully, the radical vice of the

the conſtitution. Each circle is the miniature picture of the deformities of this political monſter. They either fail to execute their commiſſions, or they do it with all the devaſtation and carnage of civil war. Sometimes whole circles are defaulters, and then they increaſe the miſchief which they were inſtituted to remedy.

We may form ſome judgment of this ſcheme of military coertion, from a ſample given by Thuanus. In Donawerth, a free and imperial city, of the circle of Suabia, the abbè de St. Croix enjoyed certain immunities which had been reſerved to him. In the exerciſe of theſe, on ſome public occaſion, outrages were committed on him, by the people of the city. The conſequence was, that the city was put under the ban of the empire; and the duke of Bavaria, though director of another circle, obtained an appointment to enforce it. He ſoon appeared before the city, with a corps of ten thouſand troops and finding it a fit occaſion, as he had ſecretly intended from the beginning, to revive an antiquated claim, on the pretext that his anceſtors had ſuffered the place to be diſmembered from his territory*; he took poſſeſſion of it, in his own name; diſarmed and puniſhed the inhabitants, and re-annexed the city to his domains.

It may be aſked perhaps what has ſo long kept this diſjointed machine from falling entirely to pieces? The anſwer is obvious. The weakneſs of moſt of the members, who are unwilling to expoſe themſelves to the mercy of foreign powers; the weakneſs of moſt of the principal members, compared with the formidable powers all around them; the vaſt weight and influence which the emperor derives from his ſeparate and hereditary dominions; and the intereſt he feels in preſerving a ſyſtem, with which his family pride is connected, and which conſtitutes him the firſt prince in

* Pfeffel, Nouvel abreg. chronol. de l'hiſt. &c. d'Allemagne, ſays the pretext was to indemnify himſelf for the expence of the expedition.

in Europe; these causes support a feeble and precarious union; whilst the repellent quality, incident to the nature of sovereignty, and which time continually strengthens, prevents any reform whatever, founded on a proper consolidation. Nor is it to be imagined, if this obstacle could be surmounted, that the neighbouring powers would suffer a revolution to take place, which would give to the empire the force and pre-eminence to which it is entitled. Foreign nations have long considered themselves as interested in the changes made by events in this constitution; and have, on various occasions, betrayed their policy of perpetuating its anarchy and weakness.

If more direct examples were wanting, Poland as a government over local sovereigns, might not improperly be taken notice of. Nor could any proof more striking, be given of the calamities flowing from such institutions. Equally unfit for self government, and self defence, it has long been at the mercy of its powerful neighbours; who have lately had the mercy to disburden it of one third of its people and territories.

The connection among the Swiss cantons scarcely amounts to a confederacy; though it is sometimes cited as an instance of the stability of such institutions.

They have no common treasury—no common troops even in war—no common coin—no common judicatory, nor any other common mark of sovereignty.

They are kept together by the peculiarity of their topographical position, by their individual weakness and insignificancy; by the fear of powerful neighbours, to one of which they were formerly subject; by the few sources of contention among a people of such simple and homogeneous manners; by their joint interest in their dependent possessions; by the mutual aid they stand in need of, for suppressing insurrections and rebellions; an aid expressly stipulated, and often required and afforded; and by the necessity of some regular and permanent provision for accommodating

accommodating diſputes among the cantons. The proviſion is, that the parties at variance ſhall each chuſe four judges out of the neutral cantons who in caſe of diſagreement, chuſe an umpire. This tribunal, under an oath of impartiality, pronounces definitive ſentence; which all the cantons are bound to enforce. The competency of this regulation may be eſtimated, by a clauſe in their treaty of 1683, with Victor Amadeus of Savoy; in which he obliges himſelf to interpoſe as mediator in diſputes between the cantons; and to employ force, if neceſſary, againſt the contumacious party.

So far as the peculiarity of their caſe will admit of compariſon with that of the United States; it ſerves to confirm the principle intended to be eſtabliſhed. Whatever efficacy the union may have had in ordinary caſes, it appears that the moment a cauſe of difference ſprang up, capable of trying its ſtrength, it failed. The controverſies on the ſubject of religion, which in three inſtances have kindled violent and bloody conteſts, may be ſaid in fact to have ſevered the league. The Proteſtant and Catholic cantons have ſince had their ſeparate diets; where all the moſt important concerns are adjuſted, and which have left the general diet little other buſineſs than to take care of the common bailages.

That ſeparation had another conſequence which merits attention. It produced oppoſite alliances with foreign powers; of Bern as the head of the Proteſtant aſſociation, with the United Provinces; and of Luzerne, as the head of the Catholic aſſociation, with France.

NUMBER

NUMBER XX.

The Subject continued, with farther Examples.

THE United Netherlands are a confederacy of republics, or rather of ariſtocracies, of a very remarkable texture; yet confirming all the leſſons derived from thoſe which we have already reviewed.

The union is compoſed of ſeven co-equal and ſovereign ſtates, and each ſtate or province is a compoſition of equal and independent cities. In all important caſes not only the provinces, but the cities muſt be unanimous.

The ſovereignty of the union is repreſented by the ſtates general, conſiſting uſually of about fifty deputies appointed by the provinces. They hold their ſeats, ſome for life, ſome for ſix, three and one years. From two provinces they continue in appointment during pleaſure.

The ſtates general have authority to enter into treaties and alliances—to make war and peace—to raiſe armies and equip fleets—to aſcertain quotas and demand contributions. In all theſe caſes however, unanimity and the ſanction of their conſtituents are requiſite. They have authority to appoint and receive ambaſſadors—to execute treaties and alliances already formed—to provide for the collection of duties on imports and exports—to regulate the mint, with a ſaving to the provincial rights—to govern as ſovereigns the dependent territories. The provinces are reſtrained, unleſs with the general conſent, from entering into foreign treaties—from eſtabliſhing impoſts injurious to others, or charging their neighbours with higher duties than their own ſubjects. A council of ſtate, a chamber of accounts, with five colleges of admiralty, aid and fortify the federal adminiſtration.

The executive magiſtrate of the union is the ſtadtholder, who is now a hereditary prince. His principal weight and influence in the republic are derived from his independent title; from his great patrimonial eſtates; from his family connections with ſome of the chief potentates of Europe; and more than all, perhaps, from his being ſtadtholder in the ſeveral provinces, as well as for the union, in which provincial quality, he has the appointment of town magiſtrates under certain regulations, executes provincial decrees, preſides when he pleaſes in the provincial tribunals; and has throughout the power of pardon.

As ſtadtholder of the union, he has however conſiderable prerogatives.

In his political capacity he has authority to ſettle diſputes between the provinces, when other methods fail—to aſſiſt at the deliberations of the ſtates general, and at their particular conferences—to give audiences to foreign ambaſſadors, and to keep agents for his particular affairs at foreign courts.

In his military capacity, he commands the federal troops—provides for garriſons, and in general regulates military affairs—diſpoſes of all appointments from colonels to enſigns, and of the governments and poſts of fortified towns.

In his marine capacity, he is admiral general, and ſuperintends and directs every thing relative to naval forces, and other naval affairs—preſides in the admiralities in perſon or by proxy—appoints lieutenant admirals and other officers—and eſtabliſhes councils of war, whoſe ſentences are not executed till he approves them.

His revenue, excluſive of his private income, amounts to 300,000 florins. The ſtanding army which he commands conſiſts of about 40,000 men.

Such is the nature of the celebrated Belgic confederacy, as delineated on parchment. What are the characters which practice has ſtampt upon it?

Imbecility

imbecility in the government; discord among the provinces; foreign influence and indignities; a precarious existence in peace, and peculiar calamities from war.

It was long ago remarked by Grotius, that nothing but the hatred of his countrymen to the house of Austria, kept them from being ruined by the vices of their constitution.

The union of Utrecht, says another respectable writer, reposes an authority in the states general seemingly sufficient to secure harmony, but the jealousy in each province renders the practice very different from the theory.

The same instrument says another, obliges each province to levy certain contributions; but this article never could and probably never will be executed; because the inland provinces who have little commerce cannot pay an equal quota.

In matters of contribution, it is the practice to wave the articles of the constitution. The danger of delay obliges the consenting provinces to furnish their quotas, without waiting for the others; and then to obtain reimbursement from the others, by deputations, which are frequent, or otherwise as they can. The great wealth and influence of the province of Holland, enable her to effect both these purposes.

It has more than once happened that the deficiencies have been ultimately to be collected at the point of the bayonet; a thing practicable, though dreadful, in a confederacy, where one of the members exceeds in force all the rest; and where several of them are too small to meditate resistance: But utterly impracticable in one composed of members, several of which are equal to each other in strength and resources, and equal singly to a vigorous and persevering defence.

Foreign ministers, says Sir William Temple, who was himself a foreign minister, elude matters taken *ad referendum*, by tampering with the provinces and

cities. In 1726, the treaty of Hanover was delayed by these means a whole year. Instances of a like nature are numerous and notorious.

In critical emergencies, the states general are often compelled to overleap their constitutional bounds. In 1688, they concluded a treaty of themselves at the risk of their heads. The treaty of Westphalia in 1648, by which their independence was formally and finally recognized, was concluded without the consent of Zeland. Even as recently as the last treaty of peace with Great-Britain, the constitutional principle of unanimity was departed from. A weak constitution must necessarily terminate in dissolution, for want of proper powers, or the usurpation of powers requisite for the public safety. Whether the usurpation, when once begun, will stop at the salutary point, or go forward to the dangerous extreme, must depend on the contingencies of the moment. Tyranny has perhaps oftener grown out of the assumptions of power, called for, on pressing exigencies, by a defective constitution, than out of the full exercise of the largest constitutional authorities.

Notwithstanding the calamities produced by the stadtholdership, it has been supposed, that without his influence in the individual provinces, the causes of anarchy manifest in the confederacy, would long ago have dissolved it. "Under such a government, "says the abbè Mably, the union could never have "subsisted, if the provinces had not a spring within "themselves, capable of quickening their tardiness, "and compelling them to the same way of thinking. "This spring is the stadtholder." It is remarked by Sir William Temple, "that in the intermissions of "the stadtholdership, Holland by her riches and "her authority which drew the others into a sort of "dependence, supplied the place."

These are not the only circumstances which have controuled the tendency to anarchy and dissolution. The surrounding powers impose an absolute necessity of

of union to a certain degree, at the same time, that they nourish by their intrigues, the constitutional vices, which keep the republic in some degree always at their mercy.

The true patriots have long bewailed the fatal tendency of these vices and have made no less than four regular experiments, by *extraordinary assemblies*, convened for the special purpose, to apply a remedy: As many times, has their laudable zeal found it impossible to *unite the public councils* in reforming the known, the acknowledged, the fatal evils of the existing constitution. Let us pause my fellow citizens, for one moment, over this melancholy and monitory lesson of history; and with the tear that drops for the calamities brought on mankind by their adverse opinions and selfish passions; let our gratitude mingle an ejaculation to Heaven, for the propitious concord which has distinguished the consultations for our political happiness.

A design was also conceived of establishing a general tax to be administered by the federal authority. This also had its adversaries and failed.

This unhappy people seem to be now suffering from popular convulsions, from dissentions among the states and from the actual invasion of foreign arms, the crisis of their destiny. All nations have their eyes fixed on the awful spectacle. The first wish prompted by humanity is, that this severe trial may issue in such a revolution of their government, as will establish their union, and render it the parent of tranquility, freedom and happiness: The next, that the asylum under which, we trust, the enjoyment of these blessings, will speedily be secured in this country, may receive and console them for the catastrophe of their own.

I make no apology for having dwelt so long on the contemplation of these federal precedents. Experience is the oracle of truth; and where its responses are unequivocal, they ought to be conclusive and sacred. The important truth, which it unequivocally pro-

nounces in the preſent caſe, is, that a ſovereignty over ſovereigns, a government over governments, a legiſlation for communities, as contradiſtinguiſhed from individuals; as it is a ſoleciſm in theory; ſo in practice, it is ſubverſive of the order and ends of civil polity, by ſubſtituting *violence* in place of *law*, or the deſtructive *coertion* of the *ſword*, in place of the mild and ſalutary *coertion* of the *magiſtracy*.

PUBLIUS.

NUMBER XXI.

Further Defects of the preſent Conſtitution.

HAVING in the three laſt numbers taken a ſummary review of the principal circumſtances and events which depict the genius and fate of other confederate governments; I ſhall now proceed in the enumeration of the moſt important of thoſe defects, which have hitherto diſappointed our hopes from the ſyſtem eſtabliſhed among ourſelves. To form a ſafe and ſatisfactory judgment of the proper remedy, it is abſolutely neceſſary that we ſhould be well acquainted with the extent and malignity of the diſeaſe.

The next moſt palpable defect of the exiſting confederation is the total want of a SANCTION to its laws. The United States as now compoſed, have no power to exact obedience, or puniſh diſobedience to their reſolutions, either by pecuniary mulcts, by a ſuſpenſion or diveſtiture of privileges, or by any other conſtitutional means. There is no expreſs delegation of authority to them to uſe force againſt delinquent members; and if ſuch a right ſhould be aſcribed to the federal head, as reſulting from the nature of the ſocial compact between the ſtates, it muſt be by inference and conſtruction, in the face of that part of the ſecond article, by which it is declared, "that

"each

" each ſtate ſhall retain every power, juriſdiction and " right, not *expreſsly* delegated to the United States " in Congreſs aſſembled." The want of ſuch a right involves no doubt a ſtriking abſurdity; but we are reduced to the dilemma either of ſuppoſing that deficiency, prepoſterous as it may ſeem, or of contravening or explaining away a proviſion, which has been of late a repeated theme of the eulogies of thoſe, who oppoſe the new conſtitution; and the omiſſion of which in that plan, has been the ſubject of much plauſible animadverſion and ſevere criticiſm. If we are unwilling to impair the force of this applauded proviſion, we ſhall be obliged to conclude, that the United States afford the extraordinary ſpectacle of a government, deſtitute even of the ſhadow of conſtitutional power to enforce the execution of its own laws. It will appear from the ſpecimens which have been cited, that the American confederacy in this particular, ſtands diſcriminated from every other inſtitution of a ſimilar kind, and exhibits a new and unexampled phenomenon in the political world.

The want of a mutual guarantee of the ſtate governments is another capital imperfection in the federal plan. There is nothing of this kind declared in the articles that compoſe it; and to imply a tacit guarantee from conſiderations of utility, would be a ſtill more flagrant departure from the clauſe which has been mentioned, than to imply a tacit power of coertion, from the like conſiderations. The want of a guarantee, though it might in its conſequences endanger the union, does not ſo immediateiy attack its exiſtence as the want of a conſtitutional ſanction to its laws.

Without a guarantee, the aſſiſtance to be derived from the union in repelling thoſe domeſtic dangers, which may ſometimes threaten the exiſtence of the ſtate conſtitutions, muſt be renounced. Uſurpation may rear its creſt in each ſtate, and trample upon the liberties of the people; while the national government

government could legally do nothing more than behold its encroachments with indignation and regret. A ſucceſsful faction may erect a tyranny on the ruins of order and law, while no ſuccour could conſtitutionally be afforded by the union to the friends and ſupporters of the government. The tempeſtuous ſituation, from which Maſſachuſetts has ſcarcely emerged, evinces that dangers of this kind are not merely ſpeculative. Who can determine what might have been the iſſue of her late convulſions, if the mal-contents had been headed by a Ceſar or by a Cromwell? Who can predict what effect a deſpotiſm eſtabliſhed in Maſſachuſetts would have upon the liberties of New-Hampſhire or Rhode-Iſland; of Connecticut or New-York.

The inordinate pride of ſtate importance has ſuggeſted to ſome minds an objection to the principle of a guarantee in the federal government; as involving an officious interference in the domeſtic concerns of the members. A ſcruple of this kind would deprive us of one of the principal advantages to be expected from union; and can only flow from a miſapprehenſion of the nature of the proviſion itſelf. It could be no impediment to reforms of the ſtate conſtitutions by a majority of the people in a legal and peaceable mode. This right would remain undiminiſhed. The guarantee could only operate againſt changes to be effected by violence. Towards the prevention of calamities of this kind too many checks cannot be provided. The peace of ſociety, and the ſtability of government, depend abſolutely on the efficacy of the precautions adopted on this head. Where the whole power of the government is in the hands of the people, there is the leſs pretence for the uſe of violent remedies, in partial or occaſional diſtempers of the ſtate. The natural cure for an ill adminiſtration, in a popular or repreſentative conſtitution, is a change of men. A guarantee by the national authority would be as much directed againſt the uſurpations of rulers, as

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againſt the ferments and outrages of faction and ſedition in the community.

The principle of regulating the contributions of the ſtates to the common treaſury by QUOTAS is another fundamental error in the confederation. Its repugnancy to an adequate ſupply of the national exigencies has been already pointed out, and has ſufficiently appeared from the trial which has been made of it. I ſpeak of it now ſolely with a view to equality among the ſtates. Thoſe who have been accuſtomed to contemplate the circumſtances, which produce and conſtitute national wealth, muſt be ſatisfied that there is no common ſtandard, or barometer, by which the degrees of it can be aſcertained. Neither the value of lands nor the numbers of the people, which have been ſucceſſively propoſed as the rule of ſtate contributions, has any pretenſion to being a juſt repreſentative. If we compare the wealth of the United Netherlands with that of Ruſſia or Germany or even of France; and if we at the ſame time compare the total value of the lands, and the aggregate population of the contracted territory of that republic, with the total value of the lands, and the aggregate population of the immenſe regions of either of thoſe kingdoms, we ſhall at once diſcover that there is no compariſon between the proportion of either of theſe two objects and that of the relative wealth of theſe nations. If the like parallel were to be run between ſeveral of the American ſtates; it would furniſh a like reſult. Let Virginia be contraſted with North-Carolina, Pennſylvania with Connecticut, or Maryland with New-Jerſey, and we ſhall be convinced that the reſpective abilities of thoſe ſtates, in relation to revenue, bear little or no analogy to their comparitive ſtock in lands or to their comparitive population.—The poſition may be equally illuſtrated by a ſimilar proceſs between the counties of the ſame ſtate. No man acquainted with the ſtate of New-York will doubt, that the active wealth of Kings county bears a much

a much greater proportion to that of Montgomery, than it would appear to do, if we ſhould take either the total value of the lands or the total numbers of the people as a criterion!

The wealth of nations depends upon an infinite variety of cauſes. Situation, ſoil, climate, the nature of the productions, the nature of the government, the genius of the citizens—the degree of information they poſſeſs—the ſtate of commerce, of arts, of induſtry—theſe circumſtances and many more too complex, minute, or adventitious, to admit of a particular ſpecification, occaſion differences hardly conceivable in the relative opulence and riches of different countries. The conſequence clearly is, that there can be no common meaſure of national wealth; and of courſe, no general or ſtationary rule, by which the ability of a ſtate to pay taxes can be determined. The attempt therefore to regulate the contributions of the members of a confederacy, by any ſuch rule, cannot fail to be productive of glaring inequality and extreme oppreſſion.

This inequality would of itſelf be ſufficient in America to work the eventual deſtruction of the union, if any mode of inforcing a compliance with its requiſitions could be deviſed. The ſuffering ſtates would not long conſent to remain aſſociated upon a principle which diſtributed the public burthens with ſo unequal a hand; and which was calculated to impoveriſh and oppreſs the citizens of ſome ſtates, while thoſe of others would ſcarcely be conſcious of the ſmall proportion of the weight they were required to ſuſtain. This however is an evil inſeparable from the principle of quotas and requiſitions.

There is no method of ſteering clear of this inconvenience but by authoriſing the national government to raiſe its own revenues in its own way. Impoſts, exciſes and in general all duties upon articles of conſumption may be compared to a fluid, which will in time find its level with the means of paying them.

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The amount to be contributed by each citizen will in a degree be at his own option, and can be regulated by an attention to his reſources. The rich may be extravagant, the poor can be frugal. And private oppreſſion, may always be avoided by a judicious ſelection of objects proper for ſuch impoſitions. If inequalities ſhould ariſe in ſome ſtates from duties on particular objects, theſe will in all probability be counterbalanced by proportional inequalities in other ſtates from the duties on other objects. In the courſe of time and things, an equilibrium, as far as it is attainable, in ſo complicated a ſubject, will be eſtabliſhed every where. Or if inequalities ſhould ſtill exiſt they would neither be ſo great in their degree, ſo uniform in their operation, nor ſo odious in their appearance, as thoſe which would neceſſarily ſpring from quotas upon any ſcale, that can poſſibly be deviſed.

It is a ſignal advantage of taxes on articles of conſumption, that they contain in their own nature a ſecurity againſt exceſs. They preſcribe their own limit; which cannot be exceeded without defeating the end propoſed—that is an extenſion of the revenue. When applied to this object, the ſaying is as juſt as it is witty, that "in political arithmetic, two and two "do not always make four." If duties are too high they leſſen the conſumption—the collection is eluded; and the product to the treaſury is not ſo great as when they are confined within proper and moderate bounds. This forms a compleat barrier againſt any material oppreſſion of the citizens, by taxes of this claſs, and is itſelf a natural limitation of the power of impoſing them.

Impoſitions of this kind uſually fall under the denomination of indirect taxes, and muſt for a long time conſtitute the chief part of the revenue raiſed in this country. Thoſe of the direct kind, which principally relate to lands and buildings, may admit of a rule of apportionment. Either the value of land,

or

or the number of the people may ſerve as a ſtandard. The ſtate of agriculture, and the populouſneſs of a country, are conſidered as having a near relation to each other. And as a rule for the purpoſe intended, numbers in the view of ſimplicity and certainty, are entitled to a preference. In every country it is an Herculean taſk to obtain a valuation of the land; in a country imperfectly ſettled and progreſſive in improvement, the difficulties are increaſed almoſt to impracticability. The expence of an accurate valuation is in all ſituations a formidable objection. In a branch of taxation where no limits to the diſcretion of the government are to be found in the nature of the thing, the eſtabliſhment of a fixed rule, not incompatible with the end, may be attended with fewer inconveniencies than to leave that diſcretion altogether at large.

