

THE GREAT BRITISH LIBERTIES GREAT

Washington, Oct. 13.—The great topic of the day is the National or Memphis question. The French difficulty is not in the question of compensation, but in the question of the right to the territory. The latter is an essential part of the former. The appearance of a long gathering, now impending, at Memphis, is an event of no small importance.

The matter has gone further than any one in this country had supposed. It has gone so far that it is difficult to see how it can be prevented. The French government has taken steps without delay, and has proceeded with preparation for war. The people of this country have looked at the matter with indifference; they are confident in the administration. They are surprised to find that Mr. Squire's address to the Convention, and from recent official statements, that the Administration had taken a bold step to say each step, in our foreign office, from which they cannot retreat with any grace, no matter how much they desire.

We find in Mr. Squire's address an assertion of course directed to him in his instructions, of our part of the Convention, and an appreciation of that doctrine in the British article in the Memphis question.

In fact Mr. Squire not only declares that the American Convention must be held only in America, but that an invasion of the rights of the American Convention must be held only in the United States.

That is the plain meaning of Mr. Squire's address. The same declarations were communicated to the British Convention by Mr. Squire, and the same Secretary of Legation at London.

The protest of the British Council, was dated July 31st, and of course the remonstrance against it was not made until after the meeting of the British Convention on the 1st of August. It is a document of some importance, and we shall have to refer to it in our next issue.

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1. That the pretended Power of suspending the laws, or the execution of laws, by regal authority, without the consent of Parliament, is illegal. 2. That the pretended Power of dispensing with the execution of laws, by regal authority, is illegal. 3. That the pretended Power of granting charters, or of creating new offices, or of appointing to such offices, or of removing from such offices, or of appointing to such offices, or of removing from such offices, is illegal. 4. That the pretended Power of levying money, or of imposing any tax, or of imposing any charge, or of imposing any burden, or of imposing any duty, or of imposing any fine, or of imposing any penalty, or of imposing any punishment, without the consent of Parliament, is illegal. 5. That the pretended Power of declaring any man, or any body of men, guilty of treason, or of any other crime, or of any offence, without the consent of Parliament, is illegal. 6. That the pretended Power of pardoning any crime, or of any offence, without the consent of Parliament, is illegal. 7. That the pretended Power of granting any pardon, or of any remission, or of any mitigation, or of any commutation, or of any other favour, without the consent of Parliament, is illegal. 8. That the pretended Power of creating any new office, or of appointing to such office, or of removing from such office, or of appointing to such office, or of removing from such office, is illegal. 9. That the pretended Power of levying money, or of imposing any tax, or of imposing any charge, or of imposing any burden, or of imposing any duty, or of imposing any fine, or of imposing any penalty, or of imposing any punishment, without the consent of Parliament, is illegal. 10. That the pretended Power of declaring any man, or any body of men, guilty of treason, or of any other crime, or of any offence, without the consent of Parliament, is illegal. 11. That the pretended Power of pardoning any crime, or of any offence, without the consent of Parliament, is illegal. 12. That the pretended Power of granting any pardon, or of any remission, or of any mitigation, or of any commutation, or of any other favour, without the consent of Parliament, is illegal.

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Two Treatises of Government, 1689 (Pg. 1)

8/John Locke

plan it appeared in the world, to carry, by strength of its arguments, all liberty out or it; and that, from thenceforth, our author's short model was to be the pattern in the mount, and the perfect standard of politics for the future. His system lies in a little compass; it is no more but this,

“That all government is absolute monarchy.”

And the ground he builds on is this.

“That no man is born free.”

§3. In this last age a generation of men has sprung up amongst us, that would flatter princes with an opinion, that they have a divine right to absolute power, let the laws by which they are constituted and are to govern, and the conditions under which they enter upon their authority, be what they will; and their engagements to observe them ever so well ratified by solemn oaths and promises. To make way for this doctrine, they have denied mankind a right to natural freedom; whereby they have not only, as much as in them lies, exposed all subjects to the utmost misery of tyranny and oppression, but have also unsettled the titles and shaken the thrones of princes: (for they too, by these men's system, except only one, are all born slaves, and by divine right are subjects to Adam's right heir); as if they had designed to make war upon all government, and subvert the very foundations of human society, to serve their present turn.

§4. However we must believe them upon their own bare words, when they tell us, “We are all born slaves, and we must continue so;” there is no remedy for it; life and thralldom we entered into together, and can never be quit of the one till we part with the other. Scripture or reason, I am sure, do not any where say so, notwithstanding the noise of divine right, as if divine authority hath subjected us to the unlimited will of another. An admirable state of mankind, and that which they have not lead wit enough to find out till this latter age! For however sir Robert Filmier seems to condemn the novelty of the contrary opinion, Patr. p. 3, yet I believe it will be hard for him to find any other age, or country of the world, but this, which has asserted monarchy to be *jure divine*. And he confesses, Patr. p. 4, that “Heyward, Blackwood, Barclay, and others, that have bravely vindicated the right of kings in most points, never thought of this; but, with one consent, admitted the natural liberty and equality of mankind.”

