

WEEK SEVEN

THE INFERNAL TRAFFIC

Slavery, the Constitution, and the Cost of Union, 1787–1791

THE FOUNDING DEBATE READING GROUP

Summer 2026

Selected and edited by Mason Melead

The documents here come from four kinds of source and are treated accordingly. The record of the Convention is Madison's, taken in the room and not published until 1840; it is given as *The Founders' Constitution* prints it from Farrand's Records, with that edition's date lines kept, and with Madison's abbreviations and his spelling of the delegates' names left as he wrote them—Rutledge, Elseworth, Pinkney, Ghorum. The fifty-fourth *Federalist* is the Avalon Project's text, printed entire, with that edition's practice of setting the author's emphasis in capitals left as it stands; that edition also closes a quotation with two apostrophes rather than a quotation mark, and those have been normalised. Brutus, Luther Martin's *Genuine Information*, Wilson in the Pennsylvania convention, the Virginia convention's day on the clause, and the report of the House committee are from the same edition, following Storing's *Complete Anti-Federalist*, Elliot's *Debates*, and the *Annals of Congress*; a convention report is not a transcript but a reporter's account, published years afterward, and the speakers' names are given as those editions give them. Franklin's letter to the *Federal Gazette* is set from *Works of the Late Doctor Benjamin Franklin* (London, 1793), where the long s of that printing is converted to an ordinary s, which this series counts as presentation rather than language. Banneker's letter of 19 August 1791 and Jefferson's answer of 30 August are given from the manuscripts, as the editors of the *Papers of Jefferson* print them, with Banneker's spelling and his heavy and irregular capitalisation exactly as he wrote them, and with the square brackets the editors use to mark a damaged word left in place. The letter was printed the following year as a pamphlet in Philadelphia, and that printing is not followed: its compositor regularised Banneker's spelling and capitalisation throughout, sent Jefferson's almanac to a Monsieur de Condozett, and dropped the footnote in which Banneker says that his father was brought here a slave from Africa. Two of the texts in the week's reading are selections rather than whole documents: the record of the Convention and the Virginia convention's day. Every omission is bridged by a bracketed note in the editor's voice saying what was left out, and nothing has been cut silently. The supplement carries six documents the reading refers to but does not print.

This reader was selected, introduced, and typeset by Mason Melead for the Founding Debate Reading Group. masonmelead.com

INTRODUCTION

The word does not appear. Not in the three-fifths clause, which counts “all other Persons”; not in the ninth section, which protects “the Migration or Importation of such Persons as any of the States now existing shall think proper to admit”; not in the fourth article, which provides for the return of a “Person held to Service or Labour.” Madison thought it wrong to admit into the Constitution the idea that there could be property in men, and the draftsmen took him at his word, and wrote three clauses that did nothing else.

This week is about how those clauses got there, what the men who wrote them said they were doing, and what happened the first time anyone asked the new government to undo them.

The group has been reading the founding argument for six weeks and has not yet spent an evening on this. That is a fair description of most courses on the subject, and it is also the reason Week 8 will not make sense without this one. In three weeks the group will read the Gettysburg Address, which dates the nation to 1776 and the Declaration rather than to 1787 and the Constitution. Whether that is a recovery of the founding or a revision of it is a question about the documents in this volume.

Four things to know before starting.

The first is that the argument in Philadelphia was not between people who thought slavery was good and people who thought it was evil. Almost everyone quoted here calls it an evil, including several men who owned people, and including the delegates who insisted on protecting the trade. The argument was about whether a union could be had on any other terms, and what a union was worth.

The second is that the alignments are not the modern ones. The fiercest speech against the traffic is George Mason's, who held some three hundred people at Gunston Hall. The most insistent voices for leaving the matter alone are from Connecticut and Massachusetts, states that had ended slavery or were ending it, and whose delegates argue that it is none of the Convention's business and will die out by itself. Ellsworth of Connecticut predicts that "slavery in time will not be a speck in our Country." The delegates from South Carolina and Georgia say, plainly and more than once, that their states will not join a union that forbids the trade, and there is no evidence in the record that they were bluffing.

The third is the exchange in which the bargain is called a bargain. On the twenty-fifth of August, Roger Sherman objects to a duty on imported people because a tax acknowledges men to be property. Rufus King and John Langdon reply that the duty is the price of the first part of the clause. General Pinckney "admitted that it was so." Four lines, and everyone in the room understood the transaction and said so out loud.

The fourth is that the question was put at the time, on the floor, by a man defending the Constitution. George Nicholas, in the Virginia convention, asked whether gentlemen who disliked the clause would rather the Southern states had not confederated at all. Nobody answered him. It is still the question, and it is the one to bring on the night: not whether the bargain was wicked, which every man in this volume who opposed it already said, but whether it was necessary, and whether the thing bought was worth the price.

The volume ends with the first bill coming due. In 1790 the Quakers and the Pennsylvania Abolition Society—Franklin signing, two months from death—asked Congress to act, and Congress answered with a list of the things it had no authority to do. Franklin's reply, the last thing he published, put the case for slavery into the mouth of an Algerian slaver and let it argue itself. He died three weeks later, and the clause stood for eighteen years more, exactly as written.

A TIMELINE OF THE BARGAIN

Four years from the clause to the first attempt to reopen it.

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- 12 July 1787 • **THREE-FIFTHS**
The Convention settles the ratio for apportioning representatives and direct taxes. It had been proposed to the Confederation Congress in 1783 as a rule for taxation alone, and rejected.
- 21–22 Aug. 1787 • **THE INFERNAL TRAFFIC**
Luther Martin moves to allow a prohibition on importing slaves. Rutledge, Ellsworth, and the two Pinckneys resist; Mason denounces the trade and warns of the judgment of heaven; Georgia and South Carolina say their states will not join a union that forbids it. The question is committed. *In this volume.*
- 25 Aug. 1787 • **THE PRICE OF THE CLAUSE**
The year is put off from 1800 to 1808. Sherman objects to a duty on imported people as acknowledging men to be property; King and Langdon call the duty the price of the first part of the clause; Pinckney admits that it is. Madison says it is wrong to admit into the Constitution the idea that there could be property in men. *In this volume.*
- 15 Nov. 1787 • **BRUTUS ON THE RATIO**
If they are property, why represent them any more than horses; if they are persons, why are they represented by the men who own them? *In this volume.*

- 29 Nov. 1787 ● **THE GENUINE INFORMATION**
 Luther Martin, who left the Convention without signing, tells the Maryland legislature what he saw, and calls the clause dishonourable to the American character. *In this volume.*
- 3–4 Dec. 1787 ● **THE FOUNDATION LAID**
 Wilson tells the Pennsylvania convention that the power to prohibit the trade after twenty years lays the foundation for banishing slavery from the country. *In the supplement.*
- 12 Feb. 1788 ● **THE BORROWED VOICE**
 The fifty-fourth Federalist defends the ratio in the person of an imagined Southern advocate: the enslaved are of mixed character, persons and property, because the law has made them so. *In this volume.*
- 17 June 1788 ● **WOULD GENTLEMEN RATHER?**
 Mason calls the clause a fatal section; Madison answers that it was the most that could be had; and George Nicholas asks whether gentlemen would rather the Southern states had not confederated at all. Nobody answers him. *In this volume.*
- Feb.–Mar. 1790 ● **THE PETITIONS**
 Quaker meetings and the Pennsylvania Abolition Society, Franklin signing, ask the new Congress to act. The House replies with a list of what it has no authority to do. Franklin answers in the newspaper three weeks before he dies. *Both in this volume.*
- 19 Aug. 1791 ● **THE ALMANAC**
 Banneker sends the Secretary of State a manuscript of astronomical calculations and a letter quoting the Declaration back to the man who drafted it. Jefferson answers on the thirtieth. *Both in the supplement.*

IN CONVENTION

Madison's Notes

PHILADELPHIA · 23 JULY – 25 AUGUST 1787

In Week 3 the group read Madison's notes of the Convention's first weeks, when the delegates were deciding what kind of government to build. This is the same room five weeks later, deciding what it would cost.

The clause under debate became the first clause of the ninth section: Congress may not prohibit "the Migration or Importation of such Persons as any of the States now existing shall think proper to admit" before 1808. The word slavery does not appear in it, or anywhere in the Constitution. The argument that produced it does not share that delicacy.

Read it for who says what, because the alignments are not the ones a reader expects. The two men who denounce the trade most fiercely are George Mason of Virginia, who owned some three hundred people, and Gouverneur Morris of Pennsylvania, who did not. The men who defend it are the delegates of South Carolina and Georgia, who say plainly and repeatedly that their states will not join a union that forbids it—and the delegates of Connecticut and Massachusetts, whose states had abolished or were abolishing slavery, and who argue that the matter is none of the Convention's business. Ellsworth of Connecticut, who says he has never owned a slave and so cannot judge the effects of slavery on character, thinks the thing will die out on its own: "Slavery in time will not be a speck in our Country." Sherman of Connecticut disapproves of the trade and urges the Convention to get on with its business.

Mason's speech of the twenty-second of August, which gives this volume its title, is the one to read twice. It is a slaveholder's case against slavery, made on grounds of security, economy, manners, and providence, and it ends: "Every master of slaves is born a petty tyrant. They bring the judgment of heaven on a Country... By an inevitable chain of causes & effects providence punishes national sins, by national calamities." Seventy-four years later the group's eighth week will read a president saying almost exactly this, in almost the same words, about the war that followed.

Then the twenty-fifth of August, and four lines in which the bargain is named as one. Sherman objects to taxing imported people, because a duty acknowledges men to be property. King and Langdon answer that the duty is the price of the first part of the clause. Pinckney “admitted that it was so.” Madison then says he thought it wrong to admit into the Constitution the idea that there could be property in men—and the duty was written in anyway, in language contrived to avoid saying so.

Printed here in selection, with the editors’ date lines kept and every cut bridged; what is left out is the skirmish of the eighth of August, the state-by-state divisions, and the procedural business around the motions to commit. It is Madison’s account, taken in the room and not published until 1840, and it is the only account there is.

IN CONVENTION

MADISON'S NOTES · 23 JULY – 25 AUGUST 1787

[2 :95; *Madison, 23 July*]

Genl. Pinkney reminded the Convention that if the Committee should fail to insert some security to the Southern States agst. an emancipation of slaves, and taxes on exports, he shd. be bound by duty to his State to vote agst. their Report.—The appt. of a Come. as moved by Mr. Gerry. Agd. to nem. con.

[2:220; *Madison, 8 Aug.*]

Mr. Sherman regarded the slave-trade as iniquitous; but the point of representation having been Settled after much difficulty & deliberation, he did not think himself bound to make opposition; especially as the present article as amended did not preclude any arrangement whatever on that point in another place of the Report.

[Rufus King and Gouverneur Morris object that the exemption of slaves from any duty on imports is an offence to the Middle States, and would never be accepted by them.]

[2:364; *Madison, 21 Aug.*]

Mr L—Martin, proposed to vary the sect: 4. art VII so as to allow a prohibition or tax on the importation of slaves. 1. As five slaves are to be counted as 3 free men in the apportionment of Representatives; such a clause wd. leave an encouragement to this trafic. 2 slaves weakened one part of the Union which the other parts were bound to protect: the privilege of importing them was therefore unreasonable—3. it was

inconsistent with the principles of the revolution and dishonorable to the American character to have such a feature in the Constitution.

Mr. Rutledge did not see how the importation of slaves could be encouraged by this section. He was not apprehensive of insurrections and would readily exempt the other States from the obligation to protect the Southern against them.—Religion & humanity had nothing to do with this question—Interest alone is the governing principle with Nations —The true question at present is whether the Southn. States shall or shall not be parties to the Union. If the Northern States consult their interest, they will not oppose the increase of Slaves which will increase the commodities of which they will become the carriers.

Mr. Elsworth was for leaving the clause as it stands. let every State import what it pleases. The morality or wisdom of slavery are considerations belonging to the States themselves—What enriches a part enriches the whole, and the States are the best judges of their particular interest. The old confederation had not meddled with this point, and he did not see any greater necessity for bringing it within the policy of the new one:

Mr Pinkney. South Carolina can never receive the plan if it prohibits the slave trade. In every proposed extension of the powers of Congress, that State has expressly & watchfully excepted that of meddling with the importation of negroes. If the States be all left at liberty on this subject, S. Carolina may perhaps by degrees do of herself what is wished, as Virginia & Maryland have already done.

[2:369; *Madison*, 22 Aug.]

Art. VII sect 4. resumed. Mr. Sherman was for leaving the clause as it stands. He disapproved of the slave trade: yet as the States were now possessed of the right to import slaves, as the public good did not require it to be taken from them, & as it was expedient to have as few objections as possible to the proposed scheme of Government, he thought it best to leave the matter as we find it. He observed that the abolition of slavery seemed to be going on in the U. S. & that the good sense of the several States would probably by degrees compleat it. He urged on the Convention the necessity of despatching its business.