PUBLIUS.

NUMBER XXII.

The ſame Subject continued and concluded.

IN addition to the defects already enumerated in the exiſting federal ſyſtem, there are others of not leſs importance, which concur in rendering it altogether unfit for the adminiſtration of the affairs of the union.

The want of a power to regulate commerce is by all parties allowed to be of the number. The utility of ſuch a power has been anticipated under the firſt head of our enquiries; and for this reaſon as well as from the univerſal conviction entertained upon the ſubject, little need be added in this place. It is indeed evident, on the moſt ſuperficial view, that there is no object, either as it reſpects the intereſts of trade or finance that more ſtrongly demands a federal

federal superintendence. The want of it has already operated as a bar to the formation of beneficial treaties with foreign powers; and has given occasions of dissatisfaction between the states. No nation acquainted with the nature of our political association would be unwise enough to enter into stipulations with the United States, conceding on their part privileges of importance, while they were apprised that the engagements on the part of the union, might at any moment be violated by its members; and while they found from experience that they might enjoy every advantage they desired in our markets, without granting us any return, but such as their momentary convenience might suggest. It is not therefore to be wondered at, that Mr. Jenkinson in ushering into the house of commons a bill for regulating the temporary intercourse between the two countries, should preface its introduction by a declaration that similar provisions in former bills had been found to answer every purpose to the commerce of Great Britain, and that it would be prudent to persist in the plan until it should appear whether the American government was likely or not to acquire greater consistency*.

Several states have endeavoured by separate prohibitions, restrictions and exclusions, to influence the conduct of that kingdom in this particular; but the want of concert, arising from the want of a general authority, and from clashing and dissimilar views in the states, has hitherto frustrated every experiment of the kind; and will continue to do so as long as the same obstacles to an uniformity of measures continue to exist.

The interfering and unneighbourly regulations of some states, contrary to the true spirit of the union, have in different instances given just cause of umbrage and complaint to others; and it is to be feared that

* This, as nearly as I can recollect, was the sense of this speech in introducing the last bill.

examples of this nature, if not reſtrained by a national controul, would be multiplied and extended till they became not leſs ſerious ſources of animoſity and diſcord, than injurious impediments to the intercourſe between the different parts of the confederacy. "The "commerce of the German empire*, is in continual "trammels from the multiplicity of the duties which "the ſeveral princes and ſtates exact upon the mer-"chandizes paſſing through their territories; by "means of which the fine ſtreams and navigable "rivers with which Germany is ſo happily watered, "are rendered almoſt uſeleſs." Though the genius of the people of this country might never permit this deſcription to be ſtrictly applicable to us, yet we may reaſonably expect, from the gradual conflicts of ſtate regulations, that the citizens of each, would at length come to be conſidered and treated by the others in no better light than that of foreigners and aliens.

The power of raiſing armies, by the moſt obvious conſtruction of the articles of the confederation, is merely a power of making requiſitions upon the ſtates for quotas of men. This practice, in the courſe of the late war, was found replete with obſtructions to a vigorous and to an economical ſyſtem of defence. It gave birth to a competition between the ſtates, which created a kind of auction for men. In order to furniſh the quotas required of them, they outbid each other, till bounties grew to an enormous and inſupportable ſize. The hope of a ſtill further increaſe afforded an inducement to thoſe who were diſpoſed to ſerve to procraſtinate their inliſtment; and diſinclined them to engaging for any conſiderable periods. Hence ſlow and ſcanty levies of men in the moſt critical emergencies of our affairs—ſhort inliſtments at an unparalleled expence—continual fluctuations in the troops, ruinous to their diſcipline, and ſubjecting the public ſafety frequently to the perilous criſis of a diſbanded army.—Hence alſo thoſe oppreſſive expedients

* Encyclopedie, article Empire.

dients for raiſing men which were upon ſeveral occaſions practiſed, and which nothing but the enthuſiaſm of liberty would have induced the people to endure.

This method of raiſing troops is not more unfriendly to economy and vigor, than it is to an equal diſtribution of the burthen. The ſtates near the ſeat of war, influenced by motives of ſelf preſervation made efforts to furniſh their quotas, which even exceeded their abilities, while thoſe at a diſtance from danger were for the moſt part as remiſs as the others were diligent in their exertions. The immediate preſſure of this inequality was not in this caſe, as in that of the contributions of money, alleviated by the hope of a final liquidation. The ſtates which did not pay their proportions of money, might at leaſt be charged with their deficiencies; but no account could be formed of the deficiencies in the ſupplies of men. We ſhall not, however, ſee much reaſon to regret the want of this hope, when we conſider how little proſpect there is, that the moſt delinquent ſtates ever will be able to make compenſation for their pecuniary failures. The ſyſtem of quotas and requiſitions, whether it be applied to men or money, is in every view a ſyſtem of imbecility in the union, and of inequality and injuſtice among the members.

The right of equal ſuffrage among the ſtates is another exceptionable part of the confederation. Every idea of proportion, and every rule of fair repreſentation conſpire to condemn a principle, which gives to Rhode-Iſland an equal weight in the ſcale of power with Maſſachuſetts, or Connecticut, or New-York; and to Delaware, an equal voice in the national deliberations with Pennſylvania or Virginia, or North-Carolina. Its operation contradicts that fundamental maxim of republican government, which requires that the ſenſe of the majority ſhould prevail. Sophiſtry may reply, that ſovereigns are equal, and that a majority of the votes of the ſtates will be a majority of confederated America. But this kind of

logical legerdemain will never counteract the plain ſuggeſtions of juſtice and common ſenſe. It may happen that this majority of ſtates is a ſmall minority of the people of America*; and two thirds of the people of America, could not long be perſuaded, upon the credit of artificial diſtinctions and ſyllogiſtic ſubtleties, to ſubmit their intereſts to the management and diſpoſal of one third. The larger ſtates would after a while revolt from the idea of receiving the law from the ſmaller. To acquieſce in ſuch a privation of their due importance in the political ſcale, would be not merely to be inſenſible to the love of power, but even to ſacrifice the deſire of equality. It is neither rational to expect the firſt, nor juſt to require the laſt—the ſmaller ſtates conſidering how peculiarly their ſafety and welfare depend on union, ought readily to renounce a pretenſion; which, if not relinquiſhed would prove fatal to its duration.

It may be objected to this, that not ſeven but nine ſtates, or two thirds of the whole number muſt conſent to the moſt important reſolutions; and it may be thence infered, that nine ſtates would always comprehend a majority of the inhabitants of the union. But this does not obviate the impropriety of an equal vote between ſtates of the moſt unequal dimenſions and populouſneſs; nor is the inference accurate in point of fact; for we can enumerate nine ſtates which contain leſs than a majority of the people†; and it is conſtitutionally poſſible, that theſe nine may give the vote. Beſides there are matters of conſiderable moment determinable by a bare majority; and there are others, concerning which doubts have been entertained, which if interpreted in favor of the ſufficiency

* New-Hampſhire, Rhode-Iſland, New-Jerſey, Delaware, Georgia, South-Carolina and Maryland, are a majority of the whole number of the States, but they do not contain one third of the people.

† Add New-York and Connecticut to the foregoing ſeven, and they will ſtill be leſs than a majority.

ſufficiency of a vote of ſeven ſtates, would extend its operation to intereſts of the firſt magnitude. In addition to this, it is to be obſerved, that there is a probability of an increaſe in the number of ſtates, and no proviſion for a proportional augmentation of the ratio of votes.

But this is not all; what at firſt ſight may ſeem a remedy, is in reality a poiſon. To give a minority a negative upon the majority (which is always the caſe where more than a majority is requiſite to a deciſion) is in its tendency to ſubject the ſenſe of the greater number to that of the leſſer number. Congreſs from the non attendance of a few ſtates have been frequently in the ſituation of a Poliſh diet, where a ſingle VETO has been ſufficient to put a ſtop to all their movements. A ſixtieth part of the union, which is about the proportion of Delaware and Rhode-Iſland, has ſeveral times been able to oppoſe an entire bar to its operations. This is one of thoſe refinements which in practice has an effect, the reverſe of what is expected from it in theory. The neceſſity of unanimity in public bodies, or of ſomething approaching towards it, has been founded upon a ſuppoſition that it would contribute to ſecurity. But its real operation is to embarraſs the adminiſtration, to deſtroy the energy of government, and to ſubſtitute the pleaſure, caprice or artifices of an inſignificant, turbulent or corrupt junto, to the regular deliberations and deciſions of a reſpectable majority. In thoſe emergencies of a nation, in which the goodneſs or badneſs, the weakneſs or ſtrength of its government, is of the greateſt importance, there is commonly a neceſſity for action. The public buſineſs muſt in ſome way or other go forward. If a pertinacious minority can controul the opinion of a majority reſpecting the beſt mode of conducting it; the majority, in order that ſomething may be done, muſt conform to the views of the minority; and thus the ſenſe of the ſmaller number will over rule that of

the greater and give a tone to the national proceedings. Hence tedious delays—continual negotiation and intrigue—contemptible compromiſes of the public good. And yet in ſuch a ſyſtem, it is even happy when ſuch compromiſes can take place: For upon ſome occaſions, things will not admit of accommodation; and then the meaſures of government muſt be injuriouſly ſuſpended or fatally defeated. It is often, by the impracticability of obtaining the concurrence of the neceſſary number of votes, kept in a ſtate of inaction. Its ſituation muſt always ſavour of weakneſs—ſometimes border upon anarchy.

It is not difficult to diſcover that a principle of this kind gives greater ſcope to foreign corruption as well as to domeſtic faction, than that which permits the ſenſe of the majority to decide; though the contrary of this has been preſumed. The miſtake has proceeded from not attending with due care to the miſchiefs that may be occaſioned by obſtructing the progreſs of government at certain critical ſeaſons. When the concurrence of a large number is required by the conſtitution to the doing of any national act, we are apt to reſt ſatisfied that all is ſafe, becauſe nothing improper will be likely *to be done*; but we forget how much good may be prevented, and how much ill may be produced, by the power of hindering that which is neceſſary from being done, and of keeping affairs in the ſame unfavourable poſture in which they may happen to ſtand at particular periods.

Suppoſe for inſtance we were engaged in a war, in conjunction with one foreign nation againſt another. Suppoſe the neceſſity of our ſituation demanded peace, and the intereſt or ambition of our ally led him to ſeek the proſecution of the war, with views that might juſtify us in making ſeparate terms. In ſuch a ſtate of things this ally of ours would evidently find it much eaſier by his bribes and his intrigues to tie up the hands of government from making peace, where two thirds of all the votes were requiſite to

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that object, than where a ſimple majority would ſuffice. In the firſt caſe he would have to corrupt a ſmaller number; in the laſt a greater number. Upon the ſame principle it would be much eaſier for a foreign power with which we were at war, to perplex our councils and embarraſs our exertions. And in a commercial view we may be ſubjected to ſimilar inconveniencies. A nation with which we might have a treaty of commerce, could with much greater facility prevent our forming a connection with her competitor in trade; though ſuch a connection ſhould be ever ſo beneficial to ourſelves.

Evils of this diſcription ought not to be regarded as imaginary. One of the weak ſides of republics, among their numerous advantages, is, that they afford too eaſy an inlet to foreign corruption. An hereditary monarch, though often diſpoſed to ſacrifice his ſubjects to his ambition, has ſo great a perſonal intereſt in the government, and in the external glory of the nation, that it is not eaſy for a foreign power to give him an equivalent for what he would ſacrifice by treachery to the ſtate. The world has accordingly been witneſs to few examples of this ſpecies of royal proſtitution, though there have been abundant ſpecimens of every other kind.

In republics, perſons elevated from the maſs of the community, by the ſuffrages of their fellow citizens, to ſtations of great pre-eminence and power, may find compenſations for betraying their truſt, which to any but minds actuated by ſuperior virtue may appear to exceed the proportion of intereſt they have in the common ſtock, and to over-balance the obligations of duty. Hence it is that hiſtory furniſhes us with ſo many mortifying examples of the prevalency of foreign corruption in republican governments. How much this contributed to the ruin of the ancient commonwealths has been already diſcloſed. It is well known that the deputies of the United Provinces have, in various inſtances been purchaſed by the emiſſaries

emiſſaries of the neighbouring kingdoms. The earl of Cheſterfield (if my memory ſerves me right) in a letter to his court, intimates that his ſucceſs in an important negotiation, muſt depend on his obtaining a major's commiſſion for one of thoſe deputies. And in Sweden, the parties were alternately bought by France and England, in ſo barefaced and notorious a manner that it excited univerſal diſguſt in the nation; and was a principal cauſe that the moſt limited monarch in Europe, in a ſingle day, without tumult, violence or oppoſition, became one of the moſt abſolute and uncontrouled.

A circumſtance, which crowns the defects of the confederation, remains yet to be mentioned—the want of a judiciary power. Laws are a dead letter without courts to expound and define their true meaning and operation. The treaties of the United States, to have any force at all, muſt be conſidered as part of the law of the land. Their true import, as far as reſpects individuals, muſt, like all other laws, be aſcertained by judicial determinations. To produce uniformity in theſe determinations, they ought to be ſubmitted in the laſt reſort, to one SUPREME TRIBUNAL. And this tribunal ought to be inſtituted under the ſame authority which forms the treaties themſelves. Theſe ingredients are both indiſpenſible. If there is in each ſtate a court of final juriſdiction, there may be as many different final determinations on the ſame point, as there are courts. There are endleſs diverſities in the opinions of men. We often ſee not only different courts, but the judges of the ſame court differing from each other. To avoid the confuſion which would unavoidably reſult from the contradictory deciſions of a number of independent judicatories, all nations have found it neceſſary to eſtabliſh one court paramount to the reſt, poſſeſſing a general ſuperintendance, and authoriſed to ſettle and declare in the laſt reſort an uniform rule of civil juſtice.

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This is the more neceſſary where the frame of the government is ſo compounded, that the laws of the whole are in danger of being contravened by the laws of the parts. In this caſe, if the particular tribunals are inveſted with a right of ultimate juriſdiction, beſides the contradictions to be expected from difference of opinion, there will be much to fear from the bias of local views and prejudices, and from the interference of local regulations. As often as ſuch an interference was to happen, there would be reaſon to apprehend, that the proviſions of the particular laws might be preferred to thoſe of the general laws; from the deference with which men in office naturally look up to that authority to which they owe their official exiſtence. The treaties of the United States, under the preſent conſtitution, are liable to the infractions of thirteen different legiſlatures, and as many different courts of final juriſdiction, acting under the authority of thoſe legiſlatures. The faith, the reputation, the peace of the whole union, are thus continually at the mercy of the prejudices, the paſſions, and the intereſts of every member of which it is compoſed. Is it poſſible that foreign nations can either reſpect or confide in ſuch a government? Is it poſſible that the people of America will longer conſent to truſt their honor, their happineſs, their ſafety, on ſo precarious a foundation?

In this review of the confederation, I have confined myſelf to the exhibition of its moſt material defects; paſſing over thoſe imperfections in its details, by which even a conſiderable part of the power intended to be conferred upon it, has been in a great meaſure rendered abortive. It muſt be by this time evident to all men of reflection, who are either free from erroneous prepoſſeſſions or can diveſt themſelves of them, that it is a ſyſtem ſo radically vicious and unſound, as to admit not of amendment but by an entire change in its leading features and characters.

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The organization of congreſs, is itſelf utterly improper for the exerciſe of thoſe powers which are neceſſary to be depoſited in the union. A ſingle aſſembly may be a proper receptacle of thoſe ſlender, or rather fettered authorities, which have been heretofore delegated to the federal head; but it would be inconſiſtent with all the principles of good government, to intruſt it with thoſe additional powers which even the moderate and more rational adverſaries of the propoſed conſtitution admit, ought to reſide in the United States. If that plan ſhould not be adopted; and if the neceſſity of union ſhould be able to withſtand the ambitious aims of thoſe men, who may indulge magnificent ſchemes of perſonal aggrandizement from its deſſolution; the probability would be, that we ſhould run into the project of confering ſupplementary powers upon congreſs as they are now conſtituted. And either the machine, from the intrinſic feebleneſs of its ſtructure, will moulder into pieces in ſpite of our ill-judged efforts to prop it; or by ſucceſſive augmentations of its force and energy, as neceſſity might prompt, we ſhall finally accumulate in a ſingle body, all the moſt important prerogatives of ſovereignty; and thus entail upon our poſterity, one of the moſt execrable forms of government that human infatuation ever contrived. Thus we ſhould create in reality that very tyranny, which the adverſaries of the new conſtitution either are, or affect to be ſolicitous to advert.

It has not a little contributed to the infirmities of the exiſting federal ſyſtem, that it never had a ratification by the PEOPLE. Reſting on no better foundation than the conſent of the ſeveral legiſlatures, it has been expoſed to frequent and intricate queſtions concerning the validity of its powers; and has in ſome inſtances given birth to the enormous doctrine of a right of legiſlative repeal. Owing its ratification to the law of a ſtate, it has been contended, that the ſame authority might repeal the law by which it was ratified.

ratified. However groſs a hereſy it may be to maintain that a *party* to a *compact* has a right to revoke that *compact*, the doctrine itſelf has had reſpectable advocates. The poſſibility of a queſtion of this nature, proves the neceſſity of laying the foundations of our national government deeper than in the mere ſanction of delegated authority. The fabric of American empire ought to reſt on the ſolid baſis of THE CONSENT OF THE PEOPLE. The ſtreams of national power ought to flow immediately from that pure original fountain of all legitimate authority.

PUBLIUS.

NUMBER XXIII.

The neceſſity of a Government, at leaſt equally energetic with the one propoſed.

THE neceſſity of a conſtitution, at leaſt equally energetic with the one propoſed, to the preſervation of the union, is the point, at the examination of which we are now arrived.

This inquiry will naturally divide itſelf into three branches—the objects to be provided for by a federal government—the quantity of power neceſſary to the accompliſhment of thoſe objects—the perſons upon whom that power ought to operate. Its diſtribution and organiſation will more properly claim our attention under the ſucceeding head.

The principal purpoſes to be anſwered by union are theſe—the common defence of the members—the preſervation of the public peace as well againſt internal convulſions as external attacks—the regulation of commerce with other nations and between the ſtates—the ſuperintendence of our intercourſe political and commercial with foreign countries.

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The authorities essential to the care of the common defence are these—to raise armies—to build and equip fleets—to prescribe rules for the government of both—to direct their operations—to provide for their support. These powers ought to exist without limitation: Because it is impossible to foresee or to define the extent and variety of national exigencies, and the correspondent extent and variety of the means which may be necessary to satisfy them. The circumstances that endanger the safety of nations are infinite; and for this reason, no constitutional shackles can wisely be imposed on the power to which the care of it is committed. This power ought to be coextensive with all the possible combinations of such circumstances; and ought to be under the direction of the same councils, which are appointed to preside over the common defence.

This is one of those truths which to a correct and unprejudiced mind carries its own evidence along with it; and may be obscured, but cannot be made plainer by argument or reasoning. It rests upon axioms as simple as they are universal—the *means* ought to be proportioned to the *end*;—the persons from whose agency the attainment of any *end* is expected, ought to possess the *means* by which it is to be attained.

Whether there ought to be a federal government intrusted with the care of the common defence is a question, in the first instance, open to discussion; but the moment it is decided in the affirmative, it will follow, that that government ought to be cloathed with all the powers requisite to the complete execution of its trust. And unless it can be shewn, that the circumstances which may affect the public safety are reducible within certain determinate limits; unless the contrary of this position can be fairly and rationally disputed, it must be admitted as a necessary consequence, that there can be no limitation of that authority, which is to provide for the defence and

and protection of the community, in any matter essential to its efficacy; that is in any matter essential to the *formation, direction* or *support* of the NATIONAL FORCES.

Defective as the present confederation has been proved to be, this principle appears to have been fully recognised by the framers of it; though they have not made proper or adequate provision for its exercise. Congress have an unlimited discretion to make requisitions of men and money—to govern the army and navy—to direct their operations. As their requisitions are made constitutionally binding upon the states, who are in fact under the most solemn obligations to furnish the supplies required of them, the intention evidently was, that the United States should command whatever resources were by them judged requisite to the "common defence and "general welfare." It was presumed that a sense of their true interests and a regard to the dictates of good faith would be found sufficient pledges for the punctual performance of the duty of the members to the federal head.

The experiment has however demonstrated, that this expectation was ill founded and illusory; and the observations made under the last head will, I imagine, have sufficed to convince the impartial and discerning, that there is an absolute necessity for an entire change in the first principles of the system: That if we are in earnest about giving the union energy and duration, we must abandon the vain project of legislating upon the states in their collective capacities; we must extend the laws of the federal government to the individual citizens of America; we must discard the fallacious scheme of quotas and requisitions, as equally impracticable and unjust. The result from all this is, that the union ought to be invested with full power to levy troops—to build and equip fleets and to raise the revenues which will be required for the formation and support of an army and navy,

in the cuſtomary and ordinary modes practiced in other governments.