§5. By whom this doctrine came at first to be broached, and brought in fashion amongst us, and what sad elects it gave rise to, I leave to historians to relate, or to the memory of those who were contemporaries

Two Treatises of Government, 1689 (Pg. 2)

Two Treatises of Government/19

Chapter IV Of Adam's Title to Sovereignty, by Donation, Gen. i. 28.

§21. Having at last got through the foregoing passage, where we have been so long detained, not by the force of arguments and opposition, but by the intricacy of the words, and the doubtfulness of the meaning; let us go on to his next argument, for Adam's sovereignty. Our author tells us in the words of Mr. Selden, that "Adam by donation from God, Gen. i. 28, was made the general lord of all things, not without such a private dominion to himself, as without his grant did exclude his children. This determination of Mr. Selden, says our author, is consonant to the history of the Bible, and natural reason," Obs. 910. And in his Pref. to his Observations on Aristotle, he says thus, "The first government in the world was monarchical in the father of all flesh, Adam being commanded to multiply and people the earth, and to subdue it, and having dominion given him over all creatures, was thereby the monarch of the whole world. None of his posterity had any right to possess any thing, but by his grant or permission, or by succession from him. The earth, saith the Psalmist, hath he given to the children of men, which shows the title comes from fatherhood."

§22. Before I examine this argument, and the text on which it is founded, it is necessary to desire the reader to observe, that our author, according to his usual method, begins in one sense, and concludes in another; he begins here with Adam's propriety, or private dominion, by donation; and his conclusion is, "which shows the title comes from fatherhood."

§23. But let us see the argument. The words of the text are these: "And God blessed them, and God said unto them, Be fruitful and multiply, and replenish the earth and subdue it, and have dominion over the fish of the sea, and over the fowl of the air, and over every living thing that moveth upon the earth," Gen. i. 28; from whence our author concludes, "that Adam, having here dominion given him over all creatures, was thereby the monarch of the whole world:" whereby must be meant, that either this grant of God gave Adam property, or, as our author calls it, private dominion over the earth, and all inferior or irrational creatures, and so consequently that he was thereby monarch; or, 2dly, that it gave him rule and dominion over all earthly creatures whatsoever, and thereby over his children; and so he was monarch: for, as Mr. Selden

Two Treatises of Government, 1689 (Pg. 3)

Two Treatises of Government/59

before these words were pronounced, Gen. i. 28, 29, (if they must be understood literally to have been spoken) and without any such verbal donation, man had a right to an use of the creatures, by the will and grant of God: for the desire, strong desire, of preserving his life and being, having been planted in him as a principle of action by God himself, reason, “which was the voice of God in him,” could not but teach him and assure him that pursuing that natural inclination he had to preserve his being, he followed the will of his Maker, and therefore had a right to make use of those creatures which by his rear son or senses he could discover would be serviceable thereunto. And thus man’s property in the creatures was founded upon the right he had to make use of those things that were necessary or useful to his being.

§87. This being the reason and foundation of Adam’s property, gave the same title on the same ground to all his children, not only after his death, but in his life time: so that here was no privilege of his heir above his other children, which could exclude them from an equal right to the use of the inferior creatures, for the comfortable preservation of their beings, which is all the property man hath in them; and so Adam’s sovereignty built on property, or, as our author calls it, private dominion, comes to nothing. Every man had a right to the creatures by the same title Adam had, viz., by the right every one had to take care of and provide for their subsistence: and thus men had a right in common, Adam’s children in common with him. But if any one lead begun, and made himself a property in any particular thing, (which how he, or any one else, could do, shall be shown in another place) that thing, that possession, if he disposed not otherwise of it by his positive grant, descended naturally to his children, and they had a right to succeed to it and possess it.

§88. It might reasonably be asked here, how come children by this right of possessing, before any other, the properties of their parent’s upon their decease? for it being personally the parents, when they die, without actually transferring their right to another, why does it not return again to the common stock of mankind? It perhaps be answered, that common consent hath disposed of it to their children. Common practice, we see indeed, does so dispose of it; but we cannot say that it is the common consent of mankind; for that hath never been asked, nor actually given; and it common tacit consent hath established it, it would make but a positive, and not a natural right of children to inherit the goods of their parents: but where the practice is universal, it is reason-

Two Treatises of Government, 1689 (Pg. 4

86/John Locke

wealths are nothing but downright monarchies; and then what need any more ado about the matter? The governments of the world are as they should be, there is nothing but monarchy in it. This, without doubt, was the surest way our author could have found to turn all other governments, but monarchical, out of the world.