Col. Mason. This infernal traffic originated in the avarice of British Merchants. The British Govt. constantly checked the attempts of Virginia to put a stop to it. The present question concerns not the importing States alone but the whole Union. The evil of having slaves was experienced during the late war. Had slaves been treated as they might have been by the Enemy, they would have proved dangerous instruments in their hands. But their folly dealt by the slaves, as it did by the Tories. He mentioned the dangerous insurrections of the slaves in Greece and Sicily; and the instructions given by Cromwell to the Commissioners sent to Virginia, to arm the servants & slaves, in case other means of obtaining its submission should fail. Maryland & Virginia he said had already prohibited the importation of slaves expressly. N. Carolina had done the same in substance. All this would be in vain if S. Carolina & Georgia be at liberty to import. The Western people are already calling out for slaves for their new lands; and will fill that Country with slaves if they can be got thro' S. Carolina & Georgia. Slavery discourages arts & manufactures. The poor despise labor when performed by slaves. They prevent the immigration of Whites, who really enrich & strengthen a Country. They produce the most pernicious effect on manners. Every master of slaves is born a petty tyrant. They bring the judgment of heaven on a Country. As nations can not be rewarded or punished in the next world they must be in this. By an inevitable chain of causes & effects providence punishes national sins, by national calamities. He lamented that some of our Eastern brethren had from a lust of gain embarked in this nefarious traffic. As to the States being in possession of the Right to import, this was the case with many other rights, now to be properly given up. He held it essential in every point of view, that the Genl. Govt. should have power to prevent the increase of slavery.

Mr. Elsworth. As he had never owned a slave could not judge of the effects of slavery on character. He said however that if it was to be considered in a moral light we ought to go farther and free those already in the Country.—As slaves also multiply so fast in Virginia & Maryland that it is cheaper to raise than import them, whilst in the sickly rice swamps foreign supplies are necessary, if we go no farther than is urged, we shall be unjust towards S. Carolina & Georgia—Let us not intermeddle. As

population increases; poor laborers will be so plenty as to render slaves useless. Slavery in time will not be a speck in our Country. Provision is already made in Connecticut for abolishing it. And the abolition has already taken place in Massachusetts. As to the danger of insurrections from foreign influence, that will become a motive to kind treatment of the slaves.

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

General Pinkney declared it to be his firm opinion that if himself & all his colleagues were to sign the Constitution & use their personal influence, it would be of no avail towards obtaining the assent of their Constituents. S. Carolina & Georgia cannot do without slaves. As to Virginia she will gain by stopping the importations. Her slaves will rise in value, & she has more than she wants. It would be unequal to require S. C. & Georgia to confederate on such unequal terms. He said the Royal assent before the Revolution had never been refused to S. Carolina as to Virginia. He contended that the importation of slaves would be for the interest of the whole Union. The more slaves, the more produce to employ the carrying trade; The more consumption also, and the more of this, the more of revenue for the common treasury. He admitted it to be reasonable that slaves should be dutied like other imports, but should consider a rejection of the clause as an exclusion of S. Carola from the Union.

Mr. Baldwin had conceived national objects alone to be before the Convention, not such as like the present were of a local nature. Georgia was decided on this point. That State has always hitherto supposed a Genl Governmt to be the pursuit of the central States who wished to have a vortex for every thing—that her distance would preclude her from equal advantage—& that she could not prudently purchase it by yielding

national powers. From this it might be understood in what light she would view an attempt to abridge one of her favorite prerogatives. If left to herself, she may probably put a stop to the evil. As one ground for this conjecture, he took notice of the sect of which he said was a respectable class of people, who carried their ethics beyond the mere *equality of men*, extending their humanity to the claims of the whole animal creation.

Mr. Wilson observed that if S. C. & Georgia were themselves disposed to get rid of the importation of slaves in a short time as had been suggested, they would never refuse to Unite because the importation might be prohibited. As the Section now stands all articles imported are to be taxed. Slaves alone are exempt. This is in fact a bounty on that article.

Mr. Gerry thought we had nothing to do with the conduct of the States as to Slaves, but ought to be careful not to give any sanction to it.

Mr. Dickenson considered it as inadmissible on every principle of honor & safety that the importation of slaves should be authorized to the States by the Constitution. The true question was whether the national happiness would be promoted or impeded by the importation, and this question ought to be left to the National Govt. not to the States particularly interested. If Engd. & France permit slavery, slaves are at the same time excluded from both those Kingdoms. Greece and Rome were made unhappy by their slaves. He could not believe that the Southn. States would refuse to confederate on the account apprehended; especially as the power was not likely to be immediately exercised by the Genl. Government.

Mr Williamson stated the law of N. Carolina on the subject, to wit that it did not directly prohibit the importation of slaves. It imposed a duty of £5. on each slave imported from Africa. £10. on each from elsewhere, & £50 on each from a State licensing manumission. He thought the S. States could not be members of the Union if the clause should be rejected, and that it was wrong to force any thing down, not absolutely necessary, and which any State must disagree to.

Mr. King thought the subject should be considered in a political light only. If two States will not agree to the Constitution as stated on one side,

he could affirm with equal belief on the other, that great & equal opposition would be experienced from the other States. He remarked on the exemption of slaves from duty whilst every other import was subjected to it, as an inequality that could not fail to strike the commercial sagacity of the Northn. & middle States.

Mr. Langdon was strenuous for giving the power to the Genl. Govt. He cd. not with a good conscience leave it with the States who could then go on with the traffic, without being restrained by the opinions here given that they will themselves cease to import slaves.

Genl. Pinkney thought himself bound to declare candidly that he did not think S. Carolina would stop her importations of slaves in any short time, but only stop them occasionally as she now does. He moved to commit the clause that slaves might be made liable to an equal tax with other imports which he thought right & wch. wd. remove one difficulty that had been started.

Mr. Rutledge. If the Convention thinks that N. C; S. C. & Georgia will ever agree to the plan, unless their right to import slaves be untouched, the expectation is vain. The people of those States will never be such fools as to give up so important an interest. He was strenuous agst. striking out the Section, and seconded the motion of Genl. Pinkney for a commitment.

Mr Govr. Morris wished the whole subject to be committed including the clauses relating to taxes on exports & to a navigation act. These things may form a bargain among the Northern & Southern States.

[Butler declares he will never agree to a power of taxing exports. Sherman, Read, and Randolph speak to the motion for committing, Randolph hoping some middle ground may be found, and the question passes: seven states for, three against, one divided, and Massachusetts absent.]

[2:415; *Madison*, 25 Aug.]

Genl Pinkney moved to strike out the words “the year eighteen hundred” as the year limiting the importation of slaves, and to insert the words “the year eighteen hundred and eight”

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

On the motion; which passed in the affirmative.

[The motion to put the year off from 1800 to 1808 carries, seven states to four. Gouverneur Morris then proposes naming the three states outright in the clause; Mason objects to naming them though not to using the word slaves; Sherman prefers a description; and Morris withdraws.]

The first part of the report was then agreed to, amended as follows. "The migration or importation of such persons as the several States now existing shall think proper to admit, shall not be prohibited by the Legislature prior to the year 1808."

[Seven states to four. Baldwin then moves to define the average duty more exactly.]

Mr. Sherman was agst. this 2d part, as acknowledging men to be property, by taxing them as such under the character of slaves,

Mr. King & Mr. Langdon considered this as the price of the 1st part.

Genl. Pinkney admitted that it was so.

Col: Mason. Not to tax, will be equivalent to a bounty on the importation of slaves.

Mr. Ghorum thought that Mr Sherman should consider the duty, not as implying that slaves are property, but as a discouragement to the importation of them.

Mr Govr, Morris remarked that as the clause now stands it implies that the Legislature may tax freemen imported.

Mr. Sherman in answer to Mr. Ghorum observed that the smallness of the duty shewed revenue to be the object, not the discouragement of the importation.

Mr. Madison thought it wrong to admit in the Constitution the idea that there could be property in men. The reason of duties did not hold, as slaves are not like merchandise, consumed. &c

Col. Mason (in answr. to Govr. Morris) the provision as it stands was necessary for the case of Convicts in order to prevent the introduction of them.

It was finally agreed nem: contrad: to make the clause read “but a tax or duty may be imposed on such importation not exceeding ten dollars for each person”, and then the 2d. part as amended was agreed to.

THE RATIO

Brutus and Publius

TWO ESSAYS · 1787 AND 1788

The other half of the bargain was the count. Representatives and direct taxes are apportioned among the states according to the whole number of free persons, those bound to service for a term of years, excluding Indians not taxed, “and three fifths of all other Persons.” Nobody in 1787 pretended not to know who the other Persons were.

Brutus takes it up in his third essay, three weeks after the second one the group read in Week 6, and his objection is the plainest ever made. Representation exists because those who are governed by laws ought to have a voice in making them. Taxation follows property. The three-fifths rule treats the same human beings under both headings at once and gives the benefit of the count to the men who own them—so that a Southern planter’s vote is worth more than a Northern farmer’s precisely in proportion to the number of people he holds who have no vote at all. Brutus asks why, if slaves are property, they should be represented any more than horses or cattle; and if they are persons, why they are represented by the men who own them.

Publius answers in the fifty-fourth paper, and the answer is the strangest performance in the whole *Federalist*. He declines to make it in his own voice. He puts the case into the mouth of an imagined Southern advocate—“we subscribe to the doctrine, might one of our Southern brethren observe”—and lets that figure argue that the enslaved are of “mixed character,” persons in some respects and property in others, because the laws of their states have made them so; that the Constitution therefore rates them at three-fifths quite properly, since that is what the law rates them at; and that were the states to restore them to their rights as men, they would be counted whole. The paper then observes that in every state some free inhabitants are denied the vote and counted anyway, so that representation has never tracked the franchise.

Two things to watch. The first is the ventriloquism, and whether it is a device for saying something Publius could not say in his own person or a device for declining to own it. The second is the concession buried in the advocate’s speech:

that the ratio measures a legal condition and not a natural one, and that it would vanish if the law changed. That is offered as a defence. Read as a description of what the clause is for, it is Brutus's objection restated by the other side.

Both are printed entire.

BRUTUS, No. III

THE NEW-YORK JOURNAL · 15 NOVEMBER 1787

The words are “representatives and direct taxes, shall be apportioned among the several states, which may be included in this union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three fifths of all other persons.”—What a strange and unnecessary accumulation of words are here used to conceal from the public eye, what might have been expressed in the following concise manner. Representatives are to be proportioned among the states respectively, according to the number of freemen and slaves inhabiting them, counting five slaves for three free men.

“In a free state,” says the celebrated Montesquieu, “every man, who is supposed to be a free agent, ought to be concerned in his own government. therefore the legislature should reside in the whole body of the people, or their representatives.” But it has never been alledged that those who are not free agents, can, upon any rational principle, have any thing to do in government, either by themselves or others. If they have no share in government, why is the number of members in the assembly, to be increased on their account? Is it because in some of the states, a considerable part of the property of the inhabitants consists in a number of their fellow men, who are held in bondage, in defiance of every idea of benevolence, justice, and religion, and contrary to all the principles of liberty, which have been publicly avowed in the late glorious revolution? If this be a just ground for representation, the horses in some of the states, and the oxen in others, ought to be represented—for a great share of property in some of them, consists in these animals; and they have as much controul over their own actions, as these poor unhappy creatures, who are intended to be described in the above recited clause,

by the words, "all other persons." By this mode of apportionment, the representatives of the different parts of the union, will be extremely unequal; in some of the southern states, the slaves are nearly equal in number to the free men; and for all these slaves, they will be entitled to a proportionate share in the legislature—this will give them an unreasonable weight in the government, which can derive no additional strength, protection, nor defence from the slaves, but the contrary. Why then should they be represented? What adds to the evil is, that these states are to be permitted to continue the inhuman traffic of importing slaves, until the year 1808—and for every cargo of these unhappy people, which unfeeling, unprincipled, barbarous, and avaricious wretches, may tear from their country, friends and tender connections, and bring into those states, they are to be rewarded by having an increase of members in the general assembly.

BRUTUS.

THE FEDERALIST, NO. LIV

MCLEAN'S EDITION, VOLUME II · 12 FEBRUARY 1788

TO THE PEOPLE OF THE STATE OF NEW YORK:

THE next view which I shall take of the House of Representatives relates to the appointment of its members to the several States which is to be determined by the same rule with that of direct taxes.

It is not contended that the number of people in each State ought not to be the standard for regulating the proportion of those who are to represent the people of each State. The establishment of the same rule for the appointment of taxes, will probably be as little contested; though the rule itself in this case, is by no means founded on the same principle. In the former case, the rule is understood to refer to the personal rights of the people, with which it has a natural and universal connection. In the latter, it has reference to the proportion of wealth, of which it is in no case a precise measure, and in ordinary cases a very unfit one. But notwithstanding the imperfection of the rule as applied to the relative wealth and contributions of the States, it is evidently the least objectionable among the practicable rules, and had too recently obtained the general sanction of America, not to have found a ready preference with the convention.