If the circumſtances of our country are ſuch, as to demand a compound inſtead of a ſimple, a confederate inſtead of a ſole government, the eſſential point which will remain to be adjuſted, will be to diſcriminate the OBJECTS, as far as it can be done, which ſhall appertain to the different provinces or departments of power; allowing to each the moſt ample authority for fulfilling THOSE which may be committed to its charge. Shall the union be conſtituted the guardian of the common ſafety? Are fleets and armies and revenues neceſſary to this purpoſe? The government of the union muſt be impowered to paſs all laws, and to make all regulations which have relation to them. The ſame muſt be the caſe, in reſpect to commerce, and to every other matter to which its juriſdiction is permitted to extend. Is the adminiſtration of juſtice between the citizens of the ſame ſtate, the proper department of the local governments? Theſe muſt poſſeſs all the authorities which are connected with this object, and with every other that may be allotted to their particular cognizance and direction. Not to confer in each caſe a degree of power, commenſurate to the end, would be to violate the moſt obvious rules of prudence and propriety, and improvidently to truſt the great intereſts of the nation to hands, which are diſabled from managing them with vigour and ſucceſs.

Who ſo likely to make ſuitable proviſions for the public defence, as that body to which the guardianſhip of the public ſafety is confided—which, as the centre of information, will beſt underſtand the extent and urgency of the dangers that threaten—as the repreſentative of the WHOLE will feel itſelf moſt deeply intereſted in the preſervation of every part—which, from the reſponſibility implied in the duty aſſigned to it, will be moſt ſenſibly impreſſed with the neceſſity of proper exertions—and which, by the extenſion

extenſion of its authority throughout the ſtates can alone eſtabliſh uniformity and concert in the plans and meaſures, by which the common ſafety is to be ſecured? Is there not a manifeſt inconſiſtency in devolving upon the federal government the care of the general defence, and leaving in the ſtate governments the *effective* powers, by which it is to be provided for? Is not a want of co-operation the infallible conſequence of ſuch a ſyſtem? And will not weakneſs, diſorder, an undue diſtribution of the burthens and calamities of war, an unneceſſary and intolerable increaſe of expence, be its natural and inevitable concomitants? Have we not had unequivocal experience of its effects in the courſe of the revolution, which we have juſt atchieved?

Every view we may take of the ſubject, as candid inquiries after truth, will ſerve to convince us, that it is both unwiſe and dangerous to deny the federal government an unconfined authority in reſpect to all thoſe objects which are intruſted to its management. It will indeed deſerve the moſt vigilant and careful attention of the people to ſee, that it be modelled in ſuch a manner as to admit of its being ſafely veſted with the requiſite powers. If any plan, which has been, or may be offered to our conſideration ſhould not upon a diſpaſſionate inſpection be found to anſwer this deſcription, it ought to be rejected. A government, the conſtitution of which renders it unfit to be truſted with all the powers which a free people *ought to delegate to any government*, would be an unſafe and improper depoſitory of the NATIONAL INTERESTS. Wherever THESE can with propriety be confided, the coincident powers may ſafely accompany them. This is the true reſult of all juſt reaſoning upon the ſubject. And the adverſaries of the plan, promulgated by the convention, would have given a better impreſſion of their candour, if they had confined themſelves to ſhowing that the internal ſtructure of the propoſed government, was ſuch as to render it unworthy of

the confidence of the people. They ought not to have wandered into inflammatory declamations and unmeaning cavils about the extent of the powers. The POWERS are not too extenſive for the OBJECTS of federal adminiſtration, or in other words for the management of our NATIONAL INTERESTS; nor can any ſatisfactory argument be framed to ſhow that they are chargeable with ſuch an exceſs. If it be true, as has been inſinuated by ſome of the writers on the other ſide, that the difficulty ariſes from the nature of the thing, and that the extent of the country will not permit us to form a government, in which ſuch ample powers can ſafely be repoſed, it would prove that we ought to contract our views and reſort to the expedient of ſeparate confederacies, which will move within more practicable ſpheres. For the abſurdity muſt continually ſtare us in the face of confiding to a government the direction of the moſt eſſential national intereſts, without daring to truſt it with the authorities which are indiſpenſable to their proper and efficient management. Let us not attempt to reconcile contradictions, but firmly embrace a rational alternative.

I truſt, however, that the impracticability of one general ſyſtem cannot be ſhewn. I am greatly miſtaken if any thing of weight has yet been advanced of this tendency; and I flatter myſelf, that the obſervations, which have been made in the courſe of theſe papers, have ſerved to place the reverſe of that poſition in as clear a light as any matter ſtill in the womb of time and experience can be ſuſceptible of. This at all events muſt be evident, that the very difficulty itſelf, drawn from the extent of the country is the ſtrongeſt argument in favor of an energetic government; for any other can certainly never preſerve the union of ſo large an empire. If we embrace the tenets of thoſe, who oppoſe the adoption of the propoſed conſtitution, as the ſtandard of our political creed, we cannot fail to verify the gloomy doctrines,

doctrines, which predict the impracticability of a national system, pervading the entire limits of the present confederacy.

PUBLIUS.

NUMBER XXIV.

The Subject continued, with an Answer to an Objection concerning standing Armies.

TO the powers proposed to be conferred upon the federal government in respect to the creation and direction of the national forces—I have met with but one specific objection; which if I understand it right is this—that proper provision has not been made against the existence of standing armies in time of peace: An objection which I shall now endeavour to shew, rests on weak and unsubstantial foundations.

It has indeed been brought forward in the most vague and general form, supported only by bold assertions, without the appearance of argument—without even the sanction of theoretical opinions, in contradiction to the practice of other free nations, and to the general sense of America, as expressed in most of the existing constitutions. The propriety of this remark will appear the moment it is recollected that the objection under consideration turns upon a supposed necessity of restraining the LEGISLATIVE authority of the nation, in the article of military establishments; a principle unheard of except in one or two of our state constitutions, and rejected in all the rest.

A stranger to our politics who was to read our newspapers at the present juncture, without having previously inspected the plan reported by the convention, would be naturally led to one of two conclusions—either that it contained a positive injunction,

that ſtanding armies ſhould be kept up in time of peace, or that it veſted in the EXECUTIVE the whole power of levying troops, without ſubjecting his diſcretion in any ſhape to the controul of the legiſlature.

If he came afterwards to peruſe the plan itſelf, he would be ſurpriſed to diſcover that neither the one nor the other was the caſe—that the whole power of raiſing armies was lodged in the *legiſlature*, not in the *executive*; that this legiſlature was to be a popular body conſiſting of the repreſentatives of the people periodically elected—and that inſtead of the proviſion he had ſuppoſed in favor of ſtanding armies, there was to be found in reſpect to this object, an important qualification even of the legiſlative diſcretion, in that clauſe which forbids the appropriation of money for the ſupport of an army for any longer period than two years: A precaution which, upon a nearer view of it, will appear to be a great and real ſecurity againſt military eſtabliſhments without evident neceſſity.

Diſappointed in his firſt ſurmiſe, the perſon I have ſuppoſed would be apt to purſue his conjectures a little further. He would naturally ſay to himſelf, it is impoſſible that all this vehement and pathetic declamation can be without ſome colorable pretext. It muſt needs be that this people, ſo jealous of their liberties, have in all the preceding models of the conſtitutions which they have eſtabliſhed, inſerted the moſt preciſe and rigid precautions on this point, the omiſſion of which in the new plan has given birth to all this apprehenſion and clamour.

If under this impreſſion he proceeded to paſs in review the ſeveral ſtate conſtitutions, how great would be his diſappointment to find that *two only* of them* contained an interdiction of ſtanding armies in

* This ſtatement of the matter is taken from the printed collections of ſtate conſtitutions. Pennſylvania and North-Carolina, are the two which contain the interdiction in theſe words—"As "ſtanding armies in time of peace are dangerous to liberty, THEY "OUGHT

in time of peace; that the other eleven had either obſerved a profound ſilence on the ſubject, or had in expreſs terms admitted the right of the legiſlature to authoriſe their exiſtence.

Still however he would be perſuaded that there muſt be ſome plauſible foundation for the cry raiſed on this head. He would never be able to imagine, while any ſource of information remained unexplored, that it was nothing more than an experiment upon the public credulity, dictated either by a deliberate intention to deceive or by the overflowings of a zeal too intemperate to be ingenuous. It would probably occur to him that he would be likely to find the precautions he was in ſearch of in the primitive compact between the ſtates. Here at length he would expect to meet with a ſolution of the enigma. No doubt he would obſerve to himſelf the exiſting confederation muſt contain the moſt explicit proviſions againſt military eſtabliſhments in time of peace; and a departure from this model in a favorite point has occaſioned the diſcontent which appears to influence theſe political champions.

If he ſhould now apply himſelf to a careful and critical ſurvey of the articles of confederation, his aſtoniſhment would not only be increaſed but would acquire a mixture of indignation at the unexpected diſcovery that theſe articles inſtead of containing the prohibiton he looked for, and though they had with jealous circumſpection reſtricted the authority of the ſtate

"OUGHT NOT to be kept up." This is in truth rather a CAUTION than a PROHIBITION. New-Hampſhire, Maſſachuſetts, Delaware and Maryland, have in each of their bills of rights a clauſe to this effect—"Standing armies are dangerous to liberty, and "ought not to be raiſed or kept up WITHOUT THE CONSENT "OF THE LEGISLATURE;" which is a formal admiſſion of the authority of the legiſlature. New-York has no bill of her rights, and her conſtitution ſays not a word about the matter. No bills of rights appear annexed to the conſtitutions of the other ſtates except the foregoing, and their conſtitutions are equally ſilent. I am told, however, that one or two ſtates have bills of rights, which do not appear in this collection; but that thoſe alſo recognize the right of the legiſlative authority in this reſpect.

ſtate legiſlatures in this particular, had not impoſed a ſingle reſtraint on that of the United States. If he happened to be a man of quick ſenſibility or ardent temper, he could now no longer refrain from pronouncing theſe clamours to be the diſhoneſt artifices of a ſiniſter and unprincipled oppoſition to a plan which ought at leaſt to receive a fair and candid examination from all ſincere lovers of their country! How elſe, he would ſay, could the authors of them have been tempted to vent ſuch loud cenſures upon that plan, about a point in which it ſeems to have conformed itſelf to the general ſenſe of America as declared in its different forms of government, and in which it has even ſuperadded a new and powerful guard unknown to any of them? If on the contrary he happened to be a man of calm and diſpaſſionate feelings—he would indulge a ſigh for the frailty of human nature, and would lament that in a matter ſo intereſting to the happineſs of milions the true merits of the queſtion ſhould be perplexed and obſcured by expedients ſo unfriendly to an impartial and right determination. Even ſuch a man could hardly forbear remarking that a conduct of this kind has too much the appearance of an intention to miſlead the people by alarming their paſſions rather than to convince them by arguments addreſſed to their underſtandings.

But however little this objection may be countenanced even by precedents among ourſelves, it may be ſatisfactory to take a nearer view of its intrinſic merits. From a cloſe examination it will appear, that reſtraints upon the diſcretion of the legiſlature in reſpect to military eſtabliſhments would be improper to be impoſed, and if impoſed, from the neceſſities of ſociety, would be unlikely to be obſerved.

Though a wide ocean ſeparates the United States from Europe; yet there are various conſiderations that warn us againſt an exceſs of confidence or ſecurity. On one ſide of us and ſtretching far into our rear are growing ſettlements ſubject to the dominion

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of Britain. On the other side and extending to meet the British settlements are colonies and establishments subject to the dominion of Spain. This situation and the vicinity of the West-India islands belonging to these two powers create between them, in respect to their American possessions, and in relation to us a common interest. The savage tribes on our Western frontier ought to be regarded as our natural enemies their natural allies; because they have most to fear from us and most to hope from them. The improvements in the art of navigation have, as to the facility of communication, rendered distant nations in a great measure neighbours. Britain and Spain are among the principal maritime powers of Europe. A future concert of views between these nations ought not to be regarded as improbable. The increasing remoteness of consanguinity is every day diminishing the force of the family compact between France and Spain. And politicians have ever with great reason considered the ties of blood as feeble and precarious links of political connection. These circumstances combined admonish us not to be too sanguine in considering ourselves as intirely out of the reach of danger.

Previous to the revolution, and ever since the peace, there has been a constant necessity for keeping small garrisons on our Western frontier. No person can doubt that these will continue to be indispensable, if it should only be against the ravages and depredations of the Indians. These garrisons must either be furnished, by occasional detachments from the militia, or by permanent corps in the pay of the government. The first is impracticable; and if practicable, would be pernicious. The militia would not long, if at all, submit to be dragged from their occupations and families to perform that most disagreeable duty in times of profound peace. And if they could be prevailed upon, or compelled to do it, the increased expence of a frequent rotation of service,

ſervice, and the loſs of labour and diſconcertion of the induſtrious purſuits of individuals, would form concluſive objections to the ſcheme. It would be as burthenſome and injurious to the public, as ruinous to private citizens. The latter reſource of permanent corps in the pay of government amounts to a ſtanding army in time of peace; a ſmall one indeed, but not the leſs real for being ſmall. Here is a ſimple view of the ſubject that ſhows us at once the impropriety of a conſtitutional interdiction of ſuch eſtabliſhments, and the neceſſity of leaving the matter to the diſcretion and prudence of the legiſlature.

In proportion to our increaſe in ſtrength it is probable, nay it may be ſaid certain, that Britain and Spain would augment their military eſtabliſhments in our neighbourhood. If we ſhould not be willing to be expoſed in a naked and defenceleſs condition to their inſults or encroachments, we ſhould find it expedient to increaſe our frontier garriſons in ſome ratio to the force by which our Weſtern ſettlements might be annoyed. There are and will be particular poſts, the poſſeſſion of which will include the command of large diſtricts of territory and facilitate future invaſions of the remainder. It may be added that ſome of thoſe poſts will be keys to the trade with the Indian nations. Can any man think it would be wiſe to leave ſuch poſts in a ſituation to be at any inſtant ſeized by one or the other of two neighbouring and formidable powers? To act this part, would be to deſert all the uſual maxims of prudence and policy.

If we mean to be a commercial people or even to be ſecure on our Atlantic ſide, we muſt endeavour as ſoon as poſſible to have a navy. To this purpoſe there muſt be dock-yards and arſenals; and, for the defence of theſe, fortifications and probably garriſons. When a nation has become ſo powerful by ſea, that it can protect its dock-yards by its fleets, this ſuperſedes the neceſſity of garriſons for that purpoſe;

purpose; but where naval establishments are in their infancy, moderate garrisons will in all likelihood be found an indispensable security against descents for the destruction of the arsenals and dock-yards and sometimes of the fleet itself.

PUBLIUS.

NUMBER XXV.

The Subject continued with the same View.

IT may perhaps be urged, that the objects enumerated in the preceding number ought to be provided for by the state governments, under the direction of the union. But this would be an inversion of the primary principle of our political association; as it would in practice transfer the care of the common defence from the federal head to the individual members: A project oppressive to some states, dangerous to all, and baneful to the confederacy.

The territories of Britain, Spain and of the Indian nations in our neighbourhood, do not border on particular states; but incircle the union from MAINE to GEORGIA. The danger, though in different degrees, is therefore common. And the means of guarding against it ought in like manner to be the objects of common councils and of a common treasury. It happens that some states, from local situation, are more directly exposed. NEW-YORK is of this class. Upon the plan of separate provisions, New-York would have to sustain the whole weight of the establishments requisite to her immediate safety, and to the mediate or ultimate protection of her neighbours. This would neither be equitable as it respected New-York, nor safe as it respected the other states. Various inconveniencies would attend such a system. The states, to whose lot it might fall

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to ſupport the neceſſary eſtabliſhments, would be as little able as willing, for a conſiderable time to come, to bear the burthen of competent proviſions. The ſecurity of all would thus be ſubjected to the parſimony, improvidence or inability of a part. If the reſources of ſuch part becoming more abundant, its proviſions ſhould be proportionally enlarged, the other ſtates would quickly take the alarm at ſeeing the whole military force of the union in the hands of two or three of its members; and thoſe probably amongſt the moſt powerful. They would each chooſe to have ſome counterpoiſe; and pretences could eaſily be contrived. In this ſituation military eſtabliſhments, nouriſhed by mutual jealouſy, would be apt to ſwell beyond their natural or proper ſize; and being at the ſeparate diſpoſal of the members, they would be engines for the abridgment, or demolition of the national authority.

Reaſons have been already given to induce a ſuppoſition, that the ſtate governments will too naturally be prone to a rivalſhip with that of the union, the foundation of which will be the love of power; and that in any conteſt between the federal head and one of its members, the people will be moſt apt to unite with their local government: If in addition to this immenſe advantage, the ambition of the members ſhould be ſtimulated by the ſeparate and independent poſſeſſion of military forces, it would afford too ſtrong a temptation, and too great facility to them to make enterpriſes upon, and finally to ſubvert the conſtitutional authority of the union. On the other hand, the liberty of the people would be leſs ſafe in this ſtate of things, than in that which left the national forces in the hands of the national government. As far as an army may be conſidered as a dangerous weapon of power, it had better be in thoſe hands, of which the people are moſt likely to be jealous, than in thoſe of which they are leaſt likely to be jealous. For it is a truth which the experience of all ages

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has atteſted, that the people are commonly moſt in danger, when the means of injuring their rights are in the poſſeſſion of thoſe of whom they entertain the leaſt ſuſpicion.

The framers of the exiſting confederation, fully aware of the danger to the union from the ſeparate poſſeſſion of military forces by the ſtates, have in expreſs terms, prohibited them from having either ſhips or troops, unleſs with the conſent of congreſs. The truth is, that the exiſtence of a federal government and military eſtabliſhments, under ſtate authority, are not leſs at variance with each other, than a due ſupply of the federal treaſury and the ſyſtem of quotas and requiſitions.

There are other lights beſides thoſe already taken notice of, in which the impropriety of reſtraints on the diſcretion of the national legiſlature will be equally manifeſt. The deſign of the objection, which has been mentioned, is to preclude ſtanding armies in time of peace; though we have never been informed how far it is deſired the prohibition ſhould extend; whether to raiſing armies as well as to *keeping them up* in a ſeaſon of tranquility or not. If it be confined to the latter it will have no preciſe ſignification, and it will be ineffectual for the purpoſe intended. When armies are once raiſed, what ſhall be denominated "keeping them up," contrary to the ſenſe of the conſtitution? What time ſhall be requiſite to aſcertain the violation? Shall it be a week, a month, or a year? Or ſhall we ſay, they may be continued as long as the danger which occaſioned their being raiſed continues? This would be to admit that they might be kept up *in time of peace* againſt threatening, or impending danger; which would be at once to deviate from the literal meaning of the prohibition, and to introduce an extenſive latitude of conſtruction. Who ſhall judge of the continuance of the danger? This muſt undoubtedly be ſubmitted to the national government, and the matter would then be brought

to this iſſue, that the national government, to provide againſt apprehended danger, might, in the firſt inſtance, raiſe troops, and might afterwards keep them on foot, as long as they ſuppoſed the peace or ſafety of the community was in any degree of jeopardy. It is eaſy to perceive, that a diſcretion ſo latitudinary as this, would afford ample room for eluding the force of the proviſion.

The ſuppoſed utility of a proviſion of this kind, muſt be founded upon a ſuppoſed probability, or at leaſt poſſibility, of a combination between the executive and legiſlative in ſome ſcheme of uſurpation. Should this at any time happen, how eaſy would it be to fabricate pretences of approaching danger? Indian hoſtilities inſtigated by Spain or Britain, would always be at hand. Provocations to produce the deſired appearances, might even be given to ſome foreign power, and appeaſed again by timely conceſſions. If we can reaſonably preſume ſuch a combination to have been formed, and that the enterpriſe is warranted by a ſufficient proſpect of ſucceſs; the army when once raiſed, from whatever cauſe, or on whatever pretext, may be applied to the execution of the project.

If to obviate this conſequence, it ſhould be reſolved to extend the prohibition to the *raiſing* of armies in time of peace, the United States would then exhibit the moſt extraordinary ſpectacle, which the world has yet ſeen—that of a nation incapacitated by its conſtitution to prepare for defence, before it was actually invaded. As the ceremony of a formal denunciation of war has of late fallen into diſuſe, the preſence of an enemy within our territories muſt be waited for as the legal warrant to the government to begin its levies of men for the protection of the ſtate. We muſt receive the blow before we could even prepare to return it. All that kind of policy by which nations anticipate diſtant danger, and meet the gathering ſtorm, muſt be abſtained from, as contrary to the genuine

genuine maxims of a free government. We must expose our property and liberty to the mercy of foreign invaders and invite them, by our weakness, to seize the naked and defenceless prey, because we are afraid that rulers, created by our choice—dependent on our will—might endanger that liberty, by an abuse of the means necessary to its preservation.

Here I expect we shall be told, that the militia of the country is its natural bulwark, and would be at all times equal to the national defence. This doctrine in substance had like to have lost us our independence. It cost millions to the United States that might have been saved. The facts, which from our own experience forbid a reliance of this kind, are too recent to permit us to be the dupes of such a suggestion. The steady operations of war against a regular and disciplined army, can only be successfully conducted by a force of the same kind. Considerations of economy, not less than of stability and vigor, confirm this position. The American militia, in the course of the late war, have by their valour on numerous occasions, erected eternal monuments to their fame; but the bravest of them feel and know, that the liberty of their country could not have been established by their efforts alone, however great and valuable they were. War, like most other things, is a science to be acquired and perfected by diligence, by perseverance, by time, and by practice.