§135. But all this scarce proves Abraham to have been a king as heir to Adam. If by inheritance he kind been king, Lot, who was of the same family, must needs have been his subject by that title, before the servants in his family; but we see they lived as friends and equals, and when their herdsmen could not agree, there was no presence of jurisdiction or superiority between them, but they parted by consent, Gen. xiii. hence he is called, both by Abraham and by the text, Abraham's brother; the name of friendship and equality, and not of jurisdiction and authority, though he were really but his nephew. And if our author knows that Abraham was Adam's heir, and a king, it was more, it seems, than Abraham himself knew, or his servant whom he sent a wooing for his son; for when he sets out the advantages of the match, Gen. xxiv. 35, thereby to prevail with the young woman and her friends, he says, "I am Abraham's servant, and the Lord hath blessed my master greatly, and he is become great; and he hath given him flocks and herds, and silver and gold, and men-servants and maid-servants, and camels and asses; and Sarah, my master's wife, bare a son to my master when she was old, and unto him hath he given all he hath." Can one think that a discreet servant, that was thus particular to set out his master's greatness, would have omitted the crown Isaac was to have, if he had known of any such? Can it be imagined he should have neglected to have told them, on such an occasion as this, that Abraham was a king, a name well known at that time, for he had nine of them his neighbours, if he or his master had thought any such thing, the likeliest matter of all the rest, to make his errand successful?

§136. But this discovery it seems was reserved for our author to make two or 3000 years after, and let him enjoy the credit of it; only he should have taken care that some of Adam's land should have descended to this his heir; as well as all Adam's lordship: for though this lordship which Abraham, (if we may believe our author) as well as the other patriarchs, "by right descending to him, did enjoy, was as large and ample as the absolutest dominion of any monarch which hath been since the creation;" yet his estate, his territories, his dominions, were very narrow and scanty; for he had not the possession of a foot of land, till he

Virginia Declaration of Rights, 1776

FRIDAY, }
June 14, 1776. }

POSTSCRIPT.

{ No. 72.

to Virginia Gazette by Alexander Purdie

IN CONVENTION.

JUNE 12, 1776.

A DECLARATION of RIGHTS made by the representatives of the good people of Virginia, assembled in full and free Convention; which rights do pertain to them, and their posterity, as the basis and foundation of government.

1. **T**HAT all men are by nature equally free and independent, and have certain inherent rights, of which, when they enter into a state of society, they cannot, by any compact, deprive or divest their posterity; namely, the enjoyment of life and liberty, with the means of acquiring and possessing property, and pursuing and obtaining happiness and safety.

2. That all power is vested in, and consequently derived from, the people; that magistrates are their trustees and servants, and at all times amenable to them.

3. That government is, or ought to be, instituted for the common benefit, protection, and security, of the people, nation, or community; of all the various modes and forms of government that is best, which is capable of producing the greatest degree of happiness and safety, and is most effectually secured against the danger of mal-administration; and that whenever any government shall be found inadequate or contrary to these purposes, a majority of the community hath an indubitable, unalienable, and indefeasible right, to reform, alter, or abolish it, in such manner as shall be judged most conducive to the publick weal.

4. That no man, or set of men, are entitled to exclusive or separate emoluments or privileges from the community, but in

consideration of publick services; which, not being descendible, neither ought the offices of magistrate, legislator, or judge, to be hereditary.

5. That the legislative and executive powers of the state should be separate and distinct from the judicative; and that the members of the two first may be restrained from oppression, by feeling and participating the burthens of the people, they should, at fixed periods, be reduced to a private station, return into that body from which they were originally taken, and the vacancies be supplied by frequent, certain, and regular elections, in which all, or any part of the former members, to be again eligible, or ineligible, as the laws shall direct.

6. That elections of members to serve as representatives of the people, in assembly, ought to be free; and that all men, having sufficient evidence of permanent common interest with, and attachment to, the community, have the right of suffrage, and cannot be taxed or deprived of their property for publick uses without their own consent, or that of their representatives so elected nor bound by any law to which they have not, in like manner, assented, for the publick good.

7. That all power of suspending laws, or the execution of laws, by any authority without consent of the representatives of the people, is injurious to their rights, and ought not to be exercised.

8. That in all capital or criminal prosecutions a man hath a right to demand the cause and nature of his accusation, to be

Declaration of Independence, 1776



IN CONGRESS, JULY 4, 1776. A DECLARATION BY THE REPRESENTATIVES OF THE UNITED STATES OF AMERICA, IN GENERAL CONGRESS ASSEMBLED.