All this is admitted, it will perhaps be said; but does it follow, from an admission of numbers for the measure of representation, or of slaves combined with free citizens as a ratio of taxation, that slaves ought to be included in the numerical rule of representation? Slaves are considered as property, not as persons. They ought therefore to be comprehended in estimates of taxation which are founded on property, and to be excluded from representation which is regulated by a census of persons. This is the objection, as I understand it, stated in its full force. I shall be equally candid in stating the reasoning which may be offered on the opposite side. "We subscribe to the doctrine," might one of our Southern brethren

observe, “that representation relates more immediately to persons, and taxation more immediately to property, and we join in the application of this distinction to the case of our slaves. But we must deny the fact, that slaves are considered merely as property, and in no respect whatever as persons. The true state of the case is, that they partake of both these qualities: being considered by our laws, in some respects, as persons, and in other respects as property.

In being compelled to labor, not for himself, but for a master; in being vendible by one master to another master; and in being subject at all times to be restrained in his liberty and chastised in his body, by the capricious will of another, the slave may appear to be degraded from the human rank, and classed with those irrational animals which fall under the legal denomination of property. In being protected, on the other hand, in his life and in his limbs, against the violence of all others, even the master of his labor and his liberty; and in being punishable himself for all violence committed against others, the slave is no less evidently regarded by the law as a member of the society, not as a part of the irrational creation; as a moral person, not as a mere article of property.

The federal Constitution, therefore, decides with great propriety on the case of our slaves, when it views them in the mixed character of persons and of property. This is in fact their true character. It is the character bestowed on them by the laws under which they live; and it will not be denied, that these are the proper criterion; because it is only under the pretext that the laws have transformed the negroes into subjects of property, that a place is disputed them in the computation of numbers; and it is admitted, that if the laws were to restore the rights which have been taken away, the negroes could no longer be refused an equal share of representation with the other inhabitants. “This question may be placed in another light. It is agreed on all sides, that numbers are the best scale of wealth and taxation, as they are the only proper scale of representation. Would the convention have been impartial or consistent, if they had rejected the slaves from the list of inhabitants, when the shares of representation were to be calculated, and inserted them on the lists when the tariff of contributions was to be adjusted? Could it be reasonably expected, that the Southern States would concur in a system, which

considered their slaves in some degree as men, when burdens were to be imposed, but refused to consider them in the same light, when advantages were to be conferred? Might not some surprise also be expressed, that those who reproach the Southern States with the barbarous policy of considering as property a part of their human brethren, should themselves contend, that the government to which all the States are to be parties, ought to consider this unfortunate race more completely in the unnatural light of property, than the very laws of which they complain? "It may be replied, perhaps, that slaves are not included in the estimate of representatives in any of the States possessing them. They neither vote themselves nor increase the votes of their masters. Upon what principle, then, ought they to be taken into the federal estimate of representation?

In rejecting them altogether, the Constitution would, in this respect, have followed the very laws which have been appealed to as the proper guide. "This objection is repelled by a single observation. It is a fundamental principle of the proposed Constitution, that as the aggregate number of representatives allotted to the several States is to be determined by a federal rule, founded on the aggregate number of inhabitants, so the right of choosing this allotted number in each State is to be exercised by such part of the inhabitants as the State itself may designate. The qualifications on which the right of suffrage depend are not, perhaps, the same in any two States. In some of the States the difference is very material.

In every State, a certain proportion of inhabitants are deprived of this right by the constitution of the State, who will be included in the census by which the federal Constitution apportions the representatives. In this point of view the Southern States might retort the complaint, by insisting that the principle laid down by the convention required that no regard should be had to the policy of particular States towards their own inhabitants; and consequently, that the slaves, as inhabitants, should have been admitted into the census according to their full number, in like manner with other inhabitants, who, by the policy of other States, are not admitted to all the rights of citizens. A rigorous adherence, however, to this principle, is waived by those who would be gainers by it. All that they ask is that equal moderation be shown on the other side. Let the case

of the slaves be considered, as it is in truth, a peculiar one. Let the compromising expedient of the Constitution be mutually adopted, which regards them as inhabitants, but as debased by servitude below the equal level of free inhabitants, which regards the SLAVE as divested of two fifths of the MAN. "After all, may not another ground be taken on which this article of the Constitution will admit of a still more ready defense? We have hitherto proceeded on the idea that representation related to persons only, and not at all to property. But is it a just idea? Government is instituted no less for protection of the property, than of the persons, of individuals. The one as well as the other, therefore, may be considered as represented by those who are charged with the government.

Upon this principle it is, that in several of the States, and particularly in the State of New York, one branch of the government is intended more especially to be the guardian of property, and is accordingly elected by that part of the society which is most interested in this object of government. In the federal Constitution, this policy does not prevail. The rights of property are committed into the same hands with the personal rights. Some attention ought, therefore, to be paid to property in the choice of those hands. "For another reason, the votes allowed in the federal legislature to the people of each State, ought to bear some proportion to the comparative wealth of the States. States have not, like individuals, an influence over each other, arising from superior advantages of fortune. If the law allows an opulent citizen but a single vote in the choice of his representative, the respect and consequence which he derives from his fortunate situation very frequently guide the votes of others to the objects of his choice; and through this imperceptible channel the rights of property are conveyed into the public representation. A State possesses no such influence over other States. It is not probable that the richest State in the Confederacy will ever influence the choice of a single representative in any other State. Nor will the representatives of the larger and richer States possess any other advantage in the federal legislature, over the representatives of other States, than what may result from their superior number alone. As far, therefore, as their superior wealth and weight may justly entitle them to any advantage, it ought to be secured to them by a superior share of representation.

The new Constitution is, in this respect, materially different from the existing Confederation, as well as from that of the United Netherlands, and other similar confederacies. In each of the latter, the efficacy of the federal resolutions depends on the subsequent and voluntary resolutions of the states composing the union. Hence the states, though possessing an equal vote in the public councils, have an unequal influence, corresponding with the unequal importance of these subsequent and voluntary resolutions. Under the proposed Constitution, the federal acts will take effect without the necessary intervention of the individual States. They will depend merely on the majority of votes in the federal legislature, and consequently each vote, whether proceeding from a larger or smaller State, or a State more or less wealthy or powerful, will have an equal weight and efficacy: in the same manner as the votes individually given in a State legislature, by the representatives of unequal counties or other districts, have each a precise equality of value and effect; or if there be any difference in the case, it proceeds from the difference in the personal character of the individual representative, rather than from any regard to the extent of the district from which he comes. "Such is the reasoning which an advocate for the Southern interests might employ on this subject; and although it may appear to be a little strained in some points, yet, on the whole, I must confess that it fully reconciles me to the scale of representation which the convention have established. In one respect, the establishment of a common measure for representation and taxation will have a very salutary effect. As the accuracy of the census to be obtained by the Congress will necessarily depend, in a considerable degree on the disposition, if not on the co-operation, of the States, it is of great importance that the States should feel as little bias as possible, to swell or to reduce the amount of their numbers. Were their share of representation alone to be governed by this rule, they would have an interest in exaggerating their inhabitants. Were the rule to decide their share of taxation alone, a contrary temptation would prevail. By extending the rule to both objects, the States will have opposite interests, which will control and balance each other, and produce the requisite impartiality.

PUBLIUS.

THE TRAFFIC

Luther Martin, and the Virginia Convention

TWO DOCUMENTS · 1787 AND 1788

The Convention finished in September and the argument moved outdoors. These two documents are the slave-trade clause defended and attacked in public, by men who had to answer for it to people who could vote.

Luther Martin of Maryland had sat in the Convention and left it early, refusing to sign, and in November he told the Maryland legislature what he had seen. The *Genuine Information* is the fullest account of the Convention any delegate published before Madison's notes appeared half a century later, and the section on the slave trade is Anti-Federalism from a direction the group has not met. Martin's objection is not that the clause invades the rights of the states. It is that the clause is dishonourable: that a system meant to secure liberty should not have been made to protect a traffic in men for twenty years, that slavery is inconsistent with the genius of republicanism and debases the mind, and that leaving the trade untouched while boasting of the rights of man will be read abroad exactly as it deserves to be. Note also his complaint that the three-fifths ratio gives the slave states an encouragement to import—the more people they buy, the more votes they get.

Then Virginia, the following June, in the convention the group met in Week 5. George Mason rises to call the clause “a fatal section”—the same man who denounced the traffic in Philadelphia, now attacking the compromise that came of it, and attacking it partly because the general government has not been given power enough to stop the trade. Madison answers him. The clause is not what he would have chosen; it was the most that could be had; twenty years is better than forever; and had Georgia and South Carolina been left out, the Union would have been worse off than it is.

George Nicholas then puts the question this volume exists to ask, in one sentence, on the floor: since the Southern states would not confederate without this clause, would gentlemen rather they had not confederated at all? Nobody in the room answers him directly. Patrick Henry changes the subject to taxation, and Nicholas observes that negroes must be considered either as persons or as property, and that the Constitution has it both ways.

That question is the evening's business. It is not a question about whether slavery was wrong—every man quoted in this volume who is against the clause says so, and several who are for it say so too. It is a question about whether the Union was worth its price, asked at the time, by people who did not know how it would come out.

Martin is printed entire. The Virginia day is a selection and every cut is bridged. Martin on the three-fifths ratio, and Wilson's answer to him in Pennsylvania, are in the supplement.

THE GENUINE INFORMATION

LUTHER MARTIN, TO THE MARYLAND LEGISLATURE · 29 NOVEMBER 1787

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

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

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

We were then told by the delegates of the two first of those States, that their States would never agree to a system which put it in the power of the general government to prevent the importation of slaves, and that

they, as delegates from those States, must withhold their assent from such a system.

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

This report was adopted by a majority of the convention, but not without considerable opposition.—It was said, that we had but just assumed a place among independent nations, in consequence of our opposition to the attempts of Great-Britain to *enslave us*; that this opposition was grounded upon the *preservation of those rights*, to which God and Nature had entitled *us*, not in *particular*, but in *common* with *all the rest of mankind*—That we had *appealed* to the *Supreme being* for his *assistance*, as the *God of freedom*, who could not but *approve* our efforts to preserve the *rights* which he had thus *imparted to his creatures*; that now, when we scarcely had risen from our *knees*, from *supplicating* his *aid and protection*—in *forming our government* over a *free people*, a government formed pretendedly on the *principles of liberty* and for *its preservation*,—in *that government* to have a provision, not only putting it out of *its power to restrain and prevent the slave trade*, but *even encouraging that*

most infamous traffic, by giving the *States power and influence* in the union, in proportion as they *cruelly and wantonly sport with the rights of their fellow creatures*, ought to be considered as a *solemn mockery of*, and *insult to*, that *God* whose protection we had then implored, and could not fail to hold us up in *detestation*, and render us *contemptible* to every *true friend* of liberty in the world. It was said, it ought to be considered that *national crimes can only be*, and *frequently are*, *punished* in this world by *national punishments*, and that the *continuance* of the slave trade, and thus giving it a *national sanction and encouragement*, ought to be considered as *justly exposing* us to the *displeasure and vengeance of Him*, who is equal Lord of all, and who views with equal eye, the poor *African slave* and his *American master*!

It was urged, that by this system, we were giving the general government full and absolute power to regulate commerce, under which general power it would have a right to *restrain*, or *totally prohibit* the *slave trade*: it must therefore, appear to the world absurd and disgraceful to the last degree, that we should *except* from the exercise of that power, the *only branch of commerce* which is *unjustifiable in its nature*, and *contrary* to the *rights of mankind*—That on the contrary, we ought *rather to prohibit expressly* in our *constitution*, the *further importation of slaves*; and to *authorise* the general government from time to time, to make such regulations as should be thought most advantageous for the *gradual abolition of slavery*, and the *emancipation* of the *slaves* which are already in the States.

That *slavery* is *inconsistent* with the *genius of republicanism*, and has a tendency to *destroy* those *principles* on which it is *supported*, as it *lessens the sense* of the *equal rights of mankind*, and habituates us to *tyranny and oppression*. It was further urged, that by this system of government, every State is to be protected both from *foreign invasion* and from *domestic insurrections*; that from this consideration, it was of the *utmost importance* it should have a power to restrain the importation of slaves, since in proportion as the number of slaves were increased in any State, in the same proportion the State is *weakened* and *exposed* to foreign invasion, or domestic insurrection, and by *so much the less* will it be able to protect itself against *either*; and therefore will by so much the

more, want aid from, and be a burthen to, the union. It was further said, that as in this system we were giving the general government a power under the idea of national character, or national interest, to regulate even our *weights* and *measures*, and have prohibited all possibility of *emitting paper money*, and *passing instalment laws*, &c. It must appear still more extraordinary, that we should prohibit the government from interfering with the slave trade, than which *nothing* could so *materially affect* both our *national honour* and *interest*.—These reasons influenced me both on the committee and in convention, most decidedly to oppose and vote against the clause, as it now makes a part of the system.