All violent policy, contrary to the natural and experienced course of human affairs, defeats itself. Pennsylvania at this instant affords an example of the truth of this remark. The bill of rights of that state declares, that standing armies are dangerous to liberty, and ought not to be kept up in time of peace. Pennsylvania, nevertheless, in a time of profound peace, from the existence of partial disorders in one or two of her counties, has resolved to raise a body of troops; and in all probability, will keep them up as long as there is any appearance of danger to the

public peace. The conduct of Maſſachuſetts affords a leſſon on the ſame ſubject, though on different ground. That ſtate (without waiting for the ſanction of congreſs as the articles of the confederation require) was compelled to raiſe troops to quell a domeſtic inſurrection, and ſtill keeps a corps in pay to prevent a revival of the ſpirit of revolt. The particular conſtitution of Maſſachuſetts oppoſed no obſtacle to the meaſure; but the inſtance is ſtill of uſe to inſtruct us, that caſes are likely to occur under our governments, as well as under thoſe of other nations, which will ſometimes render a military force in time of peace eſſential to the ſecurity of the ſociety, and that it is therefore improper, in this reſpect, to controul the legiſlative diſcretion. It alſo teaches us, in its application to the United States, how little the rights of a feeble government are likely to be reſpected, even by its own conſtituents. And it teaches us, in addition to the reſt, how unequal are parchment proviſions to a ſtruggle with public neceſſity.

It was a fundamental maxim of the Lacedemonian commonwealth, that the poſt of admiral ſhould not be conferred twice on the ſame perſon. The Peloponneſian confederates, having ſuffered a ſevere defeat at ſea from the Athenians, demanded Lyſander who had before ſerved with ſucceſs in that capacity, to command the combined fleets. The Lacedemonians, to gratify their allies, and yet preſerve the ſemblance of an adherence to their antient inſtitutions had recourſe to the flimſy ſubterfuge of inveſting Lyſander with the real power of admiral, under the nominal title of vice-admiral. This inſtance is ſelected from among a multitude that might be cited to confirm the truth already advanced and illuſtrated by domeſtic examples; which is, that nations pay little regard to rules and maxims calculated in their very nature to run counter to the neceſſities of ſociety. Wiſe politicians will be cautious about fettering the government with reſtrictions, that cannot be obſerved; becauſe

becauſe they know that every breach of the fundamental laws, though dictated by neceſſity impairs that ſacred reverence, which ought to be maintained in the breaſt of rulers towards the conſtitution of a country, and forms a precedent for other breaches, where the ſame plea of neceſſity does not exiſt at all, or is leſs urgent and palpable.

PUBLIUS.

NUMBER XXVI.

The Subject continued with the ſame View.

IT was a thing hardly to be expected, that in a popular revolution the minds of men ſhould ſtop, at that happy mean, which marks the ſalutary boundary between POWER and PRIVILEGE, and combines the energy of government with the ſecurity of private rights. A failure in this delicate and important point is the great ſource of the inconveniences we experience; and if we are not cautious to avoid a repetition of the error, in our future attempts to rectify and ameliorate our ſyſtem we may travel from one chimerical project to another; we may try change after change; but we ſhall never be likely to make any material change for the better.

The idea of reſtraining the legiſlative authority, in the means of providing for the national defence, is one of thoſe refinements, which owe their origin to a zeal for liberty more ardent than enlightened. We have ſeen however that is has not had thus far an extenſive prevalency: That even in this country, where it has made its firſt appearance, Pennſylvania and North-Carolina are the only two ſtates by which it has been in any degree patroniſed: And that all the others have refuſed to give it the leaſt countenance; wiſely judging that confidence muſt be placed ſome

where; that the neceſſity of doing it is implied in the very act of delegating power; and that it is better to hazard the abuſe of that confidence, than to embarraſs the government and endanger the public ſafety, by impolitic reſtrictions on the legiſlative authority. The opponents of the propoſed conſtitution combat in this reſpect the general deciſion of America; and inſtead of being taught by experience the propriety of correcting any extremes, into which we may have heretofore run, they appear diſpoſed to conduct us into others ſtill more dangerous and more extravagant. As if the tone of government had been found too high, or too rigid, the doctrines they teach are calculated to induce us to depreſs, or to relax it, by expedients which upon other occaſions have been condemned or forborn. It may be affirmed without the imputation of invective, that if the principles they inculcate on various points could ſo far obtain as to become the popular creed, they would utterly unfit the people of this country for any ſpecies of government whatever. But a danger of this kind is not to be apprehended. The citizens of America have too much diſcernment to be argued into anarchy. And I am much miſtaken if experience has not wrought a deep and ſolemn conviction in the public mind, that greater energy of government is eſſential to the welfare and proſperity of the community.

It may not be amiſs in this place conciſely to remark the origin and progreſs of the idea which aims at the excluſion of military eſtabliſhments in time of peace. Though in ſpeculative minds it may ariſe from a contemplation of the nature and tendency of ſuch inſtitutions fortified by the events that have happened in other ages and countries; yet as a national ſentiment it muſt be traced to thoſe habits of thinking which we derive from the nation from whom the inhabitants of theſe ſtates have in general ſprung.

In England for a long time after the Norman conqueſt, the authority of the monarch was almoſt unlimited.

mited. Inroads were gradually made upon the prerogative, in favour of liberty, firſt by the barons and afterwards by the people, till the greateſt part of its moſt formidable pretenſions became extinct. But it was not till the revolution in 1688, which elevated the prince of Orange to the throne of Great Britain, that Engliſh liberty was completely triumphant. As incident to the undefined power of making war, an acknowledged prerogative of the crown, Charles IId had by his own authority kept on foot in time of peace a body of 5,000 regular troops. And this number James IId. increaſed to 30,000; which were paid out of his civil liſt. At the revolution, to aboliſh the exerciſe of ſo dangerous an authority, it became an article of the bill of rights then framed, that "raiſing or keeping a ſtanding army within the "kingdom in time of peace, *unleſs with the conſent of* "*parliament*, was againſt law."

In that kingdom, when the pulſe of liberty was at its higheſt pitch, no ſecurity againſt the danger of ſtanding armies was thought requiſite, beyond a prohibition of their being raiſed or kept up by the mere authority of the executive magiſtrate. The patriots, who effected that memorable revolution, were too temperate and too well informed, to think of any reſtraint on the legiſlative diſcretion. They were aware that a certain number of troops for guards and garriſons were indiſpenſable, that no preciſe bounds could be ſet to the national exigencies; that a power equal to every poſſible contingency muſt exiſt ſomewhere in the government; and that when they referred the exerciſe of that power to the judgement of the legiſlature, they had arrived at the ultimate point of precaution, which was reconcileable with the ſafety of the community.

From the ſame ſource, the people of America may be ſaid to have derived a hereditary impreſſion of danger to liberty from ſtanding armies in time of peace. The circumſtances of a revolution quickened the

the public ſenſibility on every point connected with the ſecurity of popular rights; and in ſome inſtances raiſed the warmth of our zeal beyond the degree which conſiſted with the due temperature of the body politic. The attempts of two of the ſtates to reſtrict the authority of the legiſlature in the article of military eſtabliſhments are of the number of theſe inſtances. The principles, which had taught us to be jealous of the power of a hereditary monarch, were by an injudicious exceſs extended to the repreſentatives of the people in their popular aſſemblies. Even in ſome of the ſtates, where this error was not adopted, we find unneceſſary declarations, that ſtanding armies ought not to be kept up, in time of peace, *without the conſent of the legiſlature*;—I call them unneceſſary, becauſe the reaſon, which had introduced a ſimilar proviſion into the Engliſh bill of rights, is not applicable to any of the ſtate conſtitutions. The power of raiſing armies at all, under thoſe conſtitutions, can by no conſtruction be deemed to reſide any where elſe, than in the legiſlatures themſelves; and it was ſuperflous, if not abſurd, to declare that a matter ſhould not be done without the conſent of a body, which alone had the power of doing it. Accordingly in ſome of thoſe conſtitutions, and among others in that of the ſtate of New-York, which has been juſtly celebrated both in Europe and in America as one of the beſt of the forms of government eſtabliſhed in this country, there is a total ſilence upon the ſubject.

It is remarkable, that even in the two ſtates, which ſeem to have meditated an interdiction of military eſtabliſhments in time of peace, the mode of expreſſion made uſe of is rather monitory than prohibitory. It is not ſaid, that ſtanding armies *ſhall not be* kept up, but that they *ought not* to be kept up in time of peace. This ambiguity of terms appears to have been the reſult of a conflict between jealouſy and conviction, between the deſire of excluding ſuch eſtabliſhments

at

at all events, and the perſuaſion that an abſolute excluſion would be unwiſe and unſafe.

Can it be doubted that ſuch a proviſion, whenever the ſituation of public affairs was underſtood to require a departure from it, would be interpreted by the legiſlature into a mere admonition, and would be made to yield to the neceſſities or ſuppoſed neceſſities of the ſtate? Let the fact already mentioned with reſpect to Pennſylvania decide. What then (it may be aſked) is the uſe of ſuch a proviſion, if it ceaſe to operate the moment there is an inclination to diſregard it?

Let us examine whether there be any compariſon, in point of efficacy, between the proviſion alluded to, and that which is contained in the new conſtitution, for reſtraining the appropriations of money for military purpoſes to the period of two years. The former by aiming at too much, is calculated to effect nothing; the latter, by ſteering clear of an imprudent extreme, and by being perfectly compatible with a proper proviſion for the exigencies of the nation, will have a ſalutary and powerful operation.

The legiſlature of the United States will be *obliged* by this proviſion, once at leaſt in every two years, to deliberate upon the propriety of keeping a military force on foot; to come to a new reſolution on the point; and to declare their ſenſe of the matter, by a formal vote in the face of their conſtituents. They are not *at liberty* to veſt in the executive department permanent funds for the ſupport of an army; if they were even incautious enough to be willing to repoſe in it ſo improper a confidence. As the ſpirit of party, in different degrees, muſt be expected to infect all political bodies, there will be no doubt perſons in the national legiſlature willing enough to arraign the meaſures and criminate the views of the majority. The proviſion for the ſupport of a military force will always be a favourable topic for declamation. As often as the queſtion comes forward, the public attention will be roufed and attracted to the ſubject, by the

the party in oppoſition: And if the majority ſhould be really diſpoſed to exceed the proper limits, the community will be warned of the danger, and will have an opportunity of taking meaſures to guard againſt it. Independent of parties in the national legiſlature itſelf, as often as the period of diſcuſſion arrived, the ſtate legiſlatures, who will always be not only vigilant, but ſuſpicious and jealous guardians of the rights of the citizens, againſt incroachments from the federal government, will conſtantly have their attention awake to the conduct of the national rulers, and will be ready enough, if any thing improper appears, to ſound the alarm to the people, and not only to be the VOICE, but, if neceſſary, the ARM of their diſcontent.

Schemes to ſubvert the liberties of a great community *require time to* mature them for execution. An army ſo large as ſeriouſly to menace thoſe liberties, could only be formed by progreſſive augmentations; which would ſuppoſe not merely a temporary combination between the legiſlature and executive, but a continued conſpiracy for a ſeries of time. Is it probable that ſuch a combination would exiſt at all? Is it probable that it would be perſevered in, and tranſmitted along, through all the ſucceſſive variations in the repreſentative body, which biennial elections would naturally produce in both houſes? Is it preſumable, that every man, the inſtant he took his ſeat in the national ſenate, or houſe of repreſentatives, would commence a traitor to his conſtituents, and to his country? Can it be ſuppoſed, that there would not be found one man diſcerning enough to detect ſo atrocious a conſpiracy, or bold or honeſt enough to appriſe his conſtituents of their danger? If ſuch preſumptions can fairly be made, there ought to be at once an end of all delegated authority. The people ſhould reſolve to recall all the powers they have heretofore parted with out of their own hands; and to divide themſelves into as many ſtates as there are

counties

counties in order that they may be able to manage their own concerns in perſon.

If ſuch ſuppoſitions could even be reaſonably made, ſtill the concealment of the deſign, for any duration, would be impracticable. It would be announced by the very circumſtance of augmenting the army to ſo great an extent in time of profound peace. What colorable reaſon could be aſſigned in a country ſo ſituated, for ſuch vaſt augmentations of the military force? It is impoſſible that the people could be long deceived; and the deſtruction of the project and of the projectors would quickly follow the diſcovery.

It has been ſaid that the proviſion, which limits the appropriation of money for the ſupport of an army to the period of two years, would be unavailing; becauſe the executive, when once poſſeſſed of a force large enough to awe the people into ſubmiſſion, would find reſources in that very force ſufficient to enable him to diſpenſe with ſupplies from the votes of the legiſlature. But the queſtion again recurs: Upon what pretence could he be put in poſſeſſion of a force of that magnitude in time of peace? If we ſuppoſe it to have been created in conſequence of ſome domeſtic inſurrection or foreign war, then it becomes a caſe not within the principle of the objection; for this is levelled againſt the power of keeping up troops in time of peace. Few perſons will be ſo viſionary as ſeriouſly to contend that military forces ought not to be raiſed to quell a rebellion, or reſiſt an invaſion; and if the defence of the community, under ſuch circumſtances, ſhould make it neceſſary to have an army, ſo numerous as to hazard its liberty, this is one of thoſe calamities for which there is neither preventative nor cure. It cannot be provided againſt by any poſſible form of government: It might even reſult from a ſimple league offenſive and defenſive; if it ſhould ever be neceſſary for the confederates or allies to form an army for common defence.

But

But it is an evil infinitely less likely to attend us in an united than in an disunited state; nay it may be safely asserted that it is an evil altogether unlikely to attend us in the latter situation. It is not easy to conceive a possibility, that dangers so formidable can assail the whole union, as to demand a force considerable enough to place our liberties in the least jeopardy; especially if we take into view the aid to be derived from the militia, which ought always to be counted upon as a valuable and powerful auxiliary. But in a state of disunion (as has been fully shewn in another place) the contrary of this supposition would become not only probable, but almost unavoidable.

PUBLIUS.

NUMBER XXVII.

The Subject continued with the same View.

IT has been urged in different shapes that a constitution of the kind proposed by the convention, cannot operate without the aid of a military force to execute its laws. This however like most other things that have been alledged on that side, rests on mere general assertion; unsupported by any precise or intelligible designation of the reasons upon which it is founded. As far as I have been able to divine the latent meaning of the objectors, it seems to originate in a pre-supposition that the people will be disinclined to the exercise of federal authority in any matter of an internal nature. Waving any exception that might be taken to the inaccuracy or inexplicitness of the distinction between internal and external, let us inquire what ground there is to presuppose that disinclination in the people. Unless we presume, at the same time, that the powers of the general government will be worse administred than those of the

the ſtate governments, there ſeems to be no room for the preſumption of ill-will, diſaffection or oppoſition in the people. I believe it may be laid down as a general rule, that their confidence in and obedience to a government, will commonly be proportioned to the goodneſs or badneſs of its adminiſtration. It muſt be admitted that there are exceptions to this rule; but theſe exceptions depend ſo entirely on accidental cauſes, that they cannot be conſidered as having any relation to the intrinſic merits or demerits of a conſtitution. Theſe can only be judged of by general principles and maxims.

Various reaſons have been ſuggeſted in the courſe of theſe papers, to induce a probability that the general government will be better adminiſtered than the particular governments; the principal of which are that the extenſion of the ſpheres of election will preſent a greater option, or latitude of choice to the people, that through the medium of the ſtate legiſlatures, who are ſelect bodies of men, and who are to appoint the members of the national ſenate—there is reaſon to expect that this branch will generally be compoſed with peculiar care and judgment: That theſe circumſtances promiſe greater knowledge and more comprehenſive information in the national councils: And that on account of the extent of the country from which thoſe, to whoſe direction they will be committed, will be drawn, they will be leſs apt to be tainted by the ſpirit of faction, and more out of the reach of thoſe occaſional ill humours or temporary prejudices and propenſities, which in ſmaller ſocieties frequently contaminate the public deliberations, beget injuſtice and oppreſſion of a part of the community, and engender ſchemes, which though they gratify a momentary inclination or deſire, terminate in general diſtreſs, diſſatisfaction and diſguſt. Several additional reaſons of conſiderable force, to fortify that probability, will occur when we come to ſurvey with a more critic eye, the interior ſtructure of the edifice

which we are invited to erect. It will be ſufficient here to remark, that until ſatisfactory reaſons can be aſſigned to juſtify an opinion, that the fœderal government is likely to be adminiſtered in ſuch a manner as to render it odious or contemptible to the people, there can be no reaſonable foundation for the ſuppoſition, that the laws of the union will meet with any greater obſtruction from them, or will ſtand in need of any other methods to enforce their execution, than the laws of the particular members.

The hope of impunity is a ſtrong incitement to ſedition—the dread of puniſhment a proportionately ſtrong diſcouragement to it—will not the government of the union, which, if poſſeſſed of a due degree of power, can call to its aid the collective reſources of the whole confederacy, be more likely to repreſs the *former* ſentiment, and to inſpire the *latter*, than that of a ſingle ſtate, which can only command the reſources within itſelf? A turbulent faction in a ſtate may eaſily ſuppoſe itſelf able to contend with the friends to the government in that ſtate, but it can hardly be ſo infatuated as to imagine itſelf a match for the combined efforts of the union. If this reflection be juſt, there is leſs danger of reſiſtance from irregular combinations of individuals, to the authority of the confederacy, than to that of a ſingle member.

I will in this place hazard an obſervation which will not be the leſs juſt becauſe to ſome it may appear new; which is, that the more the operations of the national authority are intermingled in the ordinary exerciſe of government; the more the citizens are accuſtomed to meet with it in the common occurrences of their political life; the more it is familiariſed to their ſight and to their feelings; the further it enters into thoſe objects which touch the moſt ſenſible cords, and put in motion the moſt active ſprings of the human heart; the greater will be the probability that it will conciliate the reſpect and attachment of the community. Man is very much a creature of habit. A

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thing that rarely ſtrikes his ſenſes will generally have but a tranſient influence upon his mind. A government continually at a diſtance and out of ſight, can hardly be expected to intereſt the ſenſations of the people. The inference is, that the authority of the union, and the affections of the citizens towards it, will be ſtrengthened rather than weakened by its extenſion to what are called matters of internal concern; and that it will have leſs occaſion to recur to force in proportion to the familiarity and comprehenſiveneſs of its agency. The more it circulates through thoſe channels and currents, in which the paſſions of mankind naturally flow, the leſs will it require the aid of the violent and perilous expedients of compulſion.

One thing at all events, muſt be evident, that a government like that propoſed, would bid much fairer to avoid the neceſſity of uſing force, than the ſpecies of league contended for by moſt of its opponents; the authority of which ſhould only operate upon the ſtates in their political or collective capacities. It has been ſhewn, that in ſuch a confederacy, there can be no ſanction for the laws but force; that frequent delinquencies in the members, are the natural offspring of the very frame of the government; and that as often as theſe happen they can only be redreſſed, if at all, by war and violence.

The plan reported by the convention, by extending the authority of the federal head to the individual citizens of the ſeveral ſtates, will enable the government to employ the ordinary magiſtracy of each in the execution of its laws. It is eaſy to perceive that this will tend to deſtroy, in the common apprehenſion, all diſtinction between the ſources from which they might proceed; and will give the federal government the ſame advantage for ſecuring a due obedience to its authority, which is enjoyed by the government of each ſtate; in addition to the influence on public opinion, which will reſult from the important conſideration of its having power to call to its aſſiſtance

and ſupport the reſources of the whole Union. It merits particular attention in this place, that the laws of the confederacy, as to the *enumerated* and *legitimate* objects of its juriſdiction, will become the SUPREME LAW of the land; to the obſervance of which, all officers legiſlative, executive and judicial in each ſtate, will be bound by the ſanctity of an oath. Thus the legiſlatures, courts and magiſtrates of the reſpective members will be incorporated into the operations of the national government, *as far as its juſt and conſtitutional authority extends*; and will be rendered auxiliary to the enforcement of its laws.* Any man, who will purſue by his own reflections the conſequences of this ſituation, will perceive that there is good ground to calculate upon a regular and peaceable execution of the laws of the union; if its powers are adminiſtered with a common ſhare of prudence. If we will arbitrarily ſuppoſe the contrary, we may deduce any inferences we pleaſe from the ſuppoſition; for it is certainly poſſible, by an injudicious exerciſe of the authorities of the beſt government that ever was or ever can be inſtituted, to provoke and precipitate the people into the wildeſt exceſſes. But though the adverſaries of the propoſed conſtitution ſhould preſume that the national rulers would be inſenſible to the motives of public good, or to the obligations of duty; I would ſtill aſk them, how the intereſts of ambition, or the views of encroachment, can be promoted by ſuch a conduct?

PUBLIUS.

* The ſophiſtry which has been employed to ſhow that this will tend to the deſtruction of the ſtate governments will, in its proper place, be fully detected.

NUMBER

NUMBER XXVIII.

The ſame Subject continued.

THAT there may happen caſes, in which the national government may be neceſſitated to reſort to force, cannot be denied. Our own experience has corroborated the leſſons taught by the examples of other nations; that emergencies of this ſort will ſometimes exiſt in all ſocieties, however conſtituted; that ſeditions and inſurrections are unhappily maladies as inſeparable from the body politic, as tumours and eruptions from the natural body; that the idea of governing at all times by the ſimple force of law (which we have been told is the only admiſſible principle of republican government) has no place but in the reveries of thoſe political doctors, whoſe ſagacity diſdains the admonitions of experimental inſtruction.