WHEN in the Course of human Events, it becomes necessary for one People to dissolve the Political Bands which have connected them with another, and to assume among the Powers of the Earth, the separate and equal Station to which the Laws of Nature and of Nature's God entitle them, a decent Respect to the Opinions of Mankind requires that they should declare the causes which impel them to the Separation.

We hold these Truths to be self-evident, that all Men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the Pursuit of Happiness--That to secure these Rights, Governments are instituted among Men, deriving their just Powers from the Consent of the Governed, that whenever any Form of Government becomes destructive of these Ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its Foundation on such Principles, and organizing its Powers in such Form, as to them shall seem most likely to effect their Safety and Happiness. Prudence, indeed, will dictate that Governments long established should not be changed for light and transient Causes; and accordingly all Experience hath shewn, that Mankind are more disposed to suffer, while Evils are sufferable, than to right themselves by abolishing the Forms to which they are accustomed. But when a long Train of Abuses and Usurpations, pursuing invariably the same Object, evinces a Design to reduce them under absolute Despotism, it is their Right, it is their Duty, to throw off such Government, and to provide new Guards for their future Security. Such has been the patient Sufferance of these Colonies; and such is now the Necessity which constrains them to alter their former Systems of Government. The History of the present King of Great-Britain is a History of repeated Injuries and Usurpations, all having in direct Object the Establishment of an absolute Tyranny over these States. To prove this, let Facts be submitted to a candid World.

He has refused his Assent to Laws, the most wholesome and necessary for the public Good.
He has forbidden his Governors to pass Laws of immediate and pressing Importance, unless suspended in their Operation till his Assent should be obtained; and when so suspended, he has utterly neglected to attend to them.

He has refused to pass other Laws for the Accommodation of large Districts of People, unless those People would relinquish the Right of Representation in the Legislature, a Right inestimable to them, and formidable to Tyrants only.

He has called together Legislative Bodies at Places unusual, uncomfortable, and distant from the Depository of their public Records, for the sole Purpose of fatiguing them into Compliance with his Measures.

He has dissolved Representative Houses repeatedly, for opposing with manly Firmness his Invasions on the Rights of the People.

He has refused for a long Time, after such Dissolutions, to cause others to be elected; whereby the Legislative Powers, incapable of Annihilation, have returned to the People at large for their exercise; the State remaining in the mean time exposed to all the Dangers of Invasion from without, and Convulsions within.

He has endeavoured to prevent the Population of these States; for that Purpose obstructing the Laws for Naturalization of Foreigners; refusing to pass others to encourage their Migrations hither, and raising the Conditions of new Appropriations of Lands.

He has obstructed the Administration of Justice, by refusing his Assent to Laws for establishing Judiciary Powers.
He has made Judges dependent on his Will alone, for the Tenure of their Offices, and the Amount and Payment of their Salaries.

He has erected a Multitude of new Offices, and sent hither Swarms of Officers to harass our People, and eat out their Substance.
He has kept among us, in Times of Peace, Standing Armies, without the Consent of our Legislatures.

He has affected to render the Military independent of and superior to the Civil Power.
He has combined with others to subject us to a Jurisdiction foreign to our Constitution, and unacknowledged by our Laws; giving his Assent to their Acts of pretended Legislation:

FOR quartering large Bodies of Armed Troops among us:
FOR protecting them, by a mock Trial, from Punishment for any Murders which they should commit on the Inhabitants of these States:
FOR cutting off our Trade with all Parts of the World:

FOR imposing Taxes on us without our Consent:
FOR imposing Taxes on us without our Consent:
FOR depriving us, in many Cases, of the Benefits of Trial by Jury:

FOR transporting us beyond Seas to be tried for pretended Offences:
FOR abolishing the free System of English Laws in a neighbouring Province, establishing therein an arbitrary Government, and enlarging its Boundaries, so as to render it at once an Example and fit Instrument for introducing the same absolute Rule into these Colonies:

FOR taking away our Charters, abolishing our most valuable Laws, and altering fundamentally the Forms of our Governments:
FOR suspending our own Legislatures, and declaring themselves invested with Power to legislate for us in all Cases whatsoever.

He has abdicated Government here, by declaring us out of his Protection and waging War against us.
He has plundered our Seas, ravaged our Coasts, burnt our Towns, and destroyed the Lives of our People.
He is, at this Time, transporting large Armies of foreign Mercenaries to complete the Works of Death, Desolation, and Tyranny, already begun with circumstances of Cruelty and Persidy, scarcely paralleled in the most barbarous Ages, and totally unworthy the Head of a civilized Nation.

He has constrained our fellow Citizens taken Captive on the high Seas to bear Arms against their Country, to become the Executioners of their Friends and

The Federalist Papers #84, 1788 (Pg. 1)

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commonly ascribed to them; and the want of them will never be, with men of sound discernment, a decisive objection to any plan which exhibits the leading characters of a good government.