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

IN THE VIRGINIA CONVENTION

RICHMOND · 17 JUNE 1788

Mr. George Mason . Mr. Chairman, this is a fatal section, which has created more dangers than any other. The first clause allows the importation of slaves for twenty years. Under the royal government, this evil was looked upon as a great oppression, and many attempts were made to prevent it; but the interest of the African merchants prevented its prohibition. No sooner did the revolution take place, than it was thought of. It was one of the great causes of our separation from Great Britain. Its exclusion has been a principal object of this state, and most of the states in the Union. The augmentation of slaves weakens the states; and such a trade is diabolical in itself, and disgraceful to mankind; yet, by this Constitution, it is continued for twenty years. As much as I value a union of all the states, I would not admit the Southern States into the Union unless they agree to the discontinuance of this disgraceful trade, because it would bring weakness, and not strength, to the Union. And, though this infamous traffic be continued, we have no security for the property of that kind which we have already. There is no clause in this Constitution to secure it; for they may lay such a tax as will amount to manumission. And should the government be amended, still this detestable kind of commerce cannot be discontinued till after the expiration of twenty years; for the 5th article, which provides for amendments, expressly excepts this clause. I have ever looked upon this as a most disgraceful thing to America. I cannot express my detestation of it. Yet they have not secured us the property of the slaves we have already. So that “they have done what they ought not to have done, and have left undone what they ought to have done.”

Mr. Madison . Mr. Chairman, I should conceive this clause to be impolitic, if it were one of those things which could be excluded without encountering greater evils. The Southern States would not have entered

into the Union of America without the temporary permission of that trade; and if they were excluded from the Union, the consequences might be dreadful to them and to us. We are not in a worse situation than before. That traffic is prohibited by our laws, and we may continue the prohibition. The Union in general is not in a worse situation. Under the Articles of Confederation, it might be continued forever; but, by this clause, an end may be put to it after twenty years. There is, therefore, an amelioration of our circumstances. A tax may be laid in the mean time; but it is limited; otherwise Congress might lay such a tax as would amount to a prohibition. From the mode of representation and taxation, Congress cannot lay such a tax on slaves as will amount to manumission. Another clause secures us that property which we now possess. At present, if any slave elopes to any of those states where slaves are free, he becomes emancipated by their laws; for the laws of the states are uncharitable to one another in this respect. But in this Constitution, "no person held to service or labor in one state, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor; but shall be delivered up on claim of the party to whom such service or labor shall be due." This clause was expressly inserted, to enable owners of slaves to reclaim them.

This is a better security than any that now exists. No power is given to the general government to interpose with respect to the property in slaves now held by the states. The taxation of this state being equal only to its representation, such a tax cannot be laid as he supposes. They cannot prevent the importation of slaves for twenty years; but after that period, they can. The gentlemen from South Carolina and Georgia argued in this manner: "We have now liberty to import this species of property, and much of the property now possessed had been purchased, or otherwise acquired, in contemplation of improving it by the assistance of imported slaves. What would be the consequence of hindering us from it? The slaves of Virginia would rise in value, and we should be obliged to go to your markets." I need not expatiate on this subject. Great as the evil is, a dismemberment of the Union would be worse. If those states should disunite from the other states for not indulging them in the temporary

continuance of this traffic, they might solicit and obtain aid from foreign powers.

[Mr. Tyler enlarges warmly on the impolicy, iniquity, and disgracefulness of the traffic, and wishes the clause struck out altogether.]

Mr. George Nicholas wondered that gentlemen who were against slavery should be opposed to this clause; as, after that period, the slave trade would be done away. He asked if gentlemen did not see the inconsistency of their arguments. They object, says he, to the Constitution, because the slave trade is laid open for twenty odd years; and yet they tell you that, by some latent operation of it, the slaves who are so now will be manumitted. At the same moment it is opposed for being promotive and destructive of slavery. He contended that it was advantageous to Virginia that it should be in the power of Congress to prevent the importation of slaves after twenty years, as it would then put a period to the evil complained of.

As the Southern States would not confederate without this clause, he asked if gentlemen would rather dissolve the confederacy than to suffer this temporary inconvenience, admitting it to be such. Virginia might continue the prohibition of such importation during the intermediate period, and would be benefited by it, as a tax of ten dollars on each slave might be laid, of which she would receive a share. He endeavored to obviate the objection of gentlemen, that the restriction on Congress was a proof that they would have powers not given them, by remarking, that they would only have had a general superintendency of trade, if the restriction had not been inserted. But the Southern States insisted on this exception to that general superintendency for twenty years. It could not, therefore, have been a power by implication, as the restriction was an exception from a delegated power. The taxes could not, as had been suggested, be laid so high on negroes as to amount to emancipation because taxation and representation were fixed according to the census established in the Constitution. The exception of taxes from the uniformity annexed to duties and excises could not have the operation contended for by the gentleman, because other clauses had clearly and positively fixed the census. Had taxes been uniform, it would have been

universally objected to; for no one object could be selected without involving great inconveniences and oppressions. But, says Mr. Nicholas, is it from the general government we are to fear emancipation? Gentlemen will recollect what I said in another house, and what other gentlemen have said, that advocated emancipation. Give me leave to say, that clause is a great security for our slave tax. I can tell the committee that the people of our country are reduced to beggary by the taxes on negroes. Had this Constitution been adopted, it would not have been the case. The taxes were laid on all our negroes. By this system, two fifths are exempted. He then added, that he had not imagined gentlemen would support here what they had opposed in another place.

Mr. Henry replied that, though the proportion of each was to be fixed by the census, and three fifths of the slaves only were included in the enumeration, yet the proportion of Virginia, being once fixed, might be laid on blacks and blacks only; for, the mode of raising the proportion of each state being to be directed by Congress, they might make slaves the sole object to raise it of. Personalities he wished to take leave of: they had nothing to do with the question, which was solely whether that paper was wrong or not.

Mr. Nicholas replied, that negroes must be considered as persons or property. If as property, the proportion of taxes to be laid on them was fixed in the Constitution. If he apprehended a poll tax on negroes, the Constitution had prevented it; for, by the census, where a white man paid ten shillings, a negro paid but six shillings; for the exemption of two fifths of them reduced it to that proportion.

[Mason returns to the question of direct taxation, and argues that the restriction in the fourth clause is no security at all, since the whole of a levy might be laid on slaves.]

Mr. Madison replied, that even the Southern States, which were most affected, were perfectly satisfied with this provision, and dreaded no danger to the property they now hold. It appeared to him that the general government would not intermeddle with that property for twenty years, but to lay a tax on every slave imported not exceeding ten dollars; and that, after the expiration of that period, they might prohibit the traffic

altogether. The census in the Constitution was intended to introduce equality in the burdens to be laid on the community. No gentleman objected to laying duties, imposts, and excises, uniformly. But uniformity of taxes would be subversive of the principles of equality; for it was not possible to select any article which would be easy for one state but what would be heavy for another; that, the proportion of each state being ascertained, it would be raised by the general government in the most convenient manner for the people, and not by the selection of any one particular object; that there must be some degree of confidence put in agents, or else we must reject a state of civil society altogether. Another great security to this property, which he mentioned, was, that five states were greatly interested in that species of property, and there were other states which had some slaves, and had made no attempt, or taken any step, to take them from the people. There were a few slaves in New York, New Jersey, and Connecticut: these states would, probably, oppose any attempts to annihilate this species of property. He concluded by observing that he should be glad to leave the decision of this to the committee.

THE FIRST TEST

The First Congress, and Benjamin Franklin

TWO DOCUMENTS · 1790

Two documents, in which the bargain is tested for the first time and holds.

In February 1790 Quaker meetings in Pennsylvania and New York petitioned the new Congress against the slave trade, and the Pennsylvania Abolition Society sent a memorial asking it to go further and take up slavery itself. That memorial was signed by Benjamin Franklin as the society's president. He was eighty-four and had two months to live.

The House argued for weeks—it is the first debate on slavery under the Constitution, and it was bitter—and the first document here is what came of it. The special committee's report, and then the amended version the Committee of the Whole put in its place, are the government's first official statement of what the bargain meant. Read the numbered heads. Congress is restrained from prohibiting the importation before 1808. Congress has no authority to interfere in the emancipation of slaves, or in their treatment within any state. Congress may lay a duty, may stop foreigners fitting out vessels for the trade in American ports, and may provide for the humane treatment of those in passage.

Then read what the Committee of the Whole strikes out and what it lets stand, because the striking is the point. Whatever the clause had been in 1787—a temporary evil, a thing that would wither of itself, the most that could be had—it was now a settled limit on what the government could do, stated by that government about itself, in the second year of its existence.

Franklin's answer ran in the *Federal Gazette* three weeks later and was the last thing he published. James Jackson of Georgia had defended slavery on the floor of the House, and Franklin reprints, as it were, a speech delivered a hundred years earlier by one Sidi Mehemet Ibrahim to the Divan of Algiers, refusing a petition to abolish the enslavement of Christians. Every argument is Jackson's, transposed. If we free them, who will do the work in this hot climate? What is to be done with them—shall they be planted in the wilderness, where they are too idle to subsist? Are they not better fed and lodged here than at home, and have they not the chance of being brought to the true faith? Would not freeing them be an unjust

taking of property from the masters, and who is to compensate them? The Divan resolves that the injustice of the practice is at best problematical, while the interest of the state in continuing it is clear, and rejects the petition.

Sidi Mehemet Ibrahim is an invention. The speech he gives is not, and Franklin says so in his first sentence.

Both documents are printed entire. Two things the volume points at but does not carry are in the supplement: Jefferson's fourteenth *Query*, which proposes almost exactly the wilderness that Franklin's Algerian mocks, and Benjamin Banneker's letter of the following August, in which a free Black astronomer in Maryland sends the Secretary of State a manuscript almanac and quotes the Declaration back to the man who drafted it.

REPORT OF THE SPECIAL COMMITTEE

IN THE HOUSE OF REPRESENTATIVES · MARCH 1790

Report of the Special Committee.

The Committee to whom were referred sundry memorials from the people called Quakers; and also a memorial from the Pennsylvania Society for promoting the Abolition of Slavery, submit the following report:

That from the nature of the matters contained in these memorials, they were induced to examine the powers vested in Congress, under the present Constitution, relating to the Abolition of Slavery, and are clearly of opinion,

First. That the General Government is expressly restrained from prohibiting the importation of such persons “as any of the States now existing shall think proper to admit, until the year one thousand eight hundred and eight.”

Secondly. That Congress, by a fair construction of the Constitution, are equally restrained from interfering in the emancipation of slaves, who already are, or who may, within the period mentioned, be imported into, or born within, any of the said States.

Thirdly. That Congress have no authority to interfere in the internal regulations of particular States, relative to the instructions of slaves in the principles of morality and religion; to their comfortable clothing, accommodations and subsistence; to the regulation of their marriages, and the prevention of the violation of the rights thereof, or to the separation of children from their parents; to a comfortable provision in cases of sickness, age, or infirmity; or to the seizure, transportation, or sale of free negroes; but have the fullest confidence in the wisdom and

humanity of the Legislatures of the several States, that they will revise their laws from time to time, when necessary, and promote the objects mentioned in the memorials, and every other measure that may tend to the happiness of slaves.

Fourthly. That, nevertheless, Congress have authority, if they shall think it necessary, to lay at any time a tax or duty, not exceeding ten dollars for each person of any description, the importation of whom shall be by any of the States admitted as aforesaid.

Fifthly. That Congress have authority to interdict, or (so far as it is or may be carried on by citizens of the United States, for supplying foreigners) to regulate the African trade, and to make provision for the humane treatment of slaves, in all cases while on their passage to the United States, or to foreign ports, so far as it respects the citizens of the United States.

Sixthly. That Congress have also authority to prohibit foreigners from fitting out vessels, in any port of the United States, for transporting persons from Africa to any foreign port.

Seventhly. That the memorialist[s] be informed, that in all cases to which the authority of Congress extends, they will exercise it for the humane objects of the memorialists, so far as they can be promoted on the principles of justice, humanity, and good policy.“

Report of the Committee of the whole House.

The Committee of the whole House, to whom was committed the report of the committee on memorials of the people called Quakers, and of the Pennsylvania Society for promoting the Abolition of Slavery, report the following amendments:

Strike out the first clause, together with the recital thereto, and in lieu thereof insert, “That the migration or importation of such persons as any of the States now existing shall think proper to admit, cannot be prohibited by Congress, prior to the year one thousand eight hundred and eight.”

Strike out the second and third clauses, and in lieu thereof insert “That Congress have no authority to interfere in the emancipation of slaves, or in the treatment of them within any of the States; it remaining with the several States alone to provide any regulations therein, which humanity and true policy may require.”