Should ſuch emergencies at any time happen under the national government, there could be no remedy but force. The means to be employed muſt be proportioned to the extent of the miſchief. If it ſhould be a ſlight commotion in a ſmall part of a ſtate, the militia of the reſidue would be adequate to its ſuppreſſion: and the natural preſumption is, that they would be ready to do their duty. An inſurrection, whatever may be its immediate cauſe, eventually endangers all government: Regard to the public peace, if not to the rights of the union, would engage the citizens, to whom the contagion had not communicated itſelf, to oppoſe the inſurgents: And if the general government ſhould be found in practice conducive to the proſperity and felicity of the people, it were irrational to believe that they would be diſinclined to its ſupport.

If on the contrary the inſurrection ſhould pervade a whole ſtate, or a principal part of it, the employment of a different kind of force might become

unavoidable. It appears that Maſſachuſetts found it neceſſary to raiſe troops for ſuppreſſing the diſorders within that ſtate; that Pennſylvania, from the mere apprehenſion of commotions among a part of her citizens, has thought proper to have recourſe to the ſame meaſure. Suppoſe the ſtate of New-York had been inclined to re-eſtabliſh her loſt juriſdiction over the inhabitants of Vermont; could ſhe have hoped for ſucceſs in ſuch an enterpriſe from the efforts of the militia alone? Would ſhe not have been compelled to raiſe and to maintain a more regular force for the execution of her deſign? If it muſt then be admitted that the neceſſity of recurring to a force different from the militia in caſes of this extraordinary nature, is applicable to the ſtate governments themſelves, why ſhould the poſſibility that the national government might be under a like neceſſity in ſimilar extremities, be made an objection to its exiſtence? Is it not ſurpriſing that men, who declare an attachment to the union in the abſtract, ſhould urge, as an objection to the propoſed conſtitution, what applies with ten-fold weight to the plan for which they contend; and what as far as it has any foundation in truth, is an inevitable conſequence of civil ſociety upon an enlarged ſcale? who would not prefer that poſſibility to the unceaſing agitations and frequent revolutions which are the continual ſcourges of petty republics?

Let us purſue this examination in another light. Suppoſe, in lieu of one general ſyſtem, two or three, or even four confederacies were to be formed, would not the ſame difficulty oppoſe itſelf to the operations of either of theſe confederacies? Would not each of them be expoſed to the ſame caſualties; and, when theſe happened, be obliged to have recourſe to the ſame expedients for upholding its authority, which are objected to a government for all the ſtates? Would the militia in this ſuppoſition be more ready or more able to ſupport the fœderal authority than in the caſe of a general union? All candid and intelligent men

muſt

muſt upon due conſideration acknowledge that the principle of the objection is equally applicable to either of the two caſes; and that whether we have one government for all the ſtates, or different governments for different parcels of them, or as many unconnected governments as there are ſtates, there might ſometimes be a neceſſity to make uſe of a force conſtituted differently from the militia to preſerve the peace of the community, and to maintain the juſt authority of the laws againſt thoſe violent invaſions of them, which amount to inſurrections and rebellions.

Independent of all other reaſonings upon the ſubject, it is a full anſwer to thoſe who require a more peremptory proviſion againſt military eſtabliſhments in time of peace, to ſay that the whole power of the propoſed government is to be in the hands of the repreſentatives of the people. This is the eſſential, and after all the only efficacious ſecurity for the rights and privileges of the people which is attainable in civil ſociety.*

If the repreſentatives of the people betray their conſtituents, there is then no reſource left but in the exertion of that original right of ſelf-defence, which is paramount to all poſitive forms of government; and which, againſt the uſurpations of the national rulers, may be exerted with infinitely better proſpect of ſucceſs, than againſt thoſe of the rulers of an individual ſtate. In a ſingle ſtate, if the perſons entruſted with ſupreme power become uſurpers, the different parcels, ſubdiviſions or diſtricts, of which it conſiſts, having no diſtinct government in each, can take no regular meaſures for defence. The citizens muſt ruſh tumultuouſly to arms, without concert, without ſyſtem, without reſource; except in their courage and deſpair. The uſurpers, cloathed with the forms of legal authority, can too often cruſh the oppoſition in embryo. The ſmaller the extent of territory, the more difficult will it be for the people to form a regular or ſyſtematic plan

* Its full efficacy will be examined hereafter.

plan of oppoſition; and the more eaſy will it be to defeat their early efforts. Intelligence can be more ſpeedily obtained of their preparations and movements; and the military force in the poſſeſſion of the uſurpers, can be more rapidly directed againſt the part where the oppoſition has begun. In this ſituation, there muſt be a peculiar coincidence of circumſtances to enſure ſucceſs to the popular reſiſtance.

The obſtacles to uſurpation, and the facilities of reſiſtance increaſe with the increaſed extent of the ſtate; provided the citizens underſtand their rights and are diſpoſed to defend them. The natural ſtrength of the people in a large community, in proportion to the artificial ſtrength of the government, is greater than in a ſmall; and of courſe more competent to a ſtruggle with the attempts of the government to eſtabliſh a tyranny. But in a confederacy, the people, without exaggeration, may be ſaid to be entirely the maſters of their own fate. Power being almoſt always the rival of power; the general government will at all times ſtand ready to check the uſurpations of the ſtate governments; and theſe will have the ſame diſpoſition towards the general government. The people, by throwing themſelves into either ſcale, will infallibly make it preponderate. If their rights are invaded by either, they can make uſe of the other, as the inſtrument of redreſs. How wiſe will it be in them by cheriſhing the union to preſerve to themſelves an advantage which can never be too highly priſed!

It may ſafely be received as an axiom in our political ſyſtem, that the ſtate governments will in all poſſible contingencies afford complete ſecurity againſt invaſions of the public liberty by the national authority. Projects of uſurpation cannot be maſked under pretences ſo likely to eſcape the penetration of ſelect bodies of men as of the people at large. The legiſlatures will have better means of information. They can diſcover the danger at a diſtance; and poſſeſſing all the organs of civil power, and the confidence of the

the people, they can at once adopt a regular plan of oppoſition, in which they can combine all the reſources of the community. They can readily communicate with each other in the different ſtates; and unite their common forces for the protection of their common liberty.

The great extent of the country is a further ſecurity. We have already experienced its utility againſt the attacks of a foreign power. And it would have preciſely the ſame effect againſt the enterpriſes of ambitious rulers in the national councils. If the federal army ſhould be able to quell the reſiſtance of one ſtate, the diſtant ſtates would be able to make head with freſh forces. The advantages obtained in one place muſt be abandoned to ſubdue the oppoſition in others; and the moment the part which had been reduced to ſubmiſſion was left to itſelf its efforts would be renewed and its reſiſtance revive.

We ſhould recollect that the extent of the military force muſt at all events be regulated by the reſources of the country. For a long time to come, it will not be poſſible to maintain a large army; and as the means of doing this increaſe, the population and natural ſtrength of the community will proportionably increaſe. When will the time arrive, that the federal government can raiſe and maintain an army capable of erecting a deſpotiſm over the great body of the people of an immenſe empire; who are in a ſituation, through the medium of their ſtate governments, to take meaſures for their own defence with all the celerity, regularity and ſyſtem of independent nations? The apprehenſion may be conſidered as a diſeaſe, for which there can be found no cure in the reſources of argument and reaſoning.

PUBLIUS.

NUMBER

NUMBER XXIX.

Concerning the Militia.

THE power of regulating the militia, and of commanding its ſervices in times of inſurrection and invaſion, are natural incidents to the duties of ſuperintending the common defence, and of watching over the internal peace of the confederacy.

It requires no ſkill in the ſcience of war to diſcern that uniformity in the organization and diſcipline of the militia would be attended with the moſt beneficial effects, whenever they were called into ſervice for the public defence. It would enable them to diſcharge the duties of the camp and of the field with mutual intelligence and concert; an advantage of peculiar moment in the operations of an army: And it would fit them much ſooner to acquire the degree of proficiency in military functions, which would be eſſential to their uſefulneſs. This deſirable uniformity can only be accompliſhed by confiding the regulation of the militia to the direction of the national authority. It is therefore with the moſt evident propriety that the plan of the convention propoſes to empower the union "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, "*reſerving to the ſtates reſpectively the appointment of* "*the officers, and the authority of training the militia* "*according to the diſcipline preſcribed by Congreſs.*"

Of the different grounds which have been taken in oppoſition to this plan, there is none that was ſo little to have been expected, or is ſo untenable in itſelf, as the one from which this particular proviſion has been attacked. If a well regulated militia be the moſt natural defence of a free country, it ought certainly to be under the regulation and at the diſpoſal of that body which is conſtituted the guardian of the national ſecurity.

ſecurity. If ſtanding armies are dangerous to liberty, an efficacious power over the militia, in the ſame body, ought as far as poſſible to take away the inducement and the pretext to ſuch unfriendly inſtitutions. If the federal government can command the aid of the militia in thoſe emergencies which call for the military arm in ſupport of the civil magiſtrate, it can the better diſpenſe with the employment of a different kind of force. If it cannot avail itſelf of the former, it will be obliged to recur to the latter. To render an army unneceſſary will be a more certain method of preventing its exiſtence than a thouſand prohibitions upon paper.

In order to caſt an odium upon the power of calling forth the militia to execute the laws of the union, it has been remarked that there is no where any proviſion in the propoſed conſtitution for requiring the aid of the POSSE COMITATUS to aſſiſt the magiſtrate in the execution of his duty; whence it has been inferred that military force was intended to be his only auxiliary. There is a ſtriking incoherence in the objections which have appeared, and ſometimes even from the ſame quarter, not much calculated to inſpire a very favourable opinion of the ſincerity or fair dealing of their authors. The ſame perſons who tell us in one breath that the powers of the federal government will be deſpotic and unlimited, inform us in the next that it has not authority ſufficient even to call out the POSSE COMITATUS. The latter fortunately is as much ſhort of the truth as the former exceeds it. It would be as abſurd to doubt that a right to paſs all laws *neceſſary* and *proper* to execute its declared powers would include that of requiring the aſſiſtance of the citizens to the officers who may be entruſted with the execution of thoſe laws; as it would be to believe that a right to enact laws neceſſary and proper for the impoſition and collection of taxes would involve that of varying the rules of deſcent and of the alienation of landed property, or of aboliſhing the trial by

jury

jury in cases relating to it. It being therefore evident that the supposition of a want of power to require the aid of the POSSE COMITATUS is entirely destitute of colour, it will follow that the conclusion which has been drawn from it, in its application to the authority of the federal government over the militia, is as uncandid as it is illogical. What reason could there be to infer that force was intended to be the sole instrument of authority, merely because there is a power to make use of it when necessary? What shall we think of the motives which could induce men of sense to reason in this extraordinary manner? How shall we prevent a conflict between charity and conviction?

By a curious refinement upon the spirit of republican jealousy, we are even taught to apprehend danger from the militia itself in the hands of the federal government. It is observed that select corps may be formed, composed of the young and the ardent, who may be rendered subservient to the views of arbitrary power. What plan for the regulation of the militia may be pursued by the national government is impossible to be foreseen. But so far from viewing the matter in the same light with those who object to select corps as dangerous, were the constitution ratified, and were I to deliver my sentiments to a member of the federal legislature on the subject of a militia establishment, I should hold to him in substance the following discourse:——

"The project of disciplining all the militia of the "United States, is as futile as it would be injurious, "if it were capable of being carried into execution. "A tolerable expertness in military movements is a "business that requires time and practice. It is not "a day, nor a week, nor even a month that will "suffice for the attainment of it. To oblige the "great body of the yeomanry and of the other classes "of the citizens, to be under arms for the purpose "of going through military exercises and evolutions

"as

" as often as might be neceſſary, to acquire the degree " of perfection which would intitle them to the cha- " racter of a well regulated militia, would be a real " grievance to the people, and a ſerious public incon- " venience and loſs. It would form an annual deduc- " tion from the productive labour of the country to " an amount which, calculating upon the preſent " numbers of the people, would not fall far ſhort of a " million of pounds. To attempt a thing which " would abridge the maſs of labour and induſtry to " ſo conſiderable an extent would be unwiſe; and " the experiment, if made, could not ſucceed, becauſe " it would not long be endured. Little more can " reaſonably be aimed at with reſpect to the people " at large, than to have them properly armed and " equipped; and in order to ſee that this be not " neglected, it will be neceſſary to aſſemble them " once or twice in the courſe of a year.

" But though the ſcheme of diſciplining the whole " nation muſt be abandoned as miſchievous or " impracticable; yet it is a matter of the utmoſt " importance that a well digeſted plan ſhould as ſoon " as poſſible be adopted for the proper eſtabliſhment " of the militia. The attention of the government " ought particularly to be directed to the formation " of a ſelect corps of moderate ſize, upon ſuch prin- " ciples as will really fit it for ſervice in caſe of need. " By thus circumſcribing the plan, it will be poſſible " to have an excellent body of well trained militia, " ready to take the field whenever the defence of the " ſtate ſhall require it. This will not only leſſen the " call for military eſtabliſhments; but if circum- " ſtances ſhould at any time oblige the government " to form an army of any magnitude, that army can " never be formidable to the liberties of the people, " while there is a large body of citizens, little if at " all inferior to them in diſcipline and the uſe of " arms, who ſtand ready to defend their own rights " and thoſe of their fellow citizens. This appears to

"me the only ſubſtitute that can be deviſed for a "ſtanding army; and the beſt poſſible ſecurity againſt "it if it ſhould exiſt."

Thus differently from the adverſaries of the propoſed conſtitution ſhould I reaſon on the ſame ſubject; deducing arguments of ſafety from the very ſources which they repreſent as fraught with danger and perdition. But how the national legiſlature may reaſon on the point, is a thing which neither they nor I can foreſee.

There is ſomething ſo far fetched and ſo extravagant in the idea of danger to liberty from the militia, that one is at a loſs whether to treat it with gravity or with raillery; whether to conſider it as a mere trial of ſkill, like the paradoxes of rhetoricians, as a diſingenuous artifice to inſtil prejudices at any price, or as the ſerious offspring of political fanaticiſm. Where in the name of common ſenſe are our fears to end if we may not truſt our ſons, our brothers, our neighbours, our fellow citizens? What ſhadow of danger can there be from men who are daily mingling with the reſt of their countrymen; and who participate with them in the ſame feelings, ſentiments, habits and intereſts? What reaſonable cauſe of apprehenſion can be inferred from a power in the union to preſcribe regulations for the militia and to command its ſervices when neceſſary; while the particular ſtates are to have the *ſole and excluſive appointment of the officers?* If it were poſſible ſeriouſly to indulge a jealouſy of the militia upon any conceivable eſtabliſhment under the federal government, the circumſtance of the officers being in the appointment of the ſtates ought at once to extinguiſh it. There can be no doubt that this circumſtance will always ſecure to them a preponderating influence over the militia.

In reading many of the publications againſt the conſtitution, a man is apt to imagine that he is peruſing ſome ill written tale or romance; which inſtead of

of natural and agreeable images exhibits to the mind nothing but frightful and diſtorted ſhapes—

" Gorgons, Hydras and Chimeras dire"

—diſcoloring and disfiguring whatever it repreſents, and transforming every thing it touches into a monſter.

A ſample of this is to be obſerved in the exaggerated and improbable ſuggeſtions which have taken place reſpecting the power of calling for the ſervices of the militia. That of New-Hampſhire is to be marched to Georgia, of Georgia to New-Hampſhire, of New-York to Kentuke and of Kentuke to Lake Champlain. Nay the debts due to the French and Dutch are to be paid in militia-men inſtead of Louis d'ors and ducats. At one moment there is to be a large army to lay proſtrate the liberties of the people; at another moment the militia of Virginia are to be dragged from their homes five or ſix hundred miles to tame the republican contumacy of Maſſachuſetts; and that of Maſſachuſetts is to be tranſported an equal diſtance to ſubdue the refractory haughtineſs of the ariſtocratic Virginians. Do the perſons, who rave at this rate, imagine, that their art or their eloquence can impoſe any conceits or abſurdities upon the people of America for infallible truths?

If there ſhould be an army to be made uſe of as the engine of deſpotiſm what need of the militia? If there ſhould be no army, whither would the militia, irritated at being required to undertake a diſtant and diſtreſſing expedition for the purpoſe of rivetting the chains of ſlavery upon a part of their countrymen direct their courſe, but to the ſeat of the tyrants, who had meditated ſo fooliſh as well as ſo wicked a project to cruſh them in their imagined intrenchments of power and to make them an example of the juſt vengeance of an abuſed and incenſed people? Is this the way in which uſurpers ſtride to dominion over a numerous and enlightened nation? Do they begin by exciting the deteſtation of the very inſtru-

ments of their intended uſurpations? Do they uſually commence their career by wanton and diſguſtful acts of power calculated to anſwer no end, but to draw upon themſelves univerſal hatred and execration? Are ſuppoſitions of this ſort the ſober admonitions of diſcerning patriots to a diſcerning people? Or are they the inflammatory ravings of chagrined incendiaries or diſtempered enthuſiaſts? If we were even to ſuppoſe the national rulers actuated by the moſt ungovernable ambition, it is impoſſible to believe that they would employ ſuch prepoſterous means to accompliſh their deſigns.

In times of inſurrection or invaſion it would be natural and proper that the militia of a neighbouring ſtate ſhould be marched into another to reſiſt a common enemy or to guard the republic againſt the violences of faction or ſedition. This was frequently the caſe in reſpect to the firſt object in the courſe of the late war; and this mutual ſuccour is indeed a principal end of our political aſſociation. If the power of affording it be placed under the direction of the union, there will be no danger of a ſupine and liſtleſs inattention to the dangers of a neighbour, till its near approach had ſuperadded the incitements of ſelf preſervation to the too feeble impulſes of duty and ſympathy.

PUBLIUS.

NUMBER XXX.

Concerning Taxation.

IT has been already obſerved, that the federal government ought to poſſeſs the power of providing for the ſupport of the national forces; in which propoſition was intended to be included the expence of raiſing troops of building and equipping fleets, and all other expences in any wiſe connected with military

military arrangements and operations. But these are not the only objects to which the jurisdiction of the union, in respect to revenue, must necessarily be impowered to extend—It must embrace a provision for the support of the national civil list—for the payment of the national debts contracted, or that may be contracted—and in general for all those matters which will call for disbursements out of the national treasury. The conclusion is, that there must be interwoven in the frame of the government, a general power of taxation in one shape or another.

Money is with propriety considered as the vital principle of the body politic; as that which sustains its life and motion, and enables it to perform its most essential functions. A complete power therefore to procure a regular and adequate supply of revenue, as far as the resources of the community will permit, may be regarded as an indispensable ingredient in every constitution. From a deficiency in this particular, one of two evils must ensue; either the people must be subjected to continual plunder as a substitute for a more eligible mode of supplying the public wants, or the government must sink into a fatal atrophy, and in a short course of time perish.

In the Ottoman or Turkish empire, the sovereign, though in other respects absolute master of the lives and fortunes of his subjects, has no right to impose a new tax. The consequence is, that he permits the bashaws or governors of provinces to pillage the people at discretion; and in turn squeezes out of them the sums of which he stands in need to satisfy his own exigencies and those of the state. In America, from a like cause, the government of the union has gradually dwindled into a state of decay, approaching nearly to annihilation. Who can doubt that the happiness of the people in both countries would be promoted by competent authorities in the proper hands, to provide the revenues which the necessities of the public might require?

The preſent confederation, feeble as it is, intended to repoſe in the United States, an unlimited power of providing for the pecuniary wants of the union. But proceeding upon an erroneous principle, it has been done in ſuch a manner as entirely to have fruſtrated the intention. Congreſs by the articles which compoſe that compact (as has been already ſtated) are authoriſed to aſcertain and call for any ſums of money neceſſary, in their judgement, to the ſervice of the United States; and their requiſitions, if conformable to the rule of apportionment, are in every conſtitutional ſenſe obligatory upon the ſtates. Theſe have no right to queſtion the propriety of the demand, no diſcretion beyond that of deviſing the ways and means of furniſhing the ſums demanded. But though this be ſtrictly and truly the caſe; though the aſſumption of ſuch a right would be an infringement of the articles of union; though it may ſeldom or never have been avowedly claimed; yet in practice it has been conſtantly exerciſed; and would continue to be ſo, as long as the revenues of the confederacy ſhould remain dependent on the intermediate agency of its members. What the conſequences of this ſyſtem have been, is within the knowledge of every man, the leaſt converſant in our public affairs, and has been abundantly unfolded in different parts of theſe inquiries. It is this which has chiefly contributed to reduce us to a ſituation which affords ample cauſe, of mortification to ourſelves, and of triumph to our enemies.

What remedy can there be for this ſituation, but in a change of the ſyſtem, which has produced it? in a change of the fallacious and deluſive ſyſtem of quotas and requiſitions? What ſubſtitute can there be imagined for this *ignis fatuus* in finance, but that of permitting the national government to raiſe its own revenues by the ordinary methods of taxation, authoriſed in every well ordered conſtitution of civil government? Ingenious men may declaim with plauſibility on any ſubject; but no human ingenuity

ingenuity can point out any other expedient to rescue us from the inconveniences and embarrassments, naturally resulting from defective supplies of the public treasury.