It certainly sounds not a little harsh and extraordinary to affirm that there is no security for liberty in a Constitution which expressly establishes the trial by jury in criminal cases, because it does not do it in civil also; while it is a notorious fact that Connecticut, which has been always regarded as the most popular State in the Union, can boast of no constitutional provision for either.

PUBLIUS

1. It has been erroneously insinuated with regard to the court of chancery, that this court generally tries disputed facts by a jury. The truth is, that references to a jury in that court rarely happen, and are in no case necessary but where the validity of a devise of land comes into question.

2. It is true that the principles by which that relief is governed are now reduced to a regular system; but it is not the less true that they are in the main applicable to SPECIAL circumstances, which form exceptions to general rules.

3. Vide No. 81, in which the supposition of its being abolished by the appellate jurisdiction in matters of fact being vested in the Supreme Court, is examined and refuted.

FEDERALIST No. 84. Certain General and Miscellaneous Objections to the Constitution Considered and Answered.

**From McLEAN's Edition, New York.
Wednesday, May 28, 1788**

HAMILTON

To the People of the State of New York:

IN THE course of the foregoing review of the Constitution, I have taken notice of, and endeavored to answer most of the objections which have appeared against it. There, however, remain a few which either did not fall naturally under any particular head or were forgotten in their proper places. These shall now be discussed; but as the subject has been drawn into great length, I shall so far consult brevity as to comprise all my observations on these miscellaneous points in a single paper.

The most considerable of the remaining objections is that the plan of the convention contains no bill of rights. Among other answers given to this, it has been upon different occasions remarked that the constitutions of several of the States are in a similar predicament. I add that New York is of the number. And yet the opposers of the new system, in this State, who profess an unlimited admiration for its constitution, are among the

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The Federalist Papers #84, 1788 (Pg. 2)

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most intemperate partisans of a bill of rights. To justify their zeal in this matter, they allege two things: one is that, though the constitution of New York has no bill of rights prefixed to it, yet it contains, in the body of it, various provisions in favor of particular privileges and rights, which, in substance amount to the same thing; the other is, that the Constitution adopts, in their full extent, the common and statute law of Great Britain, by which many other rights, not expressed in it, are equally secured.

To the first I answer, that the Constitution proposed by the convention contains, as well as the constitution of this State, a number of such provisions.

Independent of those which relate to the structure of the government, we find the following: Article 1, section 3, clause 7—"Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust, or profit under the United States; but the party convicted shall, nevertheless, be liable and subject to indictment, trial, judgment, and punishment according to law." Section 9, of the same article, clause 2—"The privilege of the writ of habeas corpus shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it." Clause 3—"No bill of attainder or ex-post-facto law shall be passed." Clause 7—"No title of nobility shall be granted by the United States; and no person holding any office of profit or trust under them, shall, without the consent of the Congress, accept of any present, emolument, office, or title of any kind whatever, from any king, prince, or foreign state." Article 3, section 2, clause 3—"The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the State where the said crimes shall have been committed; but when not committed within any State, the trial shall be at such place or places as the Congress may by law have directed." Section 3, of the same article—"Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason, unless on the testimony of two witnesses to the same overt act, or on confession in open court." And clause 3, of the same section—"The Congress shall have power to declare the punishment of treason; but no attainder of treason shall work corruption of blood, or forfeiture, except during the life of the person attainted."

It may well be a question, whether these are not, upon the whole, of equal importance with any which are to be found in the constitution of this State. The establishment of the writ of habeas corpus, the prohibition of ex post facto laws, and of TITLES OF NOBILITY, to which we have no corresponding provision in our Constitution, are perhaps greater securities to liberty and republicanism than any it contains. The creation of crimes after the commission of the fact, or, in other words, the subjecting of men to punishment for things which, when they were done, were breaches of no law, and the practice of arbitrary imprisonments, have been, in all ages, the favorite and most formidable instruments of tyranny. The observations of the judicious Blackstone,(1) in reference to the latter, are well worthy of recital: "To bereave a man of life, (says he) or by violence to confiscate his estate, without accusation or trial, would be so gross and notorious an act of despotism, as must at once convey the alarm of tyranny throughout the whole nation; but confinement of the person, by secretly hurrying him to jail, where his sufferings are unknown

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The Federalist Papers #84, 1788 (Pg. 3)

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or forgotten, is a less public, a less striking, and therefore a more dangerous engine of arbitrary government." And as a remedy for this fatal evil he is everywhere peculiarly emphatical in his encomiums on the habeas corpus act, which in one place he calls "the BULWARK of the British Constitution."(2)

Nothing need be said to illustrate the importance of the prohibition of titles of nobility. This may truly be denominated the corner-stone of republican government; for so long as they are excluded, there can never be serious danger that the government will be any other than that of the people.