Strike out the fourth and fifth clauses, and in lieu thereof insert, “That Congress have authority to restrain the citizens of the United States from carrying on the African trade, for the purpose of supplying foreigners with slaves, and of providing, by proper regulations, for the humane treatment, during their passage, of slaves imported by the said citizens into the States admitting such importation.”

Strike out the seventh clause.

ON THE SLAVE TRADE

BENJAMIN FRANKLIN · THE FEDERAL GAZETTE, 25 MARCH 1790

READING in the newspapers the speech of Mr. Jackson in congress, against meddling with the affair of slavery, or attempting to mend the condition of slaves, it put me in mind of a similar speech, made about one hundred years since, by Sidi Mehemet Ibrahim, a member of the Divan of Algiers, which may be seen in Martin's account of his consulship, 1687. It was against granting the petition of the sect called *Erika*, or *Purists*, who prayed for the abolition of piracy and slavery as being unjust.—Mr. Jackson does not quote it; perhaps he has not seen it. If, therefore, some of its reasonings are to be found in his eloquent speech, it may only shew that men's interests operate, and are operated on, with surprising similarity, in all countries and climates, whenever they are under similar circumstances. The African speech, as translated, is as follows:

“Alla Bismillah, &c. God is great, and Mahomet is his prophet.

“Have these Erika considered the consequences of granting their petition? If we cease our cruises against the Christians, how shall we be furnished with the commodities their countries produce, and which are so necessary for us? If we forbear to make slaves of their people, who, in this hot climate, are to cultivate our lands? Who are to perform the common labours of our city, and of our families? Must we not then be our own slaves? And is there not more compassion and more favour due to us Mussulmen, than to those Christian dogs?—We have now above fifty thousand slaves in and near Algiers. This number, if not kept up by fresh supplies, will soon diminish, and be gradually annihilated. If, then, we cease taking and plundering the infidel ships, and making slaves of the seamen and passengers, our lands will become of no value, for want of cultivation; the rents of houses in the city will sink one half; and the revenues of government, arising from the share of prizes, must be totally

destroyed.—And for what? To gratify the whim of a whimsical sect, who would have us not only forbear making more slaves, but even manumit those we have. But who is to indemnify their masters for the loss? Will the state do it; Is our treasury sufficient? Will the Erika do it? Can they do it? Or would they, to do what they think justice to the slaves, do a greater injustice to the owners? And if we set our slaves free, what is to be done with them? Few of them will return to their native countries; they know too well the greater hardships they must there be subject to. They will not embrace our holy religion: they will not adopt our manners: our people will not pollute themselves by intermarrying with them. Must we maintain them as beggars in our streets? or suffer our properties to be the prey of their pillage? for men accustomed to slavery will not work for a livelihood, when not compelled.—And what is there so pitiable in their present condition? Were they not slaves in their own countries? Are not Spain, Portugal, France, and the Italian states, governed by despots, who hold all their subjects in slavery, without exception? Even England treats her sailors as slaves, for they are, whenever the government pleases, seized and confined in ships of war, condemned not only to work, but to fight for small wages, or a mere subsistence, not better than our slaves are allowed by us. Is their condition then made worse by their falling into our hands? No; they have only exchanged one slavery for another; and I may say a better: for here they are brought into a land where the sun of Islamism gives forth its light, and shines in full splendour, and they have an opportunity of making themselves acquainted with the true doctrine, and thereby saving their immortal souls. Those who remain at home, have not that happiness. Sending the slaves home, then, would be sending them out of light into darkness.

“I repeat the question, what is to be done with them? I have heard it suggested, that they may be planted in the wilderness, where there is plenty of land for them to subsist on, and where they may flourish as a free state.—But they are, I doubt, too little disposed to labour without compulsion, as well as too ignorant to establish good government: and the wild Arabs would soon molest and destroy, or again enslave them. While serving us, we take care to provide them with every thing; and they are treated with humanity. The labourers in their own countries are, as I

am informed, worse fed, lodged, and clothed. The condition of most of them is therefore already mended, and requires no farther improvement. Here their lives are in safety. They are not liable to be impressed for soldiers, and forced to cut one another's Christian throats, as in the wars of their own countries. If some of the religious mad bigots, who now tease us with their silly petitions, have, in a fit of blind zeal, freed their slaves, it was not generosity, it was not humanity that moved them to the action; it was from the conscious burthen of a load of sins, and hope, from the supposed merits of so good a work, to be excused from damnation—How grossly are they mistaken, in imagining slavery to be disavowed by the Alcoran! Are not the two precepts, to quote no more, "Masters, treat your slaves with kindness—Slaves, serve your masters with cheerfulness and fidelity," clear proofs to the contrary? Nor can the plundering of infidels be in that sacred book forbidden? since it is well known from it that God has given the world, and all that it contains, to his faithful Mussulmen, who are to enjoy it, of right, as fast as they can conquer it. Let us then hear no more of this detestable proposition, the manumission of Christian Haves, the adoption of which would, by depreciating our lands and houses, and thereby depriving so many good citizens of their properties, create universal discontent, and provoke insurrections, to the endangering of government, and producing general confusion. I have, therefore, no doubt that this wise council will prefer the comfort and happiness of a whole nation of true believers, to the whim of a few Erika, and dismiss their petition."

The result was, as Martin tells us, that the Divan came to this resolution: "That the doctrine, that the plundering and enslaving the Christians is unjust, is at best problematical; but that it is the interest of this state to continue the practice, is clear; therefore, let the petition be rejected."——And it was rejected accordingly.

And since like motives are apt to produce, in the minds of men, like opinions and resolutions, may we not venture to predict, from this account, that the petitions to the parliament of England for abolishing the slave trade, to say nothing of other legislatures, and the debates upon them, will have a similar conclusion.

THE FIRST TEST

HISTORICUS.

SUPPLEMENTAL READINGS

Optional

Six documents the reading refers to but does not print: Wilson's defence of the clause in the Pennsylvania convention, Luther Martin on the three-fifths ratio, the two Queries of Jefferson's *Notes on the State of Virginia*, and Benjamin Banneker's letter of August 1791 with Jefferson's answer. They are offered for those who wish to read further; the core of this week's reading is complete without them.

DOCUMENTS REFERRED TO

Wilson, Martin, Jefferson, and Banneker

SIX DOCUMENTS · 1785–1791

Six documents the reading points to but does not carry.

James Wilson, in the Pennsylvania convention, is the clause's most hopeful defender. He tells the delegates that the power to prohibit the trade after twenty years lays the foundation for banishing slavery from the country, that the new states in the west will never admit it, and that if the Constitution had no other lovely feature this one would be enough. He then reads a long passage from the Abbé Raynal on the French colonies. It is worth reading against what happened: the trade was prohibited in 1808 as promised, and the enslaved population of the United States roughly tripled over the half-century that followed.

Luther Martin on the three-fifths ratio, which the reading uses only for the traffic. His argument is the mirror of Brutus's and sharper on one point—that counting the enslaved for representation gives the states that hold them a standing inducement to acquire more.

Then four documents that make one sequence, and it is the sequence the reading came closest to carrying.

Jefferson's fourteenth Query asks why the freed cannot be incorporated into the state and answers, at length, that they cannot. He proposes emancipating the children and settling them elsewhere—almost exactly the wilderness that Franklin's Algerian slaver mocks as a proposal no sensible man could make—and then weighs memory, reason, and imagination, dismisses the published poems of Phillis Wheatley and the letters of Ignatius Sancho, doubts whether a black man could follow Euclid, and calls the whole of it “a suspicion only.” Query 18 is in the same book by the same hand, and it is the passage usually quoted: the commerce between master and slave as a perpetual exercise of the most boisterous passions, the child learning tyranny by watching his father, and the sentence that ends “I tremble for my country when I reflect that God is just.”

Then, in August 1791, Benjamin Banneker answers him. Born free in Baltimore County in 1731, a tobacco farmer who taught himself astronomy late and had that

year assisted Andrew Ellicott in surveying the new federal district, Banneker sent the Secretary of State the manuscript of an ephemeris he had calculated—the thing Query 14 said a man of his colour could not produce—together with a letter. He quotes the Declaration back at its author. He asks him to remember being on the receiving end of a claim that some men are not entitled to what other men are. And in a footnote to the line about his own complexion he adds, without comment: my father was brought here a slave from Africa.

Jefferson replied in nine sentences, eleven days later. Notice what he concedes and what he does not, and that he forwards the almanac to Condorcet in Paris as a “document” to which Banneker’s “whole colour had a right for their justification”—evidence submitted rather than an argument answered. He never revised the *Notes*. Eighteen years afterwards, privately, he wrote that he had always suspected Banneker had had help.

IN THE PENNSYLVANIA CONVENTION

JAMES WILSON · 3–4 DECEMBER 1787

[3 *Dec.*]

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

With respect to the clause restricting Congress from prohibiting the *migration or importation of such persons* as any of the states now existing shall think proper to admit, prior to the year 1808, the honorable gentleman says that this clause is not only dark, but intended to grant to Congress, for that time, the power to admit the importation of *slaves*. No such thing was intended. But I will tell you what was done, and it gives me high pleasure that so much was done. Under the present Confederation, the states may admit the importation of slaves as long as they please; but by this article, after the year 1808, the Congress will have power to prohibit such importation, notwithstanding the disposition of any state to the contrary. I consider this as laying the foundation for banishing slavery out of this country; and though the period is more distant than I could wish, yet it will produce the same kind, gradual change, which was pursued in Pennsylvania. It is with much satisfaction I view this power in the general government, whereby they may lay an interdiction on this reproachful trade: but an immediate advantage is also obtained; for a tax or duty may be imposed on such importation, not exceeding ten dollars for each person; and this, sir, operates as a partial prohibition; it was all that could be obtained. I am sorry it was no more; but from this I think there is reason to hope, that yet a few years, and it will be prohibited altogether; and in the mean time, the *new* states which are to be formed will be under *the control* of Congress in this particular, and slaves will never be introduced amongst them. The gentleman says that it is unfortunate in another point of view: it means to prohibit the introduction of white people from Europe, as this tax may deter them from coming amongst us. A little impartiality and attention will discover the care that the Convention took in selecting their language. The words are, “the migration or importation of such persons, &c., shall not be prohibited by Congress prior to the year 1808, but a tax or duty may be imposed on such importation.” It is observable here that the term *migration* is dropped, when a tax or duty is mentioned, so that Congress have power to impose the tax only on those imported.

[4 Dec.]

I recollect, on a former day, the honorable gentleman from Westmoreland, (Mr. Findley,) and the honorable gentleman from Cumber-

land, (Mr. Whitehill,) took exceptions against the 1st clause of the 9th sect., art. 1, arguing, very unfairly, that, because Congress might impose a tax or duty of ten dollars on the importation of slaves, within any of the United States, Congress might therefore permit slaves to be imported within this state, contrary to its laws. I confess, I little thought that this part of the system would be excepted to.

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

If there was no other lovely feature in the Constitution but this one, it would diffuse a beauty over its whole countenance. Yet the lapse of a few years, and Congress will have power to exterminate slavery from within our borders.

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

“The colonies of France contain, as we have seen, near five hundred thousand slaves; and it is from the number of these wretches the inhabitants set a value on their plantations. What a fatal prospect, and how profound a subject for reflection! Alas! how inconsequent we are, both in our morality and our principles! We preach up humanity, and yet go every year to bind in chains twenty thousand natives of Africa. We call the Moors barbarians and ruffians, because they attack the liberty of Europeans at the risk of their own; yet these Europeans go, without danger, and as mere speculators, to purchase slaves, by gratifying the cupidity of their masters, and excite all those bloody scenes which are the usual preliminaries of this traffic! In short, we pride ourselves on the superiority of man, and it is with reason that we discover this superiority in the wonderful and mysterious unfolding of the intellectual faculties; and yet the trifling difference in the hair of the head, or in the color

of the epidermis, is sufficient to change our respect into contempt, and to engage us to place beings like ourselves in the rank of those animals devoid of reason, whom we subject to the yoke, that we may make use of their strength and of their instinct at command.

“I am sensible, and I grieve at it, that these reflections, which others have made much better than I, are unfortunately of very little use! The necessity of supporting sovereign power has its peculiar laws, and the wealth of nations is one of the foundations of this power: thus the sovereign who should be the most thoroughly convinced of what is due to humanity, would not singly renounce the service of slaves in his colonies: time alone could furnish a population of free people to replace them, and the great difference that would exist in the price of labor would give so great an advantage to the nation that should adhere to the old custom, that the others would soon be discouraged in wishing to be more virtuous. And yet, would it be a chimerical project to propose a general compact, by which all the European nations should unanimously agree to abandon the traffic of African slaves! they would, in that case, find themselves exactly in the same proportion, relative to each other, as at present; for it is only on comparative riches that the calculations of power are founded.

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

“The time may nevertheless arrive, when, fatigued of that ambition which agitates them, and of the continual rotation of the same anxieties and the same plans, they may turn their views to the great principles of humanity; and if the present generation is to be witness of this happy revolution, they may at least be allowed to be unanimous in offering up their vows for the perfection of the social virtues, and for the progress of public beneficial institutions.”