The more intelligent adversaries of the new constitution admit the force of this reasoning; but they qualify their admission by a distinction between what they call *internal* and *external* taxation. The former they would reserve to the state governments; the latter, which they explain into commercial imposts, or rather duties on imported articles, they declare themselves willing to concede to the federal head. This distinction, however, would violate that fundamental maxim of good sense and sound policy, which dictates that every POWER ought to be proportionate to its OBJECT; and would still leave the general government in a kind of tutelage to the state governments, inconsistent with every idea of vigor or efficiency. Who can pretend that commercial imposts are or would be alone equal to the present and future exigencies of the union? Taking into the account the existing debt, foreign and domestic, upon any plan of extinguishment, which a man moderately impressed with the importance of public justice and public credit could approve, in addition to the establishments, which all parties will acknowledge to be necessary, we could not reasonably flatter ourselves, that this resource alone, upon the most improved scale, would even suffice for its present necessities. Its future necessities admit not of calculation or limitation; and upon the principle, more than once adverted to, the power of making provision for them as they arise, ought to be equally unconfined. I believe it may be regarded as a position, warranted by the history of mankind, that *in the usual progress of things the necessities of a nation in every stage of its existence will be found at least equal to its resources.*

To say that deficiencies may be provided for by requisitions upon the states, is on the one hand to acknowledge

acknowledge that this ſyſtem cannot be depended upon; and on the other hand, to depend upon it for every thing beyond a certain limit. Thoſe who have carefully attended to its vices and deformities as they have been exhibited by experience, or delineated in the courſe of theſe papers, muſt feel an invincible repugnancy to truſting the national intereſts, in any degree, to its operation. Its inevitable tendency, whenever it is brought into activity, muſt be to enfeeble the union, and ſow the ſeeds of diſcord and contention between the federal head and its members, and between the members themſelves. Can it be expected that the deficiencies would be better ſupplied in this mode, than the total wants of the union have heretofore been ſupplied, in the ſame mode? It ought to be recollected, that if leſs will be required from the ſtates, they will have proportionably leſs means to anſwer the demand. If the opinions of thoſe who contend for the diſtinction which has been mentioned, were to be received as evidence of truth, one would be led to conclude that there was ſome known point in the economy of national affairs, at which it would be ſafe to ſtop, and to ſay—Thus far the ends of public happineſs will be promoted by ſupplying the wants of government, and all beyond this is unworthy of our care or anxiety.—How is it poſſible that a government half ſupplied and always neceſſitous, can fulfil the purpoſes of its inſtitution—can provide for the ſecurity—advance the proſperity—or ſupport the reputation of the commonwealth? How can it ever poſſeſs either energy or ſtability, dignity or credit, confidence at home or reſpectability abroad? How can its adminiſtration be any thing elſe than a ſucceſſion of expedients temporiſing, impotent, diſgraceful? How will it be able to avoid a frequent ſacrifice of its engagements to immediate neceſſity? How can it undertake or execute any liberal or enlarged plans of public good?

Let

Let us attend to what would be the effects of this ſituation in the very firſt war in which we ſhould happen to be engaged. We will preſume, for argument ſake, that the revenue ariſing from the import duties anſwers the purpoſes of a proviſion for the public debt, and of a peace eſtabliſhment for the union. Thus circumſtanced, a war breaks out. What would be the probable conduct of the government in ſuch an emergency? Taught by experience that proper dependence could not be placed on the ſucceſs of requiſitions; unable by its own authority to lay hold of freſh reſources, and urged by conſiderations of national danger, would it not be driven to the expedient of diverting the funds already appropriated from their proper objects to the defence of the ſtate? It is not eaſy to ſee how a ſtep of this kind could be avoided; and if it ſhould be taken, it is evident that it would prove the deſtruction of public credit at the very moment that it was become eſſential to the public ſafety. To imagine that at ſuch a criſis credit might be diſpenſed with, would be the extreme of infatuation. In the modern ſyſtem of war, nations the moſt wealthy are obliged to have recourſe to large loans. A country ſo little opulent as ours, muſt feel this neceſſity in a much ſtronger degree. But who would lend to a government that prefaced its overtures for borrowing, by an act which demonſtrated that no reliance could be placed on the ſteadineſs of its meaſures for paying? The loans it might be able to procure, would be as limited in their extent as burthenſome in their conditions. They would be made upon the ſame principles that uſurers commonly lend to bankrupt and fraudulent debtors; with a ſparing hand, and at enormous premiums.

It may perhaps be imagined, that from the ſcantineſs of the reſources of the country, the neceſſity of diverting the eſtabliſhed funds in the caſe ſuppoſed, would exiſt; though the national government ſhould poſſeſs an unreſtrained power of taxation. But two conſiderations

conſiderations will ſerve to quiet all apprehenſion on this head; one is, that we are ſure the reſources of the community in their full extent, will be brought into activity for the benefit of the union; the other is, that whatever deficiencies there may be, can without difficulty be ſupplied by loans.

The power of creating new funds upon new objects of taxation by its own authority, would enable the national government to borrow, as far as its neceſſities might require. Foreigners as well as the citizens of America, could then reaſonably repoſe confidence in its engagements; but to depend upon a government, that muſt itſelf depend upon thirteen other governments for the means of fulfilling its contracts, when once its ſituation is clearly underſtood, would require a degree of credulity, not often to be met with in the pecuniary tranſactions of mankind, and little reconcileable with the uſual ſharp-ſightedneſs of avarice.

Reflections of this kind may have trifling weight with men, who hope to ſee realized in America, the halcyon ſcenes of the poetic or fabulous age; but to thoſe who believe we are likely to experience a common portion of the viciſſitudes and calamities, which have fallen to the lot of other nations, they muſt appear entitled to ſerious attention. Such men muſt behold the actual ſituation of their country with painful ſolicitude, and deprecate the evils which ambition or revenge might, with too much facility, inflict upon it.

PUBLIUS.

NUMBER XXXI.

The ſame Subject continued.

IN diſquiſitions of every kind there are certain primary truths or firſt principles upon which all ſubſequent reaſonings muſt depend. Theſe contain an internal evidence which, antecedent to all reflection

or

or combination, commands the assent of the mind. Where it produces not this effect, it must proceed either from some disorder in the organs of perception, or from the influence of some strong interest, or passion, or prejudice. Of this nature are the maxims in geometry, that the whole is greater than its part; that things equal to the same are equal to one another; that two straight lines cannot include a space; and that all right angles are equal to each other. Of the same nature are these other maxims in ethics and politics, that there cannot be an effect without a cause; that the means ought to be proportioned to the end; that every power ought to be commensurate with its object; that there ought to be no limitation of a power destined to effect a purpose, which is itself incapable of limitation. And there are other truths in the two latter sciences, which if they cannot pretend to rank in the class of axioms, are yet such direct inferences from them, and so obvious in themselves, and so agreeable to the natural and unsophisticated dictates of common sense, that they challenge the assent of a sound and unbiassed mind, with a degree of force and conviction almost equally irresistible.

The objects of geometrical enquiry are so intirely abstracted from those pursuits which stir up and put in motion the unruly passions of the human heart, that mankind without difficulty adopt not only the more simple theorems of the science, but even those abstruse paradoxes, which however they may appear susceptible of demonstration, are at variance with the natural conceptions which the mind, without the aid of philosophy, would be led to entertain upon the subject. The INFINITE DIVISIBILITY of matter, or in other words, the INFINITE divisibility of a FINITE thing, extending even to the minutest atom, is a point agreed among geometricians; though not less incomprehensible to common sense, than any of those mysteries in religion, against which the batteries of infidelity have been so industriously levelled.

But

But in the ſciences of morals and politics men are found far leſs tractable. To a certain degree it is right and uſeful that this ſhould be the caſe. Caution and inveſtigation are a neceſſary armour againſt error and impoſition. But this untractableneſs may be carried too far, and may degenerate into obſtinacy, perverſeneſs or diſingenuity. Though it cannot be pretended that the principles of moral and political knowledge have in general the ſame degree of certainty with thoſe of the mathematics; yet they have much better claims in this reſpect, than to judge from the conduct of men in particular ſituations, we ſhould be diſpoſed to allow them. The obſcurity is much oftener in the paſſions and prejudices of the reaſoner than in the ſubject. Men upon too many occaſions do not give their own underſtandings fair play; but yielding to ſome untoward bias they entangle themſelves in words, and confound themſelves in ſubtleties.

How elſe could it happen (if we admit the objectors to be ſincere in their oppoſition) that poſitions ſo clear as thoſe which manifeſt the neceſſity of a general power of taxation in the government of the union, ſhould have to encounter any adverſaries among men of diſcernment? Though theſe poſitions have been elſewhere fully ſtated, they will perhaps not be improperly recapitulated in this place, as introductory to an examination of what may have been offered by way of objection to them. They are in ſubſtance as follow:——

A government ought to contain in itſelf every power requiſite to the full accompliſhment of the objects committed to its care, and to the complete execution of the truſts for which it is reſponſible; free from every other controul, but a regard to the public good and to the ſenſe of the people.

As the duties of ſuperintending the national defence and of ſecuring the public peace againſt foreign or domeſtic violence, involve a proviſion for caſualties

caſualties and dangers, to which no poſſible limits can be aſſigned, the power of making that proviſion ought to know no other bounds than the exigencies of the nation and the reſources of the community.

As revenue is the eſſential engine by which the means of anſwering the national exigencies muſt be procured, the power of procuring that article in its full extent, muſt neceſſarily be comprehended in that of providing for thoſe exigencies.

As theory and practice conſpire to prove that the power of procuring revenue is unavailing, when exerciſed over the ſtates in their collective capacities, the federal government muſt of neceſſity be inveſted with an unqualified power of taxation in the ordinary modes.

Did not experience evince the contrary, it would be natural to conclude that the propriety of a general power of taxation in the national government might ſafely be permitted to reſt on the evidence of theſe propoſitions, unaſſiſted by any additional arguments or illuſtrations. But we find in fact, that the antagoniſts of the propoſed conſtitution, ſo far from acquieſcing in their juſtneſs or truth ſeem to make their principal and moſt zealous effort againſt this part of the plan. It may therefore be ſatisfactory to analize the arguments with which they combat it.

Thoſe of them which have been moſt laboured with that view, ſeem in ſubſtance to amount to this: "It "is not true, becauſe the exigencies of the union may "not be ſuſceptible of limitation, that its power of "laying taxes ought to be unconfined. Revenue "is as requiſite to the purpoſes of the local admini-"ſtrations as to thoſe of the union; and the former "are at leaſt of equal importance with the latter to "the happineſs of the people. It is therefore as "neceſſary, that the ſtate governments ſhould be able "to command the means of ſupplying their wants, as, "that the national government ſhould poſſeſs the like "faculty, in reſpect to the wants of the union. But

" an indefinite power of taxation in the *latter* might, " and probably would in time deprive the *former* of " the means of providing for their own neceſſities; " and would ſubject them entirely to the mercy of the " national legiſlature. As the laws of the union are " to become the ſupreme law of the land; as it is to " have power to paſs all laws that may be NECESSARY " for carrying into execution, the authorities with " which it is propoſed to veſt it; the national govern- " ment might at any time aboliſh the taxes impoſed " for ſtate objects, upon the pretence of an interfe- " rence with its own. It might alledge a neceſſity of " doing this, in order to give efficacy to the national " revenues: And thus all the reſources of taxation " might by degrees, become the ſubjects of federal " monopoly, to the intire excluſion and deſtruction of " the ſtate governments."

This mode of reaſoning appears ſometimes to turn upon the ſuppoſition of uſurpation in the national government; at other times it ſeems to be deſigned only as a deduction from the conſtitutional operation of its intended powers. It is only in the latter light, that it can be admitted to have any pretenſions to fairneſs. The moment we launch into conjectures about the uſurpations of the federal government, we get into an unfathomable abyſs, and fairly put ourſelves out of the reach of all reaſoning. Imagination may range at pleaſure, till it gets bewildered amidſt the labyrinths of an enchanted caſtle, and knows not on which ſide to turn to eſcape from the apparitions which itſelf has raiſed. Whatever may be the limits or modifications of the powers of the union, it is eaſy to imagine an endleſs train of poſſible dangers; and by indulging an exceſs of jealouſy and timidity, we may bring ourſelves to a ſtate of abſolute ſcepticiſm and irreſolution. I repeat here what I have obſerved in ſubſtance in another place, that all obſervations founded upon the danger of uſurpation, ought to be referred to the compoſition and ſtructure of the government,

not

not to the nature or extent of its powers. The ſtate governments, by their original conſtitutions, are inveſted with complete ſovereignty. In what does our ſecurity conſiſt againſt uſurpations from that quarter? Doubtleſs in the manner of their formation, and in a due dependence of thoſe who are to adminiſter them upon the people. If the propoſed conſtruction of the federal government, be found upon an impartial examination of it, to be ſuch as to afford, to a proper extent, the ſame ſpecies of ſecurity, all apprehenſions on the ſcore of uſurpation ought to be diſcarded.

It ſhould not be forgotten, that a diſpoſition in the ſtate governments to encroach upon the rights of the union, is quite as probable as a diſpoſition in the union to encroach upon the rights of the ſtate governments. What ſide would be likely to prevail in ſuch a conflict, muſt depend on the means which the contending parties could employ towards enſuring ſucceſs. As in republics, ſtrength is always on the ſide of the people; and as there are weighty reaſons to induce a belief that the ſtate governments will commonly poſſeſs moſt influence over them, the natural concluſion is, that ſuch conteſts will be moſt apt to end to the diſadvantage of the union; and that there is greater probability of encroachments by the members upon the federal head, than by the federal head upon the members. But it is evident, that all conjectures of this kind, muſt be extremely vague and fallible, and that it is by far the ſafeſt courſe to lay them altogether aſide; and to confine our attention wholly to the nature and extent of the powers as they are delineated in the conſtitution. Every thing beyond this, muſt be left to the prudence and firmneſs of the people; who, as they will hold the ſcales in their own hands, it is to be hoped, will always take care to preſerve the conſtitutional equilibrium between the general and the ſtate governments. Upon this ground, which is evidently the

the true one, it will not be difficult to obviate the objections, which have been made to an indefinite power of taxation in the United States.

PUBLIUS.

NUMBER XXXII.

The ſame Subject continued.

ALTHOUGH I am of opinion that there would be no real danger of the conſequences, which ſeem to be apprehended to the ſtate governments, from a power in the union to controul them in the levies of money; becauſe I am perſuaded that the ſenſe of the people, the extreme hazard of provoking the reſentments of the ſtate governments, and a conviction of the utility and neceſſity of local adminiſtrations, for local purpoſes, would be a complete barrier againſt the oppreſſive uſe of ſuch a power: Yet I am willing here to allow in its full extent the juſtneſs of the reaſoning, which requires that the individual ſtates ſhould poſſeſs an independent and uncontroulable authority to raiſe their own revenues for the ſupply of their own wants. And making this conceſſion, I affirm that (with the ſole exception of duties on imports and exports) they would under the plan of the convention retain that authority in the moſt abſolute and unqualified ſenſe; and that an attempt on the part of the national government to abridge them in the exerciſe of it would be a violent aſſumption of power unwarranted by any article or clauſe of its conſtitution.

An intire conſolidation of the ſtates into one complete national ſovereignty, would imply an intire ſubordination of the parts; and whatever powers might remain in them would be altogether dependent on the general will. But as the plan of the convention aims only at a partial union or conſolidation, the ſtate governments would clearly retain all the rights of ſovereignty which

which they before had, and which were not by that act *exclusively* delegated to the United States. This exclusive delegation, or rather this alienation of state sovereignty, would only exist in three cases; where the constitution in express terms granted an exclusive authority to the union; where it granted in one instance an authority to the union, and in another prohibited the states from exercising the like authority; and where it granted an authority to the union, to which a similar authority in the states would be absolutely and totally *contradictory* and *repugnant*. I use these terms to distinguish this last case from another which might appear to resemble it; but which would in fact be essentially different; I mean where the exercise of a concurrent jurisdiction might be productive of occasional interferences in the *policy* of any branch of administration, but would not imply any direct contradiction or repugnancy in point of constitutional authority. These three cases of exclusive jurisdiction in the federal government may be exemplified by the following instances: The last clause but one in the eighth section of the first article provides expressly that congress shall exercise "*exclusive legislation*" over the district to be appropriated as the seat of government. This answers to the first case. The first clause of the same section impowers congress "*to lay and collect taxes, duties, imposts and excises,*" and the second clause of the tenth section of the same article declares that "*no state shall* without the consent of congress, *lay any imposts or duties on imports or exports*, except for the purpose of executing its inspection laws." Hence would result an exclusive power in the union to lay duties on imports and exports, with the particular exception mentioned; but this power is abridged by another clause which declares, that no tax or duty shall be laid on articles exported from any state; in consequence of which qualification it now only extends to the *duties on imports*. This answers to the second case. The third will

be found in that clauſe, which declares that congreſs ſhall have power "to eſtabliſh an UNIFORM RULE "of naturalization throughout the United States." This muſt neceſſarily be excluſive; becauſe if each ſtate had power to preſcribe a DISTINCT RULE there could be no UNIFORM RULE.

A caſe which may perhaps be thought to reſemble the latter, but which is in fact widely different, affects the queſtion immediately under conſideration. I mean the power of impoſing taxes on all articles other than exports and imports. This, I contend, is manifeſtly a concurrent and coequal authority in the United States and in the individual ſtates. There is plainly no expreſſion in the granting clauſe which makes that power *excluſive* in the union. There is no independent clauſe or ſentence which prohibits the ſtates from exerciſing it. So far is this from being the caſe, that a plain and concluſive argument to the contrary is deducible from the reſtraint laid upon the ſtates in relation to duties on imports and exports. This reſtriction implies an admiſſion, that if it were not inſerted the ſtates would poſſeſs the power it excludes, and it implies a further admiſſion, that as to all other taxes the authority of the ſtates remains undiminiſhed. In any other view it would be both unneceſſary and dangerous; it would be unneceſſary, becauſe if the grant to the union of the power of laying ſuch duties implied the excluſion of the ſtates, or even their ſubordination in this particular, there could be no need of ſuch a reſtriction; it would be dangerous, becauſe the introduction of it leads directly to the concluſion which has been mentioned, and which if the reaſoning of the objectors be juſt, could not have been intended; I mean that the ſtates in all caſes to which the reſtriction did not apply would have a concurrent power of taxation with the union. The reſtriction in queſtion amounts to what lawyers call a NEGATIVE PREGNANT; that is a *negation* of one thing and an *affirmance* of

of another; a negation of the authority of the ſtates to impoſe taxes on imports and exports, and an affirmance of their authority to impoſe them on all other articles. It would be mere ſophiſtry to argue that it was meant to exclude them *abſolutely* from the impoſition of taxes of the former kind, and to leave them at liberty to lay others *ſubject to the controul* of the national legiſlature. The reſtraining or prohibitory clauſe only ſays, that they ſhall not *without the conſent of congreſs* lay ſuch duties; and if we are to underſtand this in the ſenſe laſt mentioned, the conſtitution would then be made to introduce a formal proviſion for the ſake of a very abſurd concluſion; which is that the ſtates *with the conſent* of the national legiſlature might tax imports and exports; and that they might tax every other article *unleſs controuled* by the ſame body. If this was the intention, why was it not left in the firſt inſtance to what is alledged to be the natural operation of the original clauſe conferring a general power of taxation upon the union? It is evident that this could not have been the intention, and that it will not bear a conſtruction of the kind.

As to a ſuppoſition of repugnancy between the power of taxation in the ſtates and in the union, it cannot be ſupported in that ſenſe which would be requiſite to work an excluſion of the ſtates. It is indeed poſſible that a tax might be laid on a particular article by a ſtate, which might render it *inexpedient* that a further tax ſhould be laid on the ſame article by the union; but it would not imply a conſtitutional inability to impoſe a further tax. The quantity of the impoſition, the expediency or inexpediency of an increaſe on either ſide, would be mutually queſtions of prudence; but there would be involved no direct contradiction of power. The particular policy of the national and of the ſtate ſyſtems of finance might now and then not exactly coincide, and might require reciprocal forbearances. It is not however a mere poſſibility of inconvenience in the exerciſe of powers, but

but an immediate conſtitutional repugnancy, that can by implication alienate and extinguiſh a pre-exiſting right of ſovereignty.

The neceſſity of a concurrent juriſdiction in certain caſes reſults from the diviſion of the ſovereign power; and the rule that all authorities of which the ſtates are not explicitly diveſted in favour of the union, remain with them in full vigour, is not only a theoretical conſequence of that diviſion, but is clearly admitted by the whole tenor of the inſtrument which contains the articles of the propoſed conſtitution. We there find that notwithſtanding the affirmative grants of general authorities, there has been the moſt pointed care in thoſe caſes where it was deemed improper that the like authorities ſhould reſide in the ſtates, to inſert negative clauſes prohibiting the exerciſe of them by the ſtates. The tenth ſection of the firſt article conſiſts altogether of ſuch proviſions. This circumſtance is a clear indication of the ſenſe of the convention, and furniſhes a rule of interpretation out of the body of the act which juſtifies the poſition I have advanced, and refutes every hypotheſis to the contrary.

PUBLIUS.

NUMBER XXXIII.

The ſame Subject continued.

THE reſidue of the argument againſt the proviſions in the conſtitution, in reſpect to taxation, is ingrafted upon the following clauſes;—the laſt clauſe of the eighth ſection of the firſt article, authoriſes the national legiſlature "to make all laws "which ſhall be *neceſſary* and *proper*, for carrying "into execution *the powers* by that conſtitution veſted "in the government of the United States, or in any "department

"department or officer thereof;" and the second clauſe of the ſixth article declares, that "the con-"ſtitution and the laws of the United States made *in* "*purſuance thereof*, and the treaties made by their "authority, ſhall be the *ſupreme law* of the land; "any thing in the conſtitution or laws of any ſtate "to the contrary notwithſtanding."