To the second that is, to the pretended establishment of the common and state law by the Constitution, I answer, that they are expressly made subject "to such alterations and provisions as the legislature shall from time to time make concerning the same." They are therefore at any moment liable to repeal by the ordinary legislative power, and of course have no constitutional sanction. The only use of the declaration was to recognize the ancient law and to remove doubts which might have been occasioned by the Revolution. This consequently can be considered as no part of a declaration of rights, which under our constitutions must be intended as limitations of the power of the government itself.

It has been several times truly remarked that bills of rights are, in their origin, stipulations between kings and their subjects, abridgements of prerogative in favor of privilege, reservations of rights not surrendered to the prince. Such was MAGNA CHARTA, obtained by the barons, sword in hand, from King John. Such were the subsequent confirmations of that charter by succeeding princes. Such was the Petition of Right assented to by Charles I., in the beginning of his reign. Such, also, was the Declaration of Right presented by the Lords and Commons to the Prince of Orange in 1688, and afterwards thrown into the form of an act of parliament called the Bill of Rights. It is evident, therefore, that, according to their primitive signification, they have no application to constitutions professedly founded upon the power of the people, and executed by their immediate representatives and servants. Here, in strictness, the people surrender nothing; and as they retain every thing they have no need of particular reservations. "WE, THE PEOPLE of the United States, to secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America." Here is a better recognition of popular rights, than volumes of those aphorisms which make the principal figure in several of our State bills of rights, and which would sound much better in a treatise of ethics than in a constitution of government.

But a minute detail of particular rights is certainly far less applicable to a Constitution like that under consideration, which is merely intended to regulate the general political interests of the nation, than to a constitution which has the regulation of every species of personal and private concerns. If, therefore, the loud clamors against the plan of the convention, on this score, are well founded, no epithets of reprobation will be too strong for the constitution of this State. But the truth is, that both of them contain all which, in relation to their objects, is reasonably to be desired.

I go further, and affirm that bills of rights, in the sense and to the extent in which they are contended for, are not only unnecessary in the proposed Constitution, but would even be dangerous. They would contain various

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The Federalist Papers #84, 1788 (Pg. 4)

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exceptions to powers not granted; and, on this very account, would afford a colorable pretext to claim more than were granted. For why declare that things shall not be done which there is no power to do? Why, for instance, should it be said that the liberty of the press shall not be restrained, when no power is given by which restrictions may be imposed? I will not contend that such a provision would confer a regulating power; but it is evident that it would furnish, to men disposed to usurp, a plausible pretense for claiming that power. They might urge with a semblance of reason, that the Constitution ought not to be charged with the absurdity of providing against the abuse of an authority which was not given, and that the provision against restraining the liberty of the press afforded a clear implication, that a power to prescribe proper regulations concerning it was intended to be vested in the national government. This may serve as a specimen of the numerous handles which would be given to the doctrine of constructive powers, by the indulgence of an injudicious zeal for bills of rights.

On the subject of the liberty of the press, as much as has been said, I cannot forbear adding a remark or two: in the first place, I observe, that there is not a syllable concerning it in the constitution of this State; in the next, I contend, that whatever has been said about it in that of any other State, amounts to nothing. What signifies a declaration, that "the liberty of the press shall be inviolably preserved"? What is the liberty of the press? Who can give it any definition which would not leave the utmost latitude for evasion? I hold it to be impracticable; and from this I infer, that its security, whatever fine declarations may be inserted in any constitution respecting it, must altogether depend on public opinion, and on the general spirit of the people and of the government.⁽³⁾ And here, after all, as is intimated upon another occasion, must we seek for the only solid basis of all our rights.

There remains but one other view of this matter to conclude the point. The truth is, after all the declamations we have heard, that the Constitution is itself, in every rational sense, and to every useful purpose, A BILL OF RIGHTS. The several bills of rights in Great Britain form its Constitution, and conversely the constitution of each State is its bill of rights. And the proposed Constitution, if adopted, will be the bill of rights of the Union. Is it one object of a bill of rights to declare and specify the political privileges of the citizens in the structure and administration of the government? This is done in the most ample and precise manner in the plan of the convention; comprehending various precautions for the public security, which are not to be found in any of the State constitutions. Is another object of a bill of rights to define certain immunities and modes of proceeding, which are relative to personal and private concerns? This we have seen has also been attended to, in a variety of cases, in the same plan. Adverting therefore to the substantial meaning of a bill of rights, it is absurd to allege that it is not to be found in the work of the convention. It may be said that it does not go far enough, though it will not be easy to make this appear; but it can with no propriety be contended that there is no such thing. It certainly must be immaterial what mode is observed as to the order of declaring the rights of the citizens, if they are to be found in any part of the instrument which establishes the government. And hence it must be apparent, that much of what has been said on this subject rests merely on verbal and nominal distinctions, entirely foreign from the substance of the thing.