These are the enlarged sentiments of that great man.

THE GENUINE INFORMATION, ON THE RATIO

LUTHER MARTIN, TO THE MARYLAND LEGISLATURE · 29 NOVEMBER 1787

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

The object of *Virginia, and other large States, to encrease their power and influence over the others*, did not escape observation: the subject, however, was discussed with great coolness in the committee of the whole House (for the convention had resolved itself into a committee of the whole to deliberate upon the propositions delivered in by the honourable member from Virginia). Hopes were formed, that the farther we proceeded in the examination of the resolutions, the better the House might be satisfied of the impropriety of adopting them, and that they would finally be rejected by a majority of the committee; if on the contrary, a majority should report in their favour, it was considered, that it would not preclude the members from bringing forward and submitting any other system to the consideration of the convention; and accordingly, while those resolves were the subject of discussion in the committee of the whole House, a number of the members who disapproved them, were preparing *another system*, such as *they thought*

more conducive to the happiness and welfare of the States—The propositions originally submitted to the convention having been debated, and undergone a variety of alterations in the course of our proceedings, the committee of the whole House by a *small majority* agreed to a *report*, which I am happy, Sir, to have in my power to lay before you; it was as follows:

.....

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

.....

The Jersey propositions being thus rejected, the convention took up those reported by the committee, and proceeded to debate them by paragraphs; it was now that they who disapproved the report found it necessary to make a *warm* and *decided opposition*, which took place upon the discussion of the seventh resolution, which related to the *inequality* of representation in the *first* branch. Those who advocated this inequality, urged, that when the articles of confederation were formed, it was *only* from *necessity* and *expediency* that the States were admitted *each* to have an *equal vote*; but that our situation was *now altered*, and therefore those States who considered it contrary to their interest, would *not longer abide* by it. They said no State ought to wish to have influence in government, except in proportion to what it contributes to it; that if it contributes but little, it ought to have but a small vote; that taxation and representation ought always to go together; that if one State had *sixteen times as many inhabitants* as another, or was *sixteen times as wealthy*, it ought to have *sixteen times as many votes*; that an inhabitant of Pennsylvania ought to have as much weight and consequence as an inhabitant of Jersey or Delaware; that it was contrary to the feelings of the human

mind; what the *large States* would *never* submit to; that the *large States* would have *great objects* in view, in which they would never permit the *smaller States* to thwart them; that *equality of suffrage* was the rotten part of the constitution, and that this was a happy time to get clear of it. In fine, that it was the poison which contaminated our whole system, and the source of all the evils we experienced.

This, Sir, is the substance of the arguments, if arguments they may be called, which were used in favour of *inequality of suffrage*.—Those who advocated the *equality of suffrage*, took the matter up on the original principles of government; they urged, that all men considered in a state of nature, before any government formed, are equally free and independent, no one having any right or authority to exercise power over another, and this *without any regard to difference in personal strength, understanding, or wealth*—That when such individuals enter into government, they have *each a right* to an *equal voice* in its first formation, and afterwards have *each a right* to an *equal vote* in every matter which relates to their government—That if it could be done conveniently, they have a right to exercise it in person—Where it cannot be done in person but for convenience, representatives are appointed to act for them, *every person* has a *right* to an *equal vote*, in choosing that representative who is entrusted to do for the whole, that which the whole, if they could assemble, might do in person, and in the transacting of which each would have an equal voice—That if we were to admit, because a man was *more wise, more strong, or more wealthy*, he should be entitled to *more votes* than another, it would be *inconsistent with the freedom and liberty of that other*, and would reduce him to *slavery*—Suppose, for instance, ten individuals in a state of nature, about to enter into government, *nine* of whom are *equally wise, equally strong, and equally wealthy*, the *tenth* is *ten times as wise, ten times as strong, or ten times as rich*; if for this reason he is to have *ten votes* for *each vote of either of the others*, the *nine* might as well *have no vote at all*, since though the *whole nine* might assent to a measure, yet the *vote* of the *tenth* would *countervail*, and *set aside all their votes*—If this *tenth* approved of what *they* wished to adopt, it would be well, but if he disapproved, he could prevent it, and in the same manner he could carry into execution *any measure he wished, contrary to the*

opinion of all the others, he having ten votes, and the other altogether but nine—It is evident that on these principles, the nine would have no will nor discretion of their own, but must be totally dependent on the will and discretion of the tenth, to him they would be as absolutely slaves as any negro is to his master—If he did not attempt to carry into execution any measures injurious to the other nine, it could only be said that they had a good master, they would not be the less slaves, because they would be totally dependent on the will of another, and not on their own will—They might not feel their chains, but they would notwithstanding wear them, and whenever their master pleased he might draw them so tight as to gall them to the bone. Hence it was urged the inequality of representation, or giving to one man more votes than another on account of his wealth, etc. was altogether inconsistent with the principles of liberty, and in the same proportion as it should be adopted, in favour of one or more, in that proportion are the others enslaved—It was urged, that though every individual should have an equal voice in the government, yet, even the superior wealth, strength, or understanding, would give great and undue advantages to those who possessed them. That wealth attracts respect and attention; superior strength would cause the weaker and more feeble to be cautious how they offended, and to put up with small injuries rather than to engage in an unequal contest—In like manner superior understanding would give its possessor many opportunities of profiting at the expence of the more ignorant. Having thus established these principles with respect to the rights of individuals in a state of nature, and what is due to each on entering into government, principles established by every writer on liberty, they proceeded to shew that States, when once formed, are considered with respect to each other as individuals in a state of nature; that, like individuals, each State is considered equally free and equally independent, the one having no right to exercise authority over the other, though more strong, more wealthy, or abounding with more inhabitants—That when a number of States unite themselves under a federal government, the same principles apply to them as when a number of individual men unite themselves under a State government—That every argument which shews one man ought not to have more votes than another, because he is wiser, stronger or wealthier, proves that one State ought not to have more votes than another, because it is stronger, richer,

or *more populous*—And that by *giving one State, or one or two States more votes* than the *others*, the *others* thereby are *enslaved to such State or States*, having the *greater number of votes*, in the *same manner* as in the case before put of *individuals* where *one* has *more votes than the others*—That the reason why each individual man in forming a State government should have an equal vote is, because each individual before he enters into government is *equally free* and *independent*—So *each State*, when *States enter* into a *federal government*, are entitled to an *equal vote*, because before they entered into such federal government, *each State* was *equally free* and *equally independent*—That *adequate representation of men formed into a State government*, consists in *each man* having an *equal voice*, either personally, or if by representatives, that he should have an equal voice in choosing the representative—So adequate representation of *States* in a *federal government*, consists in *each State* having an *equal voice* either in person or by its representative in every thing which relates to the federal government—That this *adequacy of representation* is *more important* in a *federal*, than in a *State* government, because the members of a State government, the *district* of which is *not very large*, have generally such a *common interest*, that laws can scarcely be made by *one part oppressive* to the *others*, without *their suffering in common*; but the *different States* composing an *extensive federal empire*, widely distant *one* from the *other*, may have *interests so totally distinct*, that the *one* part might be greatly *benefited* by what would be *destructive* to the *other*.

They were not satisfied by resting it on principles; they also appealed to history—They shewed that in the Amphyctionic confederation of the Grecian cities, *each city* however *different in wealth, strength*, and other *circumstances*, sent the same *number* of deputies, and had *each* an *equal voice* in every thing that related to the common concerns of Greece. It was shewn that in the seven Provinces of the United Netherlands, and the confederated Cantons of Switzerland, *each Canton* and *each province* have an *equal vote*, although there are as great distinctions of wealth, strength, population, and extent of territory among *those provinces* and *those Cantons*, as among *these States*. It was said, that the maxim that taxation and representation ought to go together, was true so far, that no person ought to be *taxed* who is not *represented*, but not in the extent

insisted upon, to wit, that the *quantum* of *taxation* and *representation* ought to be *same*; on the contrary, the *quantum* of *representation* depends upon the *quantum* of *freedom*, and therefore *all*, whether *individual States*, or *individual men*, who are *equally free*, have a right to *equal representation*—That to those who insist that he who pays the greatest share of taxes, ought to have the greatest number of votes; is a sufficient answer to say, that *this rule* would be *destructive* of the *liberty* of the *others*, and would render *them slaves* to the *more rich* and *wealthy*—That if one man pays *more taxes* than another, it is because he has *more wealth* to be protected by government, and he receives greater benefits from the government—So if one State pays more to the federal government, it is because as a State, she enjoys greater blessings from it; she has more wealth protected by it, or a greater number of inhabitants, whose rights are secured, and who share its advantages.

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

the *smallest State* also being *one individual member* of this government, ought also to have *one vote*—To those who urged that the States have equal suffrage, was contrary to the feelings of the human heart, it was answered, that it was admitted to be contrary to the feelings of *pride* and *ambition*; but those were feelings which ought not to be gratified at the expence of *freedom*.

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

It was denied that the *equality of suffrage* was *originally* agreed to on principles of *necessity* or *expediency*, on the contrary, that it was adopted on the principles of the *rights of men* and the *rights of States* which were *then* well known, and which then influenced our conduct although *now* they seem to be *forgotten*—For this the journals of Congress were

appealed to; it was from them shewn, that when the Committee of Congress reported to that body the articles of confederation, the very first article which became the subject of discussion, was that respecting equality of suffrage—That Virginia proposed divers modes of suffrage, all on the principle of inequality, which were *almost unanimously* rejected; that on the question for adopting the article, it passed, Virginia being the *only* State which voted in the *negative*—That after the articles of confederation were submitted to the States by them to be ratified, almost every State proposed certain amendment, which they instructed their delegates to endeavour to obtain before ratification, and that among all the amendments proposed, *not one State*, not even Virginia, proposed an amendment of that *article, securing the equality of suffrage*—the most convincing proof it was agreed to and adopted, not from *necessity*, but *upon a full conviction*, that according to the principles of free government, the States had a *right to that equality of suffrage*.

But, Sir, it was to no purpose that the futility of their objections were shewn—when driven from the *pretence* that the *equality of suffrage* had been originally agreed to on principles of *expediency* and *necessity*, the representatives of the *large States* persisting in a declaration, that they would never agree to admit the *smaller States* to an *equality* of suffrage—In answer to this, they were informed, and informed in terms the *most strong* and *energetic* that could *possibly be used*, that *we never would agree* to a system giving them the *undue influence* and *superiority* they proposed—That we would risque every possible consequence—That from anarchy and confusion *order might arise*—That *slavery* was the *worst* that could ensue, and we considered the *system* proposed to be the *most complete, most abject* system of *slavery* that the wit of man ever devised, under the *pretence* of forming a government for free States—That we never would submit tamely and servilely to a *present certain evil* in dread of a *future*, which might be *imaginary*; that we were sensible the eyes of our country and the world were upon us—That we would not labour under the *imputation* of being *unwilling to form a strong and energetic federal government*; but we would publish the system which we *approved*, and also that which we *opposed*, and leave it to our country and the world at large to judge between us, who *best understood* the rights of

free men and free States, and who best advocated them; and to the same tribunal we would submit, who ought to be answerable for all the consequences which might arise to the union from the convention breaking up, without proposing any system to their constituents.—During this debate we were threatened, that if we did not agree to the system proposed, we never should have an opportunity of meeting in convention to deliberate on another, and this was frequently urged—In answer, we called upon them to shew what was to prevent it, and from what quarter was our danger to proceed; was it from a foreign enemy? Our distance from Europe, and the political situation of that country, left us but little to fear: Was there any ambitious State or States, who in violation of every sacred obligation was preparing to enslave the other States, and raise itself to consequence on the ruin of the others? Or was there any such ambitious individual? We did not apprehend it to be the case: but suppose it to be true, it rendered it the more necessary that we should sacredly guard against a system which might enable all those ambitious views to be carried into effect, even under the sanction of the constitution and government: In fine, Sir, all these threats were treated with contempt, and they were told that we apprehended but one reason to prevent the States meeting again in convention; that when they discovered the part this convention had acted, and how much its members were abusing the trust reposed in them, the States would never trust another convention. At length, Sir, after every argument had been exhausted by the advocates of equality of representation, the question was called, when a majority decided in favour of the inequality—Massachusetts, Pennsylvania, Virginia, North-Carolina, South-Carolina and Georgia voting for it—Connecticut, New-York, New-Jersey, and Delaware against it; Maryland divided. It may be thought surprising, Sir, that Georgia, a State now small and comparatively trifling in the union, should advocate this system of unequal representation, giving up her present equality in the federal government, and sinking herself almost to total insignificance in the scale; but, Sir, it must be considered that Georgia has the most extensive territory in the union, being larger than the whole island of Great-Britain, and thirty times as large as Connecticut. This system being designed to preserve to the States their whole territory unbroken, and to prevent the erection of new States within the territory of any of them: Georgia looked forward

when *her population*, being increased in some measure *proportioned to her territory*, she should *rise* in the scale and *give law* to the other States, and hence we found the delegation of Georgia warmly advocating the proposition of giving the States unequal representation.