Theſe two clauſes have been the ſources of much virulent invective and petulant declamation againſt the propoſed conſtitution, they have been held up to the people in all the exaggerated colours of miſrepreſentation, as the pernicious engines by which their local governments were to be deſtroyed and their liberties exterminated—as the hideous monſter whoſe devouring jaws would ſpare neither ſex nor age, nor high nor low, nor ſacred nor profane; and yet ſtrange as it may appear, after all this clamour, to thoſe who may not have happened to contemplate them in the ſame light, it may be affirmed with perfect confidence, that the conſtitutional operation of the intended government would be preciſely the ſame, if theſe clauſes were entirely obliterated, as if they were repeated in every article. They are only declaratory of a truth, which would have reſulted by neceſſary and unavoidable implication from the very act of conſtituting a federal government, and veſting it with certain ſpecified powers. This is ſo clear a propoſition, that moderation itſelf can ſcarcely liſten to the railings which have been ſo copiouſly vented againſt this part of the plan, without emotions that diſturb its equanimity.

What is a power, but the ability or faculty of doing a thing? What is the ability to do a thing but the power of employing the *means* neceſſary to its execution? What is a LEGISLATIVE power but a power of making LAWS? What are the *means* to execute a LEGISLATIVE power but LAWS? What is the power of laying and collecting taxes but a *legiſlative power*, or a power of *making laws*, to lay and collect taxes? What

What are the proper means of executing such a power but *necessary* and *proper* laws?

This simple train of enquiry furnishes us at once with a test of the true nature of the clause complained of. It conducts us to this palpable truth, that a power to lay and collect taxes must be a power to pass all laws *necessary* and *proper* for the execution of that power: and what does the unfortunate and calumniated provision in question do more than declare the same truth; to wit, that the national legislature to whom the power of laying and collecting taxes had been previously given, might in the execution of that power pass all laws *necessary* and *proper* to carry it into effect? I have applied these observations thus particularly to the power of taxation, because it is the immediate subject under consideration, and because it is the most important of the authorities proposed to be conferred upon the union. But the same process will lead to the same result in relation to all other powers declared in the constitution. And it is *expressly* to execute these powers, that the sweeping clause, as it has been affectedly called, authorises the national legislature to pass all *necessary* and *proper* laws. If there be any thing exceptionable, it must be sought for in the specific powers, upon which this general declaration is predicated. The declaration itself, tho' it may be chargeable with tautology or redundancy, is at least perfectly harmless.

But SUSPICION may ask, why then was it introduced? The answer is, that it could only have been done for greater caution, and to guard against all cavilling refinements in those who might hereafter feel a disposition to curtail and evade the legitimate authorities of the union. The convention probably foresaw, what it has been a principal aim of these papers to inculcate, that the danger which most threatens our political welfare, is, that the state governments will finally sap the foundations of the union; and might therefore think it necessary, in so

ſo cardinal a point, to leave nothing to conſtruction. Whatever may have been the inducement to it, the wiſdom of the precaution is evident from the cry which has been raiſed againſt it; as that very cry betrays a diſpoſition to queſtion the great and eſſential truth which it is manifeſtly the object of that proviſion to declare.

But it may be again aſked, who is to judge of the *neceſſity* and *propriety* of the laws to be paſſed for executing the powers of the union? I anſwer firſt that this queſtion ariſes as well and as fully upon the ſimple grant of thoſe powers, as upon the declaratory clauſe: and I anſwer in the ſecond place, that the national government, like every other, muſt judge in the firſt inſtance of the proper exerciſe of its powers; and its conſtituents in the laſt. If the federal government ſhould overpaſs the juſt bounds of its authority, and make a tyrannical uſe of its powers; the people whoſe creature it is muſt appeal to the ſtandard they have formed, and take ſuch meaſures to redreſs the injury done to the conſtitution, as the exigency may ſuggeſt and prudence juſtify. The propriety of a law in a conſtitutional light, muſt always be determined by the nature of the powers upon which it is founded. Suppoſe by ſome forced conſtruction of its authority (which indeed cannot eaſily be imagined) the federal legiſlature ſhould attempt to vary the law of deſcent in any ſtate; would it not be evident that in making ſuch an attempt it had exceeded its juriſdiction and infringed upon that of the ſtate? Suppoſe again that upon the pretence of an interference with its revenues, it ſhould undertake to abrogate a land tax impoſed by the authority of a ſtate; would it not be equally evident that this was an invaſion of that concurrent juriſdiction in reſpect to this ſpecies of tax which its conſtitution plainly ſuppoſes to exiſt in the ſtate governments? If there ever ſhould be a doubt on this head the credit of it will be entirely due to thoſe reaſoners, who, in the imprudent zeal of their animoſity to the plan

plan of the convention, have laboured to invelope it in a cloud calculated to obſcure the plaineſt and ſimpleſt truths.

But it is ſaid, that the laws of the union are to be the *ſupreme law* of the land. What inference can be drawn from this, or what would they amount to, if they were not to be ſupreme? It is evident they would amount to nothing. A LAW by the very meaning of the term includes ſupremacy. It is a rule which thoſe to whom it is preſcribed are bound to obſerve. This reſults from every political aſſociation. If individuals enter into a ſtate of ſociety, the laws of that ſociety muſt be the ſupreme regulator of their conduct. If a number of political ſocieties enter into a larger political ſociety, the laws which the latter may enact, purſuant to the powers entruſted to it by its conſtitution, muſt neceſſarily be ſupreme over thoſe ſocieties, and the individuals of whom they are compoſed. It would otherwiſe be a mere treaty, dependent on the good faith of the parties, and not a government; which is only another word for POLITICAL POWER AND SUPREMACY. But it will not follow from this doctrine that acts of the larger ſociety which are *not purſuant* to its conſtitutional powers, but which are invaſions of the reſiduary authorities of the ſmaller ſocieties, will become the ſupreme law of the land. Theſe will be merely acts of uſurpation, and will deſerve to be treated as ſuch. Hence we perceive that the clauſe which declares the ſupremacy of the laws of the union, like the one we have juſt before conſidered, only declares a truth, which flows immediately and neceſſarily from the inſtitution of a federal government. It will not, I preſume, have eſcaped obſervation, that it *expreſsly* confines this ſupremacy to laws made *purſuant to the conſtitution*; which I mention merely as an inſtance of caution in the convention; ſince that limitation would have been to be underſtood, though it had not been expreſſed.

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Though a law therefore for laying a tax for the use of the United States would be supreme in its nature, and could not legally be opposed or controuled; yet a law for abrogating or preventing the collection of a tax laid by the authority of a state (unless upon imports and exports) would not be the supreme law of the land, but an usurpation of power not granted by the constitution. As far as an improper accumulation of taxes on the same object might tend to render the collection difficult or precarious, this would be a mutual inconvenience not arising from a superiority or defect of power on either side, but from an injudicious exercise of power by one or the other, in a manner equally disadvantageous to both. It is to be hoped and presumed however, that mutual interest would dictate a concert in this respect which would avoid any material inconvenience. The inference from the whole is—that the individual states would, under the proposed constitution, retain an independent and uncontroulable authority to raise revenue to any extent of which they may stand in need by every kind of taxation except duties on imports and exports. It will be shewn in the next paper that this *concurrent jurisdiction* in the article of taxation was the only admissible substitute for an entire subordination, in respect to this branch of power, of state authority to that of the union.

PUBLIUS.

NUMBER XXXIV.

The same Subject continued.

I FLATTER myself it has been clearly shewn in my last number, that the particular states, under the proposed constitution, would have CO-EQUAL authority with the union in the article of revenue, except as to duties on imports. As this leaves open

to the ſtates far the greateſt part of the reſources of the community, there can be no color for the aſſertion, that they would not poſſeſs means as abundant as could be deſired for the ſupply of their own wants, independent of all external control. That the field is ſufficiently wide will more fully appear when we come to develope the inconſiderable ſhare of the public expences, for which it will fall to the lot of the ſtate governments to provide.

To argue upon abſtract principles that this co-ordinate authority cannot exiſt, would be to ſet up theory and ſuppoſition againſt fact and reality. However proper ſuch reaſonings might be to ſhew that a thing *ought not to exiſt*, they are wholly to be rejected, when they are made uſe of to prove that it does not exiſt, contrary to the evidence of the fact itſelf. It is well known that in the Roman republic, the legiſlative authority in the laſt reſort, reſided for ages in two different political bodies; not as branches of the ſame legiſlature, but as diſtinct and independent legiſlatures; in each of which an oppoſite intereſt prevailed; in one the Patrician—in the other the Plebeian. Many arguments might have been adduced to prove the unfitneſs of two ſuch ſeemingly contradictory authorities, each having power to *annul* or *repeal* the acts of the other. But a man would have been regarded as frantic, who ſhould have attempted at Rome to diſprove their exiſtence. It will readily be underſtood, that I allude to the COMITIA CENTURIATA and the COMITIA TRIBUTA. The former, in which the people voted by centuries, was ſo arranged as to give a ſuperiority to the Patrician intereſt: In the latter, in which numbers prevailed, the Plebeian intereſt had an entire predominancy. And yet theſe two legiſlatures co-exiſted for ages, and the Roman republic attained to the pinacle of human greatneſs.

In the caſe particularly under conſideration there is no ſuch contradiction as appears in the example cited;

cited; there is no power on either side to annul the acts of the other. And in practice there is little reason to apprehend any inconvenience; because in a short course of time the wants of the states will naturally reduce themselves within *a very narrow compass*; and in the interim the United States will, in all probability, find it convenient to abstain wholly from those objects to which the particular states would be inclined to resort.

To form a more precise judgment of the true merits of this question, it will be well to advert to the proportion between the objects that will require a federal provision in respect to revenue; and those which will require a state provision. We shall discover that the former are altogether unlimited; and that the latter are circumscribed within very moderate bounds. In pursuing this inquiry, we must bear in mind, that we are not to confine our view to the present period, but to look forward to remote futurity. Constitutions of civil government are not to be framed upon a calculation of existing exigencies; but upon a combination of these, with the probable exigencies of ages, according to the natural and tried course of human affairs. Nothing therefore can be more fallacious, than to infer the extent of any power proper to be lodged in the national government, from an estimate of its immediate necessities. There ought to be a CAPACITY to provide for future contingencies, as they may happen; and as these are illimitable in their nature, so it is impossible safely to limit that capacity. It is true perhaps that a computation might be made, with sufficient accuracy to answer the purpose, of the quantity of revenue requisite to discharge the subsisting engagements of the union, and to maintain those establishments, which for some time to come, would suffice in time of peace. But would it be wise, or would it not rather be the extreme of folly to stop at this point, and to leave the government intrusted with the care of the national defence,

in a ſtate of abſolute incapacity to provide for the protection of the community, againſt future invaſions of the public peace by foreign war or domeſtic convulſions? If we muſt be obliged to exceed this point, where can we ſtop ſhort of an indefinite power of providing for emergencies as they may ariſe? Though it be eaſy to aſſert, in general terms, the poſſibility of forming a rational judgment of a due proviſion againſt probable dangers; yet we may ſafely challenge thoſe who make the aſſertion to bring forward their data, and may affirm that they would be found as vague and uncertain as any that could be produced to eſtabliſh the probable duration of the world. Obſervations confined to the mere proſpects of internal attacks can deſerve no weight, though even theſe will admit of no ſatisfactory calculation: But if we mean to be a commercial people, it muſt form a part of our policy to be able one day to defend that commerce. The ſupport of a navy, and of naval wars, would involve contingencies that muſt baffle all the efforts of political arithmetic.

Admitting that we ought to try the novel and abſurd experiment in politics, of tying up the hands of government from offenſive war founded upon reaſons of ſtate: Yet, certainly we ought not to diſable it from guarding the community againſt the ambition or enmity of other nations. A cloud has been for ſome time hanging over the European world. If it ſhould break forth into a ſtorm, who can inſure us that in its progreſs a part of its fury would not be ſpent upon us? No reaſonable man would haſtily pronounce that we are entirely out of its reach. Or if the combuſtible materials that now ſeem to be collecting, ſhould be diſſipated without coming to maturity; or if a flame ſhould be kindled without extending to us, what ſecurity can we have that our tranquility will long remain undiſturbed from ſome other cauſe, or from ſome other quarter? Let us recollect that peace or war will not always be

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left to our option; that however moderate or unambitious we may be, we cannot count upon the moderation, or hope to extinguish the ambition of others. Who could have imagined, at the conclusion of the last war, that France and Britain, wearied and exhausted as they both were, would so soon have looked with so hostile an aspect upon each other? To judge from the history of mankind we shall be compelled to conclude, that the fiery and destructive passions of war reign in the human breast with much more powerful sway, than the mild and beneficent sentiments of peace; and that to model our political systems upon speculations of lasting tranquility, would be to calculate on the weaker springs of the human character.

What are the chief sources of expence in every government? What has occasioned that enormous accumulation of debts with which several of the European nations are oppressed? The answer plainly is, wars and rebellions, the support of those institutions which are necessary to guard the body politic against these two most mortal diseases of society. The expences arising from those institutions which are relative to the mere domestic police of a state, to the support of its legislative, executive and judiciary departments, with their different appendages, and to the encouragement of agriculture and manufactures, (which will comprehend almost all the objects of state expenditure) are insignificant in comparison with those which relate to the national defence.

In the kingdom of Great-Britain, where all the ostentatious apparatus of monarchy is to be provided for, not above a fifteenth part of the annual income of the nation is appropriated to the class of expences last mentioned; the other fourteen fifteenths are absorbed in the payment of the interest of debts, contracted for carrying on the wars in which that country has been engaged, and in the maintenance of fleets and armies. If on the one hand it should be observed that the

expences incurred in the profecution of the ambitious enterprizes and vain-glorious purſuits of a monarchy, are not a proper ſtandard by which to judge of thoſe which might be neceſſary in a republic; it ought on the other hand to be remarked, that there ſhould be as great a diſproportion, between the profuſion and extravagance of a wealthy kingdom in its domeſtic adminiſtration, and the frugality and economy, which, in that particular, become the modeſt ſimplicity of republican government. If we balance a proper deduction from one ſide againſt that which it is ſuppoſed ought to be made from the other, the proportion may ſtill be conſidered as holding good.

But let us take a view of the large debt which we have ourſelves contracted in a ſingle war, and let us only calculate on a common ſhare of the events which diſturb the peace of nations, and we ſhall inſtantly perceive without the aid of any elaborate illuſtration, that there muſt always be an immenſe diſproportion between the objects of federal and ſtate expenditure. It is true that ſeveral of the ſtates ſeparately are incumbered with conſiderable debts, which are an excreſcence of the late war. But this cannot happen again if the propoſed ſyſtem be adopted; and when theſe debts are diſcharged, the only call for revenue of any conſequence, which the ſtate governments will continue to experience, will be for the mere ſupport of their reſpective civil liſts; to which, if we add all contingencies, the total amount in every ſtate, ought not to exceed two hundred thouſand pounds.

If it cannot be denied to be a juſt principle, that in framing a conſtitution of government for a nation, we ought in thoſe proviſions which are deſigned to be permanent, to calculate not on temporary but on permanent cauſes of expence; our attention would be directed to a proviſion in favor of the ſtate governments for an annual ſum of about 200,000 pounds; while the exigencies of the union could be ſuſceptible of no limits, even in imagination. In this view of the

the ſubject by what logic can it be maintained, that the local governments ought to command in perpetuity, an *excluſive* ſource of revenue for any ſum beyond the extent of 200,000 pounds? To extend its power further, in *excluſion* of the authority of the union, would be to take the reſources of the community out of thoſe hands which ſtood in need of them for the public welfare, in order to put them into other hands, which could have no juſt or proper occaſion for them.

Suppoſe then the convention had been inclined to proceed upon the principle of a repartition of the objects of revenue between the union and its members, in *proportion* to their comparitive neceſſities; what particular fund could have been ſelected for the uſe of the ſtates, that would not either have been too much or too little; too little for their preſent, too much for their future wants? As to the line of ſeparation between external and internal taxes, this would leave to the ſtates, at a rough computation, the command of two-thirds of the reſources of the community to defray from a tenth to a twentieth of its expences; and to the union, one third of the reſources of the community, to defray from nine tenths to nineteen twentieths of its expences. If we deſert this boundary, and content ourſelves with leaving to the ſtates an excluſive power of taxing houſes and lands, there would ſtill be a great diſproportion between the *means* and the *end*; the poſſeſſion of one third of the reſources of the community, to ſupply at moſt one tenth of its wants. If any fund could have been ſelected and appropriated equal to and not greater than the object, it would have been inadequate to the diſcharge of the exiſting debts of the particular ſtates, and would have left them dependent on the union for a proviſion for this purpoſe.

The preceding train of obſervations will juſtify the poſition which has been elſewhere laid down, that, "A CONCURRENT JURISDICTION in the article of taxation,

" taxation, was the only admiſſible ſubſtitute for an " entire ſubordination, in reſpect to this branch of " power, of ſtate authority to that of the union." Any ſeparation of the objects of revenue that could have been fallen upon, would have amounted to a ſacrifice of the great INTERESTS of the union to the POWER of the individual ſtates. The convention thought the concurrent juriſdiction preferable to that ſubordination; and it is evident that it has at leaſt the merit of reconciling an indefinite conſtitutional power of taxation in the federal government, with an adequate and independent power in the ſtates to provide for their own neceſſities. There remain a few other lights, in which this important ſubject of taxation will claim a further conſideration.

PUBLIUS.

NUMBER XXXV.

The ſame Subject continued.

BEFORE we proceed to examine any other objections to an indefinite power of taxation in the union, I ſhall make one general remark; which is, that if the juriſdiction of the national government in the article of revenue ſhould be reſtricted to particular objects, it would naturally occaſion an undue proportion of the public burthens to fall upon thoſe objects. Two evils would ſpring from this ſource, the oppreſſion of particular branches of induſtry, and an unequal diſtribution of the taxes, as well among the ſeveral ſtates as among the citizens of the ſame ſtate.

Suppoſe, as has been contended for, the federal power of taxation were to be confined to duties on imports, it is evident that the government, for want of

of being able to command other resources, would frequently be tempted to extend these duties to an injurious excess. There are persons who imagine that this can never be the case; since the higher they are, the more it is alledged they will tend to discourage an extravagant consumption, to produce a favorable balance of trade, and to promote domestic manufactures. But all extremes are prenicious in various ways. Exorbitant duties on imported articles serve to beget a general spirit of smuggling; which is always prejudicial to the fair trader, and eventually to the revenue itself: They tend to render other classes of the community tributary in an improper degree to the manufacturing classes to whom they give a premature monopoly of the markets: They sometimes force industry out of its more natural channels into others in which it flows with less advantage. And in the last place they oppress the merchant, who is often obliged to pay them himself without any retribution from the consumer. When the demand is equal to the quantity of goods at market, the consumer generally pays the duty; but when the markets happen to be overstocked, a great proportion falls upon the merchant, and sometimes not only exhausts his profits, but breaks in upon his capital. I am apt to think that a division of the duty between the seller and the buyer more often happens than is commonly imagined. It is not always possible to raise the price of a commodity, in exact proportion to every additional imposition laid upon it. The merchant, especially in a country of small commercial capital, is often under a necessity of keeping prices down, in order to a more expeditious sale.

The maxim that the consumer is the payer, is so much oftener true than the reverse of the proposition, that it is far more equitable the duties on imports should go into a common stock, than that they should redound to the exclusive benefit of the importing states. But it is not so generally true as to render

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it equitable that those duties should form the only national fund. When they are paid by the merchant, they operate as an additional tax upon the importing state; whose citizens pay their proportion of them in the character of consumers. In this view they are productive of inequality among the states; which inequality would be increased with the increased extent of the duties. The confinement of the national revenues to this species of imposts, would be attended with inequality, from a different cause, between the manufacturing and the non-manufacturing states. The states which can go furthest towards the supply of their own wants, by their own manufactures, will not, according to their numbers or wealth, consume so great a proportion of imported articles, as those states which are not in the same favourable situation; they would not therefore in this mode alone contribute to the public treasury in a ratio to their abilities. To make them do this, it is necessary that recourse be had to excises; the proper objects of which are particular kinds of manufactures. New-York is more deeply interested in these considerations than such of her citizens as contend for limiting the power of the union to external taxation may be aware of. New-York is an importing state, and from a greater disproportion between her population and territory, is less likely, than some other states, speedily to become in any considerable degree a manufacturing state. She would of course suffer in a double light from restraining the jurisdiction of the union to commercial imposts.

So far as these observations tend to inculcate a danger of the import duties being extended to an injurious extreme it may be observed, conformably to a remark made in another part of these papers, that the interest of the revenue itself would be a sufficient guard against such an extreme. I readily admit that this would be the case as long as other resources were open; but if the avenues to them were closed, HOPE,

stimulated

ſtimulated by neceſſity, might beget experiments fortified by rigorous precautions and additional penalties; which for a time might have the intended effect, till there had been leiſure to contrive expedients to elude theſe new precautions. The firſt ſucceſs would be apt to inſpire falſe opinions; which it might require a long courſe of ſubſequent experience to correct. Neceſſity, eſpecially in politics, often occaſions falſe hopes, falſe reaſonings and a ſyſtem of meaſures, correſpondently erroneous. But even if this ſuppoſed exceſs ſhould not be a conſequence of the limitation of the federal power of taxation, the inequalities ſpoken of would ſtill enſue, though not in the ſame degree, from the other cauſes that have been noticed. Let us now return to the examination of objections.

One which, if we may judge from the frequency of its repetition, ſeems moſt to be relied on, is that the houſe of repreſentatives is not ſufficiently numerous for the reception of all the different claſſes of citizens; in order to combine the intereſts and feelings of every part of the community, and to produce a true ſympathy between the repreſentative body and its conſtituents. This argument preſents itſelf under a very ſpecious and ſeducing form; and is well calculated to lay hold of the prejudices of thoſe to whom it is addreſſed. But when we come to diſſect it with attention, it will appear to be made up of nothing but fair ſounding words. The object it ſeems to aim at is in the firſt place impracticable, and in the ſenſe in which it is contended for is unneceſſary. I reſerve for another place the diſcuſſion of the queſtion which relates to the ſufficiency of the repreſentative body in reſpect to numbers; and ſhall content myſelf with examining here the particular uſe which has been made of a contrary ſuppoſition in reference to the immediate ſubject of our inquiries.