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The Federalist Papers #84, 1788 (Pg. 5)

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Another objection which has been made, and which, from the frequency of its repetition, it is to be presumed is relied on, is of this nature: "It is improper (say the objectors) to confer such large powers, as are proposed, upon the national government, because the seat of that government must of necessity be too remote from many of the States to admit of a proper knowledge on the part of the constituent, of the conduct of the representative body." This argument, if it proves any thing, proves that there ought to be no general government whatever. For the powers which, it seems to be agreed on all hands, ought to be vested in the Union, cannot be safely intrusted to a body which is not under every requisite control. But there are satisfactory reasons to show that the objection is in reality not well founded. There is in most of the arguments which relate to distance a palpable illusion of the imagination. What are the sources of information by which the people in Montgomery County must regulate their judgment of the conduct of their representatives in the State legislature? Of personal observation they can have no benefit. This is confined to the citizens on the spot. They must therefore depend on the information of intelligent men, in whom they confide; and how must these men obtain their information? Evidently from the complexion of public measures, from the public prints, from correspondences with their representatives, and with other persons who reside at the place of their deliberations. This does not apply to Montgomery County only, but to all the counties at any considerable distance from the seat of government.

It is equally evident that the same sources of information would be open to the people in relation to the conduct of their representatives in the general government, and the impediments to a prompt communication which distance may be supposed to create, will be overbalanced by the effects of the vigilance of the State governments. The executive and legislative bodies of each State will be so many sentinels over the persons employed in every department of the national administration; and as it will be in their power to adopt and pursue a regular and effectual system of intelligence, they can never be at a loss to know the behavior of those who represent their constituents in the national councils, and can readily communicate the same knowledge to the people. Their disposition to apprise the community of whatever may prejudice its interests from another quarter, may be relied upon, if it were only from the rivalry of power. And we may conclude with the fullest assurance that the people, through that channel, will be better informed of the conduct of their national representatives, than they can be by any means they now possess of that of their State representatives.

It ought also to be remembered that the citizens who inhabit the country at and near the seat of government will, in all questions that affect the general liberty and prosperity, have the same interest with those who are at a distance, and that they will stand ready to sound the alarm when necessary, and to point out the actors in any pernicious project. The public papers will be expeditious messengers of intelligence to the most remote inhabitants of the Union.

Among the many curious objections which have appeared against the proposed Constitution, the most extraordinary and the least colorable is derived from the want of some provision respecting the debts due to the United States. This has been represented as a tacit relinquishment of those debts, and as a wicked contrivance to screen public defaulters. The newspapers have teemed with the most inflammatory railings on this

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The Federalist Papers #84, 1788 (Pg. 6)

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head; yet there is nothing clearer than that the suggestion is entirely void of foundation, the offspring of extreme ignorance or extreme dishonesty. In addition to the remarks I have made upon the subject in another place, I shall only observe that as it is a plain dictate of common-sense, so it is also an established doctrine of political law, that "States neither lose any of their rights, nor are discharged from any of their obligations, by a change in the form of their civil government."(4)

The last objection of any consequence, which I at present recollect, turns upon the article of expense. If it were even true, that the adoption of the proposed government would occasion a considerable increase of expense, it would be an objection that ought to have no weight against the plan.

The great bulk of the citizens of America are with reason convinced, that Union is the basis of their political happiness. Men of sense of all parties now, with few exceptions, agree that it cannot be preserved under the present system, nor without radical alterations; that new and extensive powers ought to be granted to the national head, and that these require a different organization of the federal government—a single body being an unsafe depository of such ample authorities. In conceding all this, the question of expense must be given up; for it is impossible, with any degree of safety, to narrow the foundation upon which the system is to stand. The two branches of the legislature are, in the first instance, to consist of only sixty-five persons, which is the same number of which Congress, under the existing Confederation, may be composed. It is true that this number is intended to be increased; but this is to keep pace with the progress of the population and resources of the country. It is evident that a less number would, even in the first instance, have been unsafe, and that a continuance of the present number would, in a more advanced stage of population, be a very inadequate representation of the people.

Whence is the dreaded augmentation of expense to spring? One source indicated, is the multiplication of offices under the new government. Let us examine this a little.