.....

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

Mr. Speaker, that this objection is *well founded*. I have taken some pains to obtain information of the number of free men and slaves in the different States, and I have reason to believe, that if the estimate was *now* taken, which is directed, and one delegate to be sent for every thirty thousand inhabitants, that Virginia would have at least *twelve* delegates, Massachusetts *eleven*, and Pennsylvania *ten*, instead of the number stated in *this section*; where the *other* States, I believe, would not have more than the number there allowed them, nor would Georgia, most probably at present, send more than *two*—If I am right, Mr. Speaker, upon the enumeration being made, and the representation being apportioned according to the rule prescribed, the *whole number* of delegates would be *seventy-one*, *thirty-six* of which would be a *quorum* to do business; the delegates of Virginia, Massachusetts, and Pennsylvania, would amount to *thirty-three* of that quorum—Those three States will, therefore, have *much more* than *equal* power and influence in *making* the laws and regulations, which are to affect this continent, and will have a *moral certainty* of *preventing* any laws or regulations which *they disapprove*, although they might be thought ever so *necessary* by a *great majority* of the States—It was further objected, that even if the States who had most inhabitants ought to have a greater number of delegates, yet the *number of delegates* ought not to be in *exact proportion* to the *number of inhabitants*, because the influence and power of those States whose delegates are numerous, will be *greater* when compared to the influence and power of the other States, than the *proportion* which the numbers of their delegates bear to each other; as for instance, though Delaware has *one* delegate, and Virginia but *ten*, yet Virginia has *more than ten times* as much *power and influence* in the government as Delaware; to prove this, it was observed, that *Virginia* would have a *much greater* chance to carry any measure than *any number of States*, whose delegates were altogether ten (suppose the States of Delaware, Connecticut, Rhode-Island, and New-Hampshire) since the *ten* delegates from Virginia in every thing that related to the interest of that State would *act in union*, and *move one solid and compact body*, whereas the *delegates of these four States*, though collectively *equal* in number to those from Virginia, coming from *different* States, having different *interests*, will be less likely to harmonize and move in concert. As a further proof it was said, that

Virginia, as the system is now reported, by uniting with her the delegates of *four* other States, can carry a question *against* the sense and interest of *eight* States by *sixty-four* different combinations; the *four* States voting with Virginia, being every time *so far different* as not to be composed of the *same four*; whereas the State of Delaware can only, by uniting four other States with her, carry a measure against the sense of eight States by *two* different combinations—a mathematical proof that the State of *Virginia* has *thirty-two* times greater chance of carrying a measure against the sense of eight States than *Delaware*, although Virginia has only *ten times* as many delegates: It was also shewn, that the idea was totally fallacious which was attempted to be maintained, that if a State had *one thirteenth* part of the *numbers composing the delegation in this system*, such State would have *as much influence* as under the articles of confederation; to prove the fallacy of this idea it was shewn, that under the articles of confederation the State of Maryland had but *one* vote in *thirteen*, yet no measure could be carried against her interests without *seven States*, a majority of the whole concurring in it; whereas in this system, though Maryland has *six* votes, which is *more* than the *proportion* of *one* in *thirteen*, yet *five* States may, in a *variety of combinations*, carry a question *against* her interest, tho' *seven* other States concur with her, and *six* States by a *much greater* number of combinations, may carry a measure against *Maryland*, united with *six other States*. I shall here, Sir, just observe, that as the committee of detail reported the system, the delegates from the different States were to be *one* for every *forty thousand* inhabitants; it was afterwards altered to one for every *thirty* thousand; this alteration was made after I left the convention, at the instance of whom I know not, but it is evident, that the alteration is in favour of the *States* which have large and extensive territory, to increase their power and influence in the government, and to the injury of the *smaller States*—Since it is the States of *extensive* territory, who will *most speedily* increase the number of their *inhabitants* as before has been observed, and will therefore, most speedily procure an increase to the number of their *delegates*—By this alteration Virginia, North-Carolina, or Georgia, by obtaining one hundred and twenty thousand additional inhabitants, will be entitled to *four* additional delegates, whereas such State would only have been entitled to *three*, if *forty thousand* had *remained* the number by which

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

NOTES ON THE STATE OF VIRGINIA, QUERY XIV

THOMAS JEFFERSON · WRITTEN 1781, PRINTED 1785

To emancipate all slaves born after passing the act. The bill reported by the revisors does not itself contain this proposition; but an amendment containing it was prepared, to be offered to the legislature whenever the bill should be taken up, and further directing, that they should continue with their parents to a certain age, then be brought up, at the public expence, to tillage, arts or sciences, according to their geniusses, till the females should be eighteen, and the males twenty-one years of age, when they should be colonized to such place as the circumstances of the time should render most proper, sending them out with arms, implements of houshold and of the handicraft arts, seeds, pairs of the useful domestic animals, &c. to declare them a free and independant people, and extend to them our alliance and protection, till they shall have acquired strength; and to send vessels at the same time to other parts of the world for an equal number of white inhabitants; to induce whom to migrate hither, proper encouragements were to be proposed. It will probably be asked, Why not retain and incorporate the blacks into the state, and thus save the expence of supplying, by importation of white settlers, the vacancies they will leave? Deep rooted prejudices entertained by the whites; ten thousand recollections, by the blacks, of the injuries they have sustained; new provocations; the real distinctions which nature has made; and many other circumstances, will divide us into parties, and produce convulsions which will probably never end but in the extermination of the one or the other race.—To these objections, which are political, may be added others, which are physical and moral. The first difference which strikes us is that of colour. Whether the black of the negro resides in the reticular membrane between the skin and scarf-skin, or in the scarfskin itself; whether it proceeds from the colour of the blood, the colour of the bile, or from that of some other secretion,

the difference is fixed in nature, and is as real as if its seat and cause were better known to us. And is this difference of no importance? Is it not the foundation of a greater or less share of beauty in the two races? Are not the fine mixtures of red and white, the expressions of every passion by greater or less suffusions of colour in the one, preferable to that eternal monotony, which reigns in the countenances, that immoveable veil of black which covers all the emotions of the other race? Add to these, flowing hair, a more elegant symmetry of form, their own judgment in favour of the whites, declared by their preference of them, as uniformly as is the preference of the Oran-ootan for the black women over those of his own species. The circumstance of superior beauty, is thought worthy attention in the propagation of our horses, dogs, and other domestic animals; why not in that of man? Besides those of colour, figure, and hair, there are other physical distinctions proving a difference of race. They have less hair on the face and body. They secrete less by the kidneys, and more by the glands of the skin, which gives them a very strong and disagreeable odour. This greater degree of transpiration renders them more tolerant of heat, and less so of cold, than the whites. Perhaps too a difference of structure in the pulmonary apparatus, which a late ingenious experimentalist has discovered to be the principal regulator of animal heat, may have disabled them from extricating, in the act of inspiration, so much of that fluid from the outer air, or obliged them in expiration, to part with more of it. They seem to require less sleep. A black, after hard labour through the day, will be induced by the slightest amusements to sit up till midnight, or later, though knowing he must be out with the first dawn of the morning. They are at least as brave, and more adventuresome. But this may perhaps proceed from a want of forethought, which prevents their seeing a danger till it be present. When present, they do not go through it with more coolness or steadiness than the whites. They are more ardent after their female: but love seems with them to be more an eager desire, than a tender delicate mixture of sentiment and sensation. Their griefs are transient. Those numberless afflictions, which render it doubtful whether heaven has given life to us in mercy or in wrath, are less felt, and sooner forgotten with them. In general, their existence appears to participate more of sensation than reflection. To this must be ascribed their disposition to sleep when

abstracted from their diversions, and unemployed in labour. An animal whose body is at rest, and who does not reflect, must be disposed to sleep of course. Comparing them by their faculties of memory, reason, and imagination, it appears to me, that in memory they are equal to the whites; in reason much inferior, as I think one could scarcely be found capable of tracing and comprehending the investigations of Euclid; and that in imagination they are dull, tasteless, and anomalous. It would be unfair to follow them to Africa for this investigation. We will consider them here, on the same stage with the whites, and where the facts are not apocryphal on which a judgment is to be formed. It will be right to make great allowances for the difference of condition, of education, of conversation, of the sphere in which they move. Many millions of them have been brought to, and born in America. Most of them indeed have been confined to tillage, to their own homes, and their own society: yet many have been so situated, that they might have availed themselves of the conversation of their masters; many have been brought up to the handicraft arts, and from that circumstance have always been associated with the whites. Some have been liberally educated, and all have lived in countries where the arts and sciences are cultivated to a considerable degree, and have had before their eyes samples of the best works from abroad. The Indians, with no advantages of this kind, will often carve figures on their pipes not destitute of design and merit. They will crayon out an animal, a plant, or a country, so as to prove the existence of a germ in their minds which only wants cultivation. They astonish you with strokes of the most sublime oratory; such as prove their reason and sentiment strong, their imagination glowing and elevated. But never yet could I find that a black had uttered a thought above the level of plain narration; never see even an elementary trait of painting or sculpture. In music they are more generally gifted than the whites with accurate ears for tune and time, and they have been found capable of imagining a small catch. Whether they will be equal to the composition of a more extensive run of melody, or of complicated harmony, is yet to be proved. Misery is often the parent of the most affecting touches in poetry.—Among the blacks is misery enough, God knows, but no poetry. Love is the peculiar oestrus of the poet. Their love is ardent, but it kindles the senses only, not the imagination. Religion indeed has produced a Phyllis Whately;

but it could not produce a poet. The compositions published under her name are below the dignity of criticism. The heroes of the *Dunciad* are to her, as Hercules to the author of that poem. Ignatius Sancho has approached nearer to merit in composition; yet his letters do more honour to the heart than the head. They breathe the purest effusions of friendship and general philanthropy, and shew how great a degree of the latter may be compounded with strong religious zeal. He is often happy in the turn of his compliments, and his stile is easy and familiar, except when he affects a Shandean fabrication of words. But his imagination is wild and extravagant, escapes incessantly from every restraint of reason and taste, and, in the course of its vagaries, leaves a tract of thought as incoherent and eccentric, as is the course of a meteor through the sky. His subjects should often have led him to a process of sober reasoning: yet we find him always substituting sentiment for demonstration. Upon the whole, though we admit him to the first place among those of his own colour who have presented themselves to the public judgment, yet when we compare him with the writers of the race among whom he lived, and particularly with the epistolary class, in which he has taken his own stand, we are compelled to enroll him at the bottom of the column. This criticism supposes the letters published under his name to be genuine, and to have received amendment from no other hand; points which would not be of easy investigation. The improvement of the blacks in body and mind, in the first instance of their mixture with the whites, has been observed by every one, and proves that their inferiority is not the effect merely of their condition of life. We know that among the Romans, about the Augustan age especially, the condition of their slaves was much more deplorable than that of the blacks on the continent of America. The two sexes were confined in separate apartments, because to raise a child cost the master more than to buy one. Cato, for a very restricted indulgence to his slaves in this particular, took from them a certain price. But in this country the slaves multiply as fast as the free inhabitants. Their situation and manners place the commerce between the two sexes almost without restraint. —The same Cato, on a principle of oeconomy, always sold his sick and superannuated slaves. He gives it as a standing precept to a master visiting his farm, to sell his old oxen, old waggons, old tools, old and diseased servants, and every thing else become useless. “Vendat boves vetulos,

plaustrum vetus, ferramenta, vetera, servum senem, servum morbosum, & si quid aliud supersit vendat.” The American slaves cannot enumerate this among the injuries and insults they receive. It was the common practice to expose in the island of Aesculapius, in the Tyber, diseased slaves, whose cure was like to become tedious. The Emperor Claudius, by an edict, gave freedom to such of them as should recover, and first declared, that if any person chose to kill rather than to expose them, it should be deemed homicide. The exposing them is a crime of which no instance has existed with us; and were it to be followed by death, it would be punished capitally. We are told of a certain Vedius Pollio, who, in the presence of Augustus, would have given a slave as food to his fish, for having broken a glass. With the Romans, the regular method of taking the evidence of their slaves was under torture. Here it has been thought better never to resort to their evidence. When a master was murdered, all his slaves, in the same house, or within hearing, were condemned to death. Here punishment falls on the guilty only, and as precise proof is required against him as against a freeman. Yet notwithstanding these and other discouraging circumstances among the Romans, their slaves were often their rarest artists. They excelled too in science, insomuch as to be usually employed as tutors to their master’s children. Epictetus, Diogenes, Phaeton, Terence, and Phaedrus, were slaves. But they were of the race of whites. It is not their condition then, but nature, which has produced the distinction.—Whether further observation will or will not verify the conjecture, that nature has been less bountiful to them in the endowments of the head, I believe that in those of the heart she will be found to have done them justice. That disposition to theft with which they have been branded, must be ascribed to their situation, and not to any depravity of the moral sense. The man, in whose favour no laws of property exist, probably feels himself less bound to respect those made in favour of others. When arguing for ourselves, we lay it down as a fundamental, that laws, to be just, must give a reciprocation of right: that, without this, they are mere arbitrary rules of conduct, founded in force, and not in conscience: and it is a problem which I give to the master to solve, whether the religious precepts against the violation of property were not framed for him as well as his slave? And whether the slave may not as justifiably take a little from one, who has taken all from him, as

he may slay one who would slay him? That a change in the relations in which a man is placed should change his ideas of moral right and wrong, is neither new, nor peculiar to the colour of the blacks. Homer tells us it was so 2600 years ago.