The idea of an actual repreſentation of all claſſes of the people by perſons of each claſs is altogether viſionary.

viſionary. Unleſs it were expreſsly provided in the conſtitution that each different occupation ſhould ſend one or more members, the thing would never take place in practice. Mechanics and manufacturers will always be inclined with few exceptions to give their votes to merchants in preference to perſons of their own profeſſions or trades. Thoſe diſcerning citizens are well aware that the mechanic and manufacturing arts furniſh the materials of mercantile enterpriſe and induſtry. Many of them indeed are immediately connected with the operations of commerce. They know that the merchant is their natural patron and friend; and they are aware that however great the confidence they may juſtly feel in their own good ſenſe, their intereſts can be more effectually promoted by the merchant than by themſelves. They are ſenſible that their habits in life have not been ſuch as to give them thoſe acquired endowments, without which in a deliberative aſſembly the greateſt natural abilities are for the moſt part uſeleſs; and that the influence and weight and ſuperior acquirements of the merchants, render them more equal to a conteſt with any ſpirit which might happen to infuſe itſelf into the public councils unfriendly to the manufacturing and trading intereſts. Theſe conſiderations, and many others that might be mentioned, prove, and experience confirms it, that artizans and manufacturers, will commonly be diſpoſed to beſtow their votes upon merchants and thoſe whom they recommend. We muſt therefore conſider merchants as the natural repreſentatives of all theſe claſſes of the community.

With regard to the learned profeſſions, little need be obſerved; they truly form no diſtinct intereſt in ſociety; and according to their ſituation and talents will be indiſcriminately the objects of the confidence and choice of each other, and of other parts of the community.

Nothing

Nothing remains but the landed intereſt; and this in a political view, and particularly in relation to taxes I take to be perfectly united from the wealthieſt landlord to the pooreſt tenant. No tax can be laid on land which will not affect the propietor of millions of acres as well as the proprietor of a ſingle acre. Every land-holder will therefore have a common intereſt to keep the taxes on land as low as poſſible; and common intereſt may always be reckoned upon as the ſureſt bond of ſympathy. But if we even could ſuppoſe a diſtinction of intereſt between the opulent land-holder and the middling farmer, what reaſon is there to conclude that the firſt would ſtand a better chance of being deputed to the national legiſlature than the laſt? If we take fact as our guide, and look into our own ſenate and aſſembly we ſhall find that moderate proprietors of land prevail in both; nor is this leſs the caſe in the ſenate, which conſiſts of a ſmaller number than in the aſſembly, which is compoſed of a greater number. Where the qualifications of the electors are the ſame, whether they have to chooſe a ſmall or a large number their votes will fall upon thoſe in whom they have moſt confidence; whether theſe happen to be men of large fortunes or of moderate property or of no property at all.

It is ſaid to be neceſſary that all claſſes of citizens ſhould have ſome of their own number in the repreſentative body, in order that their feelings and intereſts may be the better underſtood and attended to. But we have ſeen that this will never happen under any arrangement that leaves the votes of the people free. Where this is the caſe, the repreſentative body, with too few exceptions to have any influence on the ſpirit of the government will be compoſed of land-holders, merchants, and men of the learned profeſſions. But where is the danger that the intereſts and feelings of the different claſſes of citizens will not be underſtood or attended to by theſe three deſcriptions of men? Will not the land-holder know and feel whatever will

promote or injure the intereſts of landed property? and will he not from his own intereſt in that ſpecies of property be ſufficiently prone to reſiſt every attempt to prejudice or encumber it? Will not the merchant underſtand and be diſpoſed to cultivate as far as may be proper the intereſts of the mechanic and manufacturing arts to which his commerce is ſo nearly allied? Will not the man of the learned profeſſion, who will feel a neutrality to the rivalſhips between the different branches of induſtry, be likely to prove an impartial arbiter between them, ready to promote either, ſo far as it ſhall appear to him conducive to the general intereſts of the ſociety?

If we take into the account the momentary humours or diſpoſitions which may happen to prevail in particular parts of the ſociety, and to which a wiſe adminiſtration will never be inattentive, is the man whoſe ſituation leads to extenſive inquiry and information leſs likely to be a competent judge of their nature, extent and foundation than one whoſe obſervation does not travel beyond the circle of his neighbours and acquaintances? Is it not natural that a man who is a candidate for the favour of the people, and who is dependent on the ſuffrages of his fellow-citizens for the continuance of his public honors ſhould take care to inform himſelf of their diſpoſitions and inclinations and ſhould be willing to allow them their proper degree of influence upon his conduct. This dependence, and the neceſſity of being bound himſelf and his poſterity by the laws to which he gives his aſſent are the true, and they are the ſtrong chords of ſympathy between the repreſentative and the conſtituent.

There is no part of the adminiſtration of government that requires extenſive information and a thorough knowledge of the principles of political economy ſo much as the buſineſs of taxation. The man who underſtands thoſe principles beſt will be leaſt likely to reſort to oppreſſive expedients, or to ſacrifice any particular claſs of citizens to the procurement of revenue.

revenue. It might be demonſtrated that the moſt productive ſyſtem of finance will always be the leaſt burthenſome. There can be no doubt that in order to a judicious exerciſe of the power of taxation, it is neceſſary that the perſon in whoſe hands it is ſhould be acquainted with the general genius, habits and modes of thinking of the people at large and with the reſources of the country. And this is all that can be reaſonably meant by a knowledge of the intereſts and feelings of the people. In any other ſenſe the propoſition has either no meaning, or an abſurd one. And in that ſenſe let every conſiderate citizen judge for himſelf where the requiſite qualification is moſt likely to be found.

PUBLIUS.

NUMBER XXXVI.

The ſame Subject continued.

WE have ſeen that the reſult of the obſervations, to which the foregoing number has been principally devoted, is that from the natural operation of the different intereſts and views of the various claſſes of the community, whether the repreſentation of the people be more or leſs numerous, it will conſiſt almoſt entirely of proprietors of land, of merchants and of members of the learned profeſſions, who will truly repreſent all thoſe different intereſts and views. If it ſhould be objected that we have ſeen other deſcriptions of men in the local legiſlatures; I anſwer, that it is admitted there are exceptions to the rule, but not in ſufficient number to influence the general complexion or character of the government. There are ſtrong minds in every walk of life that will riſe ſuperior to the diſadvantages of ſituation, and will command the

tribute due to their merit, not only from the classes to which they particularly belong, but from the society in general. The door ought to be equally open to all; and I trust, for the credit of human nature, that we shall see examples of such vigorous plants flourishing in the soil of federal, as well as of state legislation; but occasional instances of this sort, will not render the reasoning founded upon the general course of things less conclusive.

The subject might be placed in several other lights that would lead all to the same result; and in particular it might be asked, what greater affinity or relation of interest can be conceived between the carpenter and blacksmith, and the linen manufacturer or stocking weaver, than between the merchant and either of them? It is notorious, that there are often as great rivalships between different branches of the mechanic or manufacturing arts, as there are between any of the departments of labour and industry; so that unless the representative body were to be far more numerous than would be consistent with any idea of regularity or wisdom in its deliberations, it is impossible that what seems to be the spirit of the objection we have been considering, should ever be realised in practice. But I forbear to dwell longer on a matter, which has hitherto worn too loose a garb to admit even of an accurate inspection of its real shape or tendency.

There is another objection of a somewhat more precise nature which claims our attention. It has been asserted that a power of internal taxation in the national legislature could never be exercised with advantage, as well from the want of a sufficient knowledge of local circumstances as from an interference between the revenue laws of the union and of the particular states. The supposition of a want of proper knowledge, seems to be entirely destitute of foundation. If any question is depending in a state legislature respecting one of the counties which demands a knowledge of local details, how is it acquired? No doubt from

from the information of the members of the county. Cannot the like knowledge be obtained in the national legiſlature from the repreſentatives of each ſtate? And is it not to be preſumed that the men who will generally be ſent there, will be poſſeſſed of the neceſſary degree of intelligence, to be able to communicate that information? Is the knowledge of local circumſtances, as applied to taxation, a minute topographical acquaintance with all the mountains, rivers, ſtreams, highways and bye-paths in each ſtate, or is it a general acquaintance with its ſituation and reſources—with the ſtate of its agriculture, commerce, manufactures—with the nature of its products and conſumptions—with the different degrees and kinds of its wealth, property and induſtry?

Nations in general, even under governments of the more popular kind, uſually commit the adminiſtration of their finances to ſingle men, or to boards compoſed of a few individuals, who digeſt and prepare, in the firſt inſtance, the plans of taxation; which are afterwards paſſed into laws by the authority of the ſovereign or legiſlature. Inquiſitive and enlightened ſtateſmen are every where deemed beſt qualified to make a judicious ſelection of the objects proper for revenue; which is a clear indication, as far as the ſenſe of mankind can have weight in the queſtion, of the ſpecies of knowledge of local circumſtances requiſite to the purpoſes of taxation.

The taxes intended to be compriſed under the general denomination of internal taxes, may be ſubdivided into thoſe of the *direct* and thoſe of the *indirect* kind. Though the objection be made to both, yet the reaſoning upon it ſeems to be confined to the former branch. And indeed as to the latter, by which muſt be underſtood duties and exciſes on articles of conſumption, one is at a loſs to conceive what can be the nature of the difficulties apprehended. The knowledge relating to them, muſt evidently be of a kind that will either be ſuggeſted by the nature of the

article itſelf, or can eaſily be procured from any well informed man, eſpecially of the mercantile claſs. The circumſtances that may diſtinguiſh its ſituation in one ſtate from its ſituation in another, muſt be few, ſimple, and eaſy to be comprehended. The principal thing to be attended to would be to avoid thoſe articles which had been previouſly appropriated to the uſe of a particular ſtate; and there could be no difficulty in aſcertaining the revenue ſyſtem of each. This could always be known from the reſpective codes of laws, as well as from the information of the members of the ſeveral ſtates.

The objection when applied to real property, or to houſes and lands, appears to have, at firſt ſight, more foundation; but even in this view, it will not bear a cloſe examination. Land taxes are commonly laid in one of two modes, either by *actual* valuations permanent or periodical, or by occaſional aſſeſſments, at the diſcretion or according to the beſt judgment of certain officers, whoſe duty it is to make them.—In either caſe the EXECUTION of the buſineſs, which alone requires the knowledge of local details, muſt be devolved upon diſcreet perſons in the character of commiſſioners or aſſeſſors, elected by the people or appointed by the government for the purpoſe. All that the law can do muſt be to name the perſons, or to preſcribe the manner of their election or appointment, to fix their numbers and qualifications; and to draw the general outlines of their powers and duties. And what is there in all this, that cannot as well be performed by the national legiſlature as by a ſtate legiſlature? The attention of either can only reach to general principles; local details, as already obſerved, muſt be referred to thoſe who are to execute the plan.

But there is a ſimple point of view in which this matter may be placed, that muſt be altogether ſatisfactory. The national legiſlature can make uſe of the *ſyſtem of each ſtate within that ſtate.* The method of laying and collecting this ſpecies of taxes in each ſtate, can,

can, in all its parts, be adopted and employed by the federal government.

Let it be recollected, that the proportion of these taxes is not to be left to the discretion of the national legislature: but is to be determined by the numbers of each state, as described in the second section of the first article. An actual census or enumeration of the people must furnish the rule; a circumstance which effectually shuts the door to partiality or oppression. The abuse of this power of taxation seems to have been provided against with guarded circumspection. In addition to the precaution just mentioned, there is a provision that "all duties, imposts, and excises, "shall be UNIFORM throughout the United States."

It has been very properly observed by different speakers and writers on the side of the constitution, that if the exercise of the power of internal taxation by the union, should be judged beforehand upon mature consideration, or should be discovered on experiment, to be really inconvenient, the federal government may forbear the use of it, and have recourse to requisitions in its stead. By way of answer to this, it has been triumphantly asked, why not in the first instance omit that ambiguous power and rely upon the latter resource? Two solid answers may be given; the first is, that the actual exercise of the power, may be found both *convenient* and *necessary*; for it is impossible to prove in theory or otherwise, than by the experiment that it cannot be advantageously exercised. The contrary indeed appears most probable. The second answer is, that the existence of such a power in the constitution, will have a strong influence in giving efficacy to requisitions. When the states know that the union can supply itself without their agency, it will be a powerful motive for exertion on their part.

As to the interference of the revenue laws of the union, and of its members; we have already seen that there can be no clashing or repugnancy of authority. The laws cannot therefore in a legal sense, interfere with

with each other; and it is far from impoſſible to avoid an interference even in the policy of their different ſyſtems. An effectual expedient for this purpoſe will be mutually to abſtain from thoſe objects, which either ſide may have firſt had recourſe to. As neither can *controul* the other, each will have an obvious and ſenſible intereſt in this reciprocal forbearance. And where there is an *immediate* common intereſt, we may ſafely count upon its operation. When the particular debts of the ſtates are done away, and their expences come to be limited within their natural compaſs, the poſſibility almoſt of interference will vaniſh. A ſmall land tax will anſwer the purpoſes of the ſtates, and will be their moſt ſimple and moſt fit reſource.

Many ſpectres have been raiſed out of this power of internal taxation, to excite the apprehenſions of the people—double ſets of revenue officers—a duplication of their burthens by double taxations, and the frightful forms of odious and oppreſſive poll-taxes, have been played off with all the ingenious dexterity of political legerdemain.

As to the firſt point, there are two caſes in which there can be no room for double ſets of officers; one where the right of impoſing the tax is excluſively veſted in the union, which applies to the duties on imports; the other, where the object has not fallen under any ſtate regulation or proviſion, which may be applicable to a variety of objects. In other caſes, the probability is, that the United States will either wholly abſtain from the objects pre-occupied for local purpoſes, or will make uſe of the ſtate officers and ſtate regulations, for collecting the additional impoſition. This will beſt anſwer the views of revenue, becauſe it will ſave expence in the collection, and will beſt avoid any occaſion of diſguſt to the ſtate governments and to the people. At all events, here is a practicable expedient for avoiding ſuch an inconvenience; and nothing more can be required than to ſhow that evils predicted do not neceſſarily reſult from the plan.

As

As to any argument derived from a ſuppoſed ſyſtem of influence, it is a ſufficient anſwer to ſay, that it ought not to be preſumed; but the ſuppoſition is ſuſceptible of a more preciſe anſwer. If ſuch a ſpirit ſhould infeſt the councils of the union, the moſt certain road to the accompliſhment of its aim would be to employ the ſtate officers as much as poſſible, and to attach them to the union by an accumulation of their emoluments. This would ſerve to turn the tide of ſtate influence into the channels of the national government, inſtead of making federal influence flow in an oppoſite and adverſe current. But all ſuppoſitions of this kind are invidious, and ought to be baniſhed from the conſideration of the great queſtion before the people. They can anſwer no other end than to caſt a miſt over the truth.

As to the ſuggeſtion of double taxation, the anſwer is plain. The wants of the union are to be ſupplied in one way or another; if to be done by the authority of the federal government, it will not be to be done by that of the ſtate governments. The quantity of taxes to be paid by the community, muſt be the ſame in either caſe; with this advantage, if the proviſion is to be made by the union, that the capital reſource of commercial impoſts, which is the moſt convenient branch of revenue, can be prudently improved to a much greater extent under federal than under ſtate regulation, and of courſe will render it leſs neceſſary to recur to more inconvenient methods; and with this further advantage, that as far as there may be any real difficulty in the exerciſe of the power of internal taxation, it will impoſe a diſpoſition to greater care in the choice and arrangement of the means; and muſt naturally tend to make it a fixed point of policy in the national adminiſtration to go as far as may be practicable in making the luxury of the rich tributary to the public treaſury, in order to diminiſh the neceſſity of thoſe impoſitions, which might create diſſatisfaction in the poorer and moſt numerous claſſes of the ſociety.

ſociety. Happy it is when the intereſt which the government has in the preſervation of its own power, coincides with a proper diſtribution of the public burthens, and tends to guard the leaſt wealthy part of the community from oppreſſion!

As to poll taxes, I, without ſcruple, confeſs my diſapprobation of them; and though they have prevailed from an early period in thoſe ſtates* which have uniformly been the moſt tenacious of their rights, I ſhould lament to ſee them introduced into practice under the national government. But does it follow, becauſe there is a power to lay them, that they will actually be laid? Every ſtate in the union has power to impoſe taxes of this kind; and yet in ſeveral of them they are unknown in practice. Are the ſtate governments to be ſtigmatiſed as tyrannies becauſe they poſſeſs this power? If they are not, with what propriety can the like power juſtify ſuch a charge againſt the national government, or even be urged as an obſtacle to its adoption? As little friendly as I am to the ſpecies of impoſition, I ſtill feel a thorough conviction, that the power of having recourſe to it, ought to exiſt in the federal government. There are certain emergencies of nations, in which expedients that in the ordinary ſtate of things ought to be foreborn, become eſſential to the public weal. And the government from the poſſibility of ſuch emergencies ought ever to have the option of making uſe of them. The real ſcarcity of objects in this country, which may be conſidered as productive ſources of revenue, is a reaſon peculiar to itſelf, for not abridging the diſcretion of the national councils in this reſpect. There may exiſt certain critical and tempeſtuous conjunctures of the ſtate, in which a poll tax may become an ineſtimable reſource. And as I know nothing to exempt this portion of the globe from the common calamities that have befallen other parts of it, I acknowledge my averſion to every project that is calculated to

* The New-England ſtates.

to disarm the government of a single weapon, which in any possible contingency might be usefully employed for the general defence and security.

I have now gone through the examination of those powers proposed to be conferred upon the federal government; which relate more peculiarly to its energy, and to its efficiency for answering the great and primary objects of union. There are others, which though omitted here, will in order to render the view of the subject more complete, be taken notice of under the next head of our enquiries. I flatter myself the progress already made will have sufficed to satisfy the candid and judicious part of the community, that some of the objections which have been most strenuously urged against the constitution, and which were most formidable in their first appearance, are not only destitute of substance, but if they had operated in the formation of the plan, would have rendered it incompetent to the great ends of public happiness and national prosperity. I equally flatter myself that a further and more critical investigation of the system will serve to recommend it still more to every sincere and disinterested advocate for good government; and will leave no doubt with men of this character of the propriety and expediency of adopting it. Happy will it be for ourselves, and most honorable for human nature, if we have wisdom and virtue enough, to set so glorious an example to mankind!

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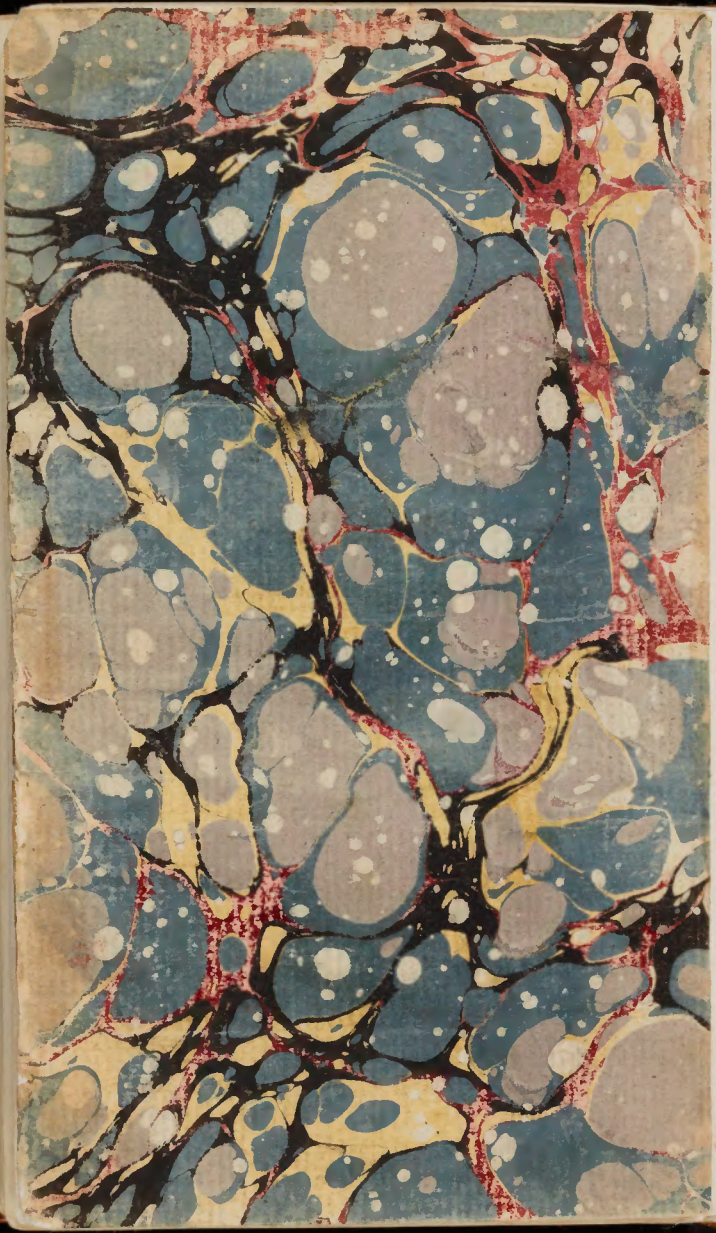
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