

Records of the Federal Convention of 1787,
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Charles C. Pinckney, South Carolina House of
Representatives

was in our power to make. We would have made better if we could; but, on the whole, I do not think them bad.

CLXXII. RUFUS KING IN THE MASSACHUSETTS CONVENTION.¹

January 17, 1788.

Mr. King said that gentlemen had made it a question, why a qualification of property in a representative is omitted. . . . Such a qualification was proposed in Convention, but by the delegates of Massachusetts, it was contested that it should not obtain. . . .

The third paragraph of the second section being read,

Mr. King rose to explain it. There has, says he, been much misconception on this section. It is a principle of this Constitution, that representation and taxation should go hand in hand. This paragraph states that the number of free persons 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. These persons are the slaves. By this rule is representation and taxation to be apportioned. And it was adopted, because it was the language of all America. According to the Confederation, ratified in 1781, the sums for the general welfare and defence should be apportioned according to the surveyed lands, and improvements thereon, in the several States. But it hath never been in the power of Congress to follow that rule; the returns from the several States being so very imperfect. [From "Debates of Convention."]

Hon. Mr. King. The principle on which this paragraph is founded is, that taxation and representation should go hand in hand. By the Confederation, the apportionment is upon surveyed land, the buildings and improvements. The rule could never be assessed. A new rule has been proposed by Congress, similar to the present rule, which has been adopted by eleven States — all but New Hampshire and Rhode Island. [From "Parsons's Minutes."]

CLXXIII. C. C. PINCKNEY: SPEECH IN SOUTH CAROLINA HOUSE OF REPRESENTATIVES.²

Friday, January 18, 1788.

. . . He said, that the time for which the President should hold his office, and whether he should be reëligible, had been fully dis-

¹ *Debates and Proceedings in Convention of Massachusetts in 1788*. Edit. 1856, pp. 133-134, 299.

² Elliot, *Debates in State Conventions on the Adoption of the Federal Constitution*, IV, 315-316.

cussed in the Convention. It had been once agreed to by a majority, that he should hold his office for the term of seven years, but should not be reëlected a second time. But upon reconsidering that article, it was thought that to cut off all hopes from a man of serving again in that elevated station, might render him dangerous, or perhaps indifferent to the faithful discharge of his duty. His term of service might expire during the raging of war, when he might, perhaps, be the most capable man in America to conduct it; and would it be wise and prudent to declare in our Constitution that such a man should not again direct our military operations, though our success might be owing to his abilities? The mode of electing the President rendered undue influence almost impossible; and it would have been imprudent in us to have put it out of our power to reëlect a man whose talents, abilities, and integrity, were such as to render him the object of the general choice of his country. With regard to the liberty of the press, the discussion of that matter was not forgotten by the members of the Convention. It was fully debated, and the impropriety of saying any thing about it in the Constitution clearly evinced. The general government has no powers but what are expressly granted to it; it therefore has no power to take away the liberty of the press. That invaluable blessing, which deserves all the encomiums the gentleman has justly bestowed upon it, is secured by all our state constitutions; and to have mentioned it in our general Constitution would perhaps furnish an argument, hereafter, that the general government had a right to exercise powers not expressly delegated to it. For the same reason, we had no bill of rights inserted in our Constitution; for, as we might perhaps have omitted the enumeration of some of our rights, it might hereafter be said we had delegated to the general government a power to take away such of our rights as we had not enumerated; but by delegating express powers, we certainly reserve to ourselves every power and right not mentioned in the Constitution. Another reason weighed particularly, with the members from this state, against the insertion of a bill of rights. Such bills generally begin with declaring that all men are by nature born free. Now, we should make that declaration with a very bad grace, when a large part of our property consists in men who are actually born slaves. As to the clause guarantying to each state a republican form of government being inserted near the end of the Constitution, the general observed that it was as binding as if it had been inserted in the first article. The Constitution takes its effect from the ratification, and every part of it is to be ratified at the same time, and not one clause before the other; but he thought there was a peculiar

propriety in inserting it where it was, as it was necessary to form the government before that government could guaranty any thing.

CLXXIV. THE FEDERALIST, No. XL. [MADISON.]¹

In one particular, it is admitted, that the convention have departed from the tenor of their commission. Instead of reporting a plan requiring the confirmation of *all the states*, they have reported a plan, which is to be confirmed, and may be carried into effect, by *nine states only*. It is worthy of remark, that this objection, though the most plausible, has been the least urged in the publications which have swarmed against the convention. The forbearance can only have proceeded from an irresistible conviction of the absurdity of subjecting the fate of twelve states to the perverseness or corruption of a thirteenth; from the example of inflexible opposition given by a *majority* of one sixtieth of the people of America, to a measure approved and called for by the voice of twelve states, comprising fifty-nine sixtieths of the people; an example still fresh in the memory and indignation of every citizen who has felt for the wounded honour and prosperity of his country. As this objection, therefore, has been in a manner waved by those who have criticised the powers of the convention, I dismiss it without further observation.

The *third* point to be inquired into is, how far considerations of duty arising out of the case itself, could have supplied any defect of regular authority.

In the preceding inquiries, the powers of the convention have been analyzed and tried with the same rigour, and by the same rules, as if they had been real and final powers, for the establishment of a constitution for the United States. We have seen, in what manner they have borne the trial, even on that supposition. It is time now to recollect, that the powers were merely advisory and recommendatory; that they were so meant by the states, and so understood by the convention; and that the latter have accordingly planned and proposed a constitution, which is to be of no more consequence than the paper on which it is written, unless it be stamped with the approbation of those to whom it is addressed. This reflection places the subject in a point of view altogether different, and will enable us to judge with propriety of the course taken by the convention.

Let us view the ground on which the convention stood. It may be collected from their proceedings, that they were deeply and unanimously impressed with the crisis, which had led their country, almost with one voice, to make so singular and solemn an experi-

¹ Hallowell edition, 1837; first printed in the *New York Packet*, January 18, 1788.