(*Od.* 17. 323.)

But the slaves of which Homer speaks were whites. Notwithstanding these considerations which must weaken their respect for the laws of property, we find among them numerous instances of the most rigid integrity, and as many as among their better instructed masters, of benevolence, gratitude, and unshaken fidelity.—The opinion, that they are inferior in the faculties of reason and imagination, must be hazarded with great diffidence. To justify a general conclusion, requires many observations, even where the subject may be submitted to the Anatomical knife, to Optical glasses, to analysis by fire, or by solvents. How much more then where it is a faculty, not a substance, we are examining; where it eludes the research of all the senses; where the conditions of its existence are various and variously combined; where the effects of those which are present or absent bid defiance to calculation; let me add too, as a circumstance of great tenderness, where our conclusion would degrade a whole race of men from the rank in the scale of beings which their Creator may perhaps have given them. To our reproach it must be said, that though for a century and a half we have had under our eyes the races of black and of red men, they have never yet been viewed by us as subjects of natural history. I advance it therefore as a suspicion only, that the blacks, whether originally a distinct race, or made distinct by time and circumstances, are inferior to the whites in the endowments both of body and mind. It is not against experience to suppose, that different species of the same genus, or varieties of the same species, may possess different qualifications. Will not a lover of natural history then, one who views the gradations in all the races of animals with the eye of philosophy, excuse an effort to keep those in the department of man as distinct as nature has formed them? This unfortunate difference of colour, and perhaps of faculty, is a powerful obstacle to the emancipation of these people. Many of their advocates, while they wish to vindicate the liberty of human nature, are anxious also to preserve its dignity and beauty.

Some of these, embarrassed by the question “What further is to be done with them?” join themselves in opposition with those who are actuated by sordid avarice only. Among the Romans emancipation required but one effort. The slave, when made free, might mix with, without staining the blood of his master. But with us a second is necessary, unknown to history. When freed, he is to be removed beyond the reach of mixture.

NOTES ON THE STATE OF VIRGINIA, QUERY XVIII

MANNERS

It is difficult to determine on the standard by which the manners of a nation may be tried, whether *catholic*, or *particular*. It is more difficult for a native to bring to that standard the manners of his own nation, familiarized to him by habit. There must doubtless be an unhappy influence on the manners of our people produced by the existence of slavery among us. The whole commerce between master and slave is a perpetual exercise of the most boisterous passions, the most unremitting despotism on the one part, and degrading submissions on the other. Our children see this, and learn to imitate it; for man is an imitative animal. This quality is the germ of all education in him. From his cradle to his grave he is learning to do what he sees others do. If a parent could find no motive either in his philanthropy or his self-love, for restraining the intemperance of passion towards his slave, it should always be a sufficient one that his child is present. But generally it is not sufficient. The parent storms, the child looks on, catches the lineaments of wrath, puts on the same airs in the circle of smaller slaves, gives a loose to his worst of passions, and thus nursed, educated, and daily exercised in tyranny, cannot but be stamped by it with odious peculiarities. The man must be a prodigy who can retain his manners and morals undepraved by such circumstances. And with what execration should the statesman be loaded, who permitting one half the citizens thus to trample on the rights of the other, transforms those into despots, and these into enemies, destroys the morals of the one part, and the *amor patriae* of the other. For if a slave can have a country in this world, it must be any other in preference to that in which he is born to live and labour for another: in which he must lock up the faculties of his nature, contribute as far as depends on his individual endeavours to the evanishment of the human race, or entail his own miserable condition on the endless generations proceeding from him. With the morals of the

people, their industry also is destroyed. For in a warm climate, no man will labour for himself who can make another labour for him. This is so true, that of the proprietors of slaves a very small proportion indeed are ever seen to labour. And can the liberties of a nation be thought secure when we have removed their only firm basis, a conviction in the minds of the people that these liberties are of the gift of God? That they are not to be violated but with his wrath? Indeed I tremble for my country when I reflect that God is just: that his justice cannot sleep for ever: that considering numbers, nature and natural means only, a revolution of the wheel of fortune, an exchange of situation, is among possible events: that it may become probable by supernatural interference! The Almighty has no attribute which can take side with us in such a contest.—But it is impossible to be temperate and to pursue this subject through the various considerations of policy, of morals, of history natural and civil. We must be contented to hope they will force their way into every one's mind. I think a change already perceptible, since the origin of the present revolution. The spirit of the master is abating, that of the slave rising from the dust, his condition mollifying, the way I hope preparing, under the auspices of heaven, for a total emancipation, and that this is disposed, in the order of events, to be with the consent of the masters, rather than by their extirpation.

BENJAMIN BANNEKER TO THOMAS JEFFERSON

MARYLAND, BALTIMORE COUNTY, NEAR ELLICOTT'S LOWER MILLS, 19 AUGUST

1791

SIR

I am fully sensible of the greatness of that freedom which I take with you on the present occasion; a liberty which Seemed to me scarcely allowable, when I reflected on that distinguished, and dignified station in which you Stand; and the almost general prejudice and prepossession which is so prevalent in the world against those of my complexion.

I suppose it is a truth too well attested to you, to need a proof here, that we are a race of Beings who have long laboured under the abuse and censure of the world, that we have long been looked upon with an eye of contempt, and that we have long been considered rather as brutish than human, and Scarcely capable of mental endowments.

Sir I hope I may Safely admit, in consequence of that report which hath reached me, that you are a man far less inflexible in Sentiments of this nature, than many others, that you are measurably friendly and well disposed toward us, and that you are willing and ready to Lend your aid and assistance to our relief from those many distresses and numerous calamities to which we are reduced.

Now Sir if this is founded in truth, I apprehend you will readily embrace every opportunity to eradicate that train of absurd and false ideas and opinions which so generally prevails with respect to us, and that your Sentiments are concurrent with mine, which are that one universal Father hath given being to us all, and that he hath not only made us all of one flesh, but that he hath also without partiality afforded us all the Same Sensations, and endued us all with the same faculties, and that however variable we may be in Society or religion, however diversified

in Situation or colour, we are all of the Same Family, and Stand in the Same relation to him.

Sir, if these are Sentiments of which you are fully persuaded, I hope you cannot but acknowledge, that it is the indispensable duty of those who maintain for themselves the rights of human nature, and who profess the obligations of Christianity, to extend their power and influence to the relief of every part of the human race, from whatever burthen or oppression they may unjustly labour under, and this I apprehend a full conviction of the truth and obligation of these principles should lead all to.

Sir, I have long been convinced, that if your love for your Selves, and for those inestimable laws which preserve to you the rights of human nature, was founded on Sincerity, you could not but be Solicitous, that every Individual of whatsoever rank or distinction, might with you equally enjoy the blessings thereof, neither could you rest Satisfyed, short of the most active diffusion of your exertions, in order to their promotion from any State of degradation, to which the unjustifiable cruelty and barbarism of men may have reduced them.

Sir I freely and Chearfully acknowledge, that I am of the African race, and in that colour which is natural to them of the deepest dye,¹ and it is under a Sense of the most profound gratitude to the Supreme Ruler of the universe, that I now confess to you, that I am not under that State of tyrannical thralldom, and inhuman captivity, to which too many of my brethren are doomed; but that I have abundantly tasted of the fruition of those blessings which proceed from that free and unequalled liberty with which you are favoured and which I hope you will willingly allow you have received from the immediate hand of that Being, from whom proceedeth every good and perfect gift.

Sir, Suffer me to recall to your mind that time in which the Arms and tyranny of the British Crown were exerted with every powerful effort in order to reduce you to a State of Servitude, look back I intreat you on the variety of dangers to which you were exposed, reflect on that time in which every human aid appeared unavailable, and in which even

¹My Father was brought here a S[lav]e from Africa.

hope and fortitude wore the aspect of inability to the Conflict, and you cannot but be led to a Serious and grateful Sense of your miraculous and providential preservation; you cannot but acknowledge, that the present freedom and tranquility which you enjoy you have mercifully received, and that it is the peculiar blessing of Heaven.

This Sir, was a time in which you clearly saw into the injustice of a State of Slavery, and in which you had just apprehensions of the horrors of its condition, it was now Sir, that your abhorrence thereof was so excited, that you publicly held forth this true and invaluable doctrine, which is worthy to be recorded and remember'd in all Succeeding ages. "We hold these truths to be Self evident, that all men are created equal, and that they are endowed by their creator with certain unalienable rights, that among these are life, liberty, and the pursuit of happiness."

Here Sir, was a time in which your tender feelings for your selves had engaged you thus to declare, you were then impressed with proper ideas of the great valuation of liberty, and the free possession of those blessings to which you were entitled by nature; but Sir how pitiable is it to reflect, that altho you were so fully convinced of the benevolence of the Father of mankind, and of his equal and impartial distribution of those rights and privileges which he had conferred upon them, that you should at the Same time counteract his mercies, in detaining by fraud and violence so numerous a part of my brethren under groaning captivity and cruel oppression, that you should at the Same time be found guilty of that most criminal act, which you professedly detested in others, with respect to yourselves.

Sir, I suppose that your knowledge of the situation of my brethren is too extensive to need a recital here; neither shall I presume to prescribe methods by which they may be relieved; otherwise than by recommending to you and all others, to wean yourselves from these narrow prejudices which you have imbibed with respect to them, and as Job proposed to his friends "Put your Souls in their Souls stead," thus shall your hearts be enlarged with kindness and benevolence toward them, and thus shall you need neither the direction of myself or others in what manner to proceed herein.

And now, Sir, altho my Sympathy and affection for my brethren hath caused my enlargement thus far, I ardently hope that your candour and generosity will plead with you in my behalf, when I make known to you, that it was not originally my design; but that having taken up my pen in order to direct to you as a present, a copy of an Almanack which I have calculated for the Succeeding year, I was unexpectedly and unavoidably led thereto.

This calculation, Sir, is the production of my arduous Study in this my advanced Stage of life; for having long had unbounded desires to become acquainted with the Secrets of nature, I have had to gratify my curiosity herein thro my own assiduous application to Astronomical Study, in which I need not to recount to you the many difficulties and disadvantages which I have had to encounter.

And altho I had almost declined to make my calculation for the ensuing year, in consequence of that time which I had allotted therefor being taking up at the Federal Territory by the request of Mr. Andrew Ellicott, yet finding myself under Several engagements to printers of this state to whom I had communicated my design, on my return to my place of residence, I industriously apply'd myself thereto, which I hope I have accomplished with correctness and accuracy, a copy of which I have taken the liberty to direct to you, and which I humbly request you will favourably receive, and altho you may have the opportunity of perusing it after its publication, yet I chose to send it to you in manuscript previous thereto, that thereby you might not only have an earlier inspection, but that you might also view it in my own hand writing.—And now Sir, I shall conclude and Subscribe my Self with the most profound respect your most Obedient humble Servant,

BENJAMIN BANNEKER

NB any communication to me may be had by a direction to Mr. Elias Ellicott merchant in Baltimore Town.

B B

As an Essay of my calculation is put into the hand of Mr. Cruckshank of philadelphia, for publication I would wish that you might neither

have this Almanack copy published nor give any printer an opportunity thereof, as it might tend to disappoint Mr. Joseph Cruckshank in his sale.

B B

THOMAS JEFFERSON TO BENJAMIN BANNEKER

PHILADELPHIA, 30 AUGUST 1791

SIR

I thank you sincerely for your letter of the 19th. instant and for the Almanac it contained. No body wishes more than I do to see such proofs as you exhibit, that nature has given to our black brethren, talents equal to those of the other colours of men, and that the appearance of a want of them is owing merely to the degraded condition of their existence both in Africa and America. I can add with truth that no body wishes more ardently to see a good system commenced for raising the condition both of their body and mind to what it ought to be, as fast as the imbecillity of their present existence, and other circumstances which cannot be neglected, will admit.—I have taken the liberty of sending your almanac to Monsieur de Condorcet, Secretary of the Academy of sciences at Paris, and member of the Philanthropic society because I considered it as a document to which your whole colour had a right for their justification against the doubts which have been entertained of them. I am with great esteem, Sir Your most obedt. humble servt.,

TH: JEFFERSON