It is evident that the principal departments of the administration under the present government, are the same which will be required under the new. There are now a Secretary of War, a Secretary of Foreign Affairs, a Secretary for Domestic Affairs, a Board of Treasury, consisting of three persons, a Treasurer, assistants, clerks, etc. These officers are indispensable under any system, and will suffice under the new as well as the old. As to ambassadors and other ministers and agents in foreign countries, the proposed Constitution can make no other difference than to render their characters, where they reside, more respectable, and their services more useful. As to persons to be employed in the collection of the revenues, it is unquestionably true that these will form a very considerable addition to the number of federal officers; but it will not follow that this will occasion an increase of public expense. It will be in most cases nothing more than an exchange of State for national officers. In the collection of all duties, for instance, the persons employed will be wholly of the latter description. The States individually will stand in no need of any for this purpose. What difference can it make in point of expense to pay officers of the customs appointed by the State or by the United States? There is no good reason to suppose that either the number or the salaries of the latter will be greater than those of the former.

Where then are we to seek for those additional articles of expense

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The Federalist Papers #84, 1788 (Pg. 7)

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which are to swell the account to the enormous size that has been represented to us? The chief item which occurs to me respects the support of the judges of the United States. I do not add the President, because there is now a president of Congress, whose expenses may not be far, if any thing, short of those which will be incurred on account of the President of the United States. The support of the judges will clearly be an extra expense, but to what extent will depend on the particular plan which may be adopted in regard to this matter. But upon no reasonable plan can it amount to a sum which will be an object of material consequence.

Let us now see what there is to counterbalance any extra expense that may attend the establishment of the proposed government. The first thing which presents itself is that a great part of the business which now keeps Congress sitting through the year will be transacted by the President. Even the management of foreign negotiations will naturally devolve upon him, according to general principles concerted with the Senate, and subject to their final concurrence. Hence it is evident that a portion of the year will suffice for the session of both the Senate and the House of Representatives; we may suppose about a fourth for the latter and a third, or perhaps half, for the former. The extra business of treaties and appointments may give this extra occupation to the Senate. From this circumstance we may infer that, until the House of Representatives shall be increased greatly beyond its present number, there will be a considerable saving of expense from the difference between the constant session of the present and the temporary session of the future Congress.

But there is another circumstance of great importance in the view of economy. The business of the United States has hitherto occupied the State legislatures, as well as Congress. The latter has made requisitions which the former have had to provide for. Hence it has happened that the sessions of the State legislatures have been protracted greatly beyond what was necessary for the execution of the mere local business of the States. More than half their time has been frequently employed in matters which related to the United States. Now the members who compose the legislatures of the several States amount to two thousand and upwards, which number has hitherto performed what under the new system will be done in the first instance by sixty-five persons, and probably at no future period by above a fourth or fifth of that number. The Congress under the proposed government will do all the business of the United States themselves, without the intervention of the State legislatures, who thenceforth will have only to attend to the affairs of their particular States, and will not have to sit in any proportion as long as they have heretofore done. This difference in the time of the sessions of the State legislatures will be clear gain, and will alone form an article of saving, which may be regarded as an equivalent for any additional objects of expense that may be occasioned by the adoption of the new system.

The result from these observations is that the sources of additional expense from the establishment of the proposed Constitution are much fewer than may have been imagined; that they are counterbalanced by considerable objects of saving; and that while it is questionable on which side the scale will preponderate, it is certain that a government less expensive would be incompetent to the purposes of the Union.

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The Federalist Papers #84, 1788 (Pg. 8)

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1. Vide Blackstone's Commentaries, Vol. 1, p. 136.

2. Idem, Vol. 4, p. 438.

3. To show that there is a power in the Constitution by which the liberty of the press may be affected, recourse has been had to the power of taxation. It is said that duties may be laid upon the publications so high as to amount to a prohibition. I know not by what logic it could be maintained, that the declarations in the State constitutions, in favor of the freedom of the press, would be a constitutional impediment to the imposition of duties upon publications by the State legislatures. It cannot certainly be pretended that any degree of duties, however low, would be an abridgment of the liberty of the press. We know that newspapers are taxed in Great Britain, and yet it is notorious that the press nowhere enjoys greater liberty than in that country. And if duties of any kind may be laid without a violation of that liberty, it is evident that the extent must depend on legislative discretion, respecting the liberty of the press, will give it no greater security than it will have without them. The same invasions of it may be effected under the State constitutions which contain those declarations through the means of taxation, as under the proposed Constitution, which has nothing of the kind. It would be quite as significant to declare that government ought to be free, that taxes ought not to be excessive, etc., as that the liberty of the press ought not to be restrained.

4. Vide Rutherford's Institutes, Vol. 2, Book II, Chapter X, Sections XIV and XV. Vide also Grotius, Book II, Chapter IX, Sections VIII and IX.

FEDERALIST No. 85. Concluding Remarks

**From MCLEAN's Edition, New York.
Wednesday, May 28, 1788**

HAMILTON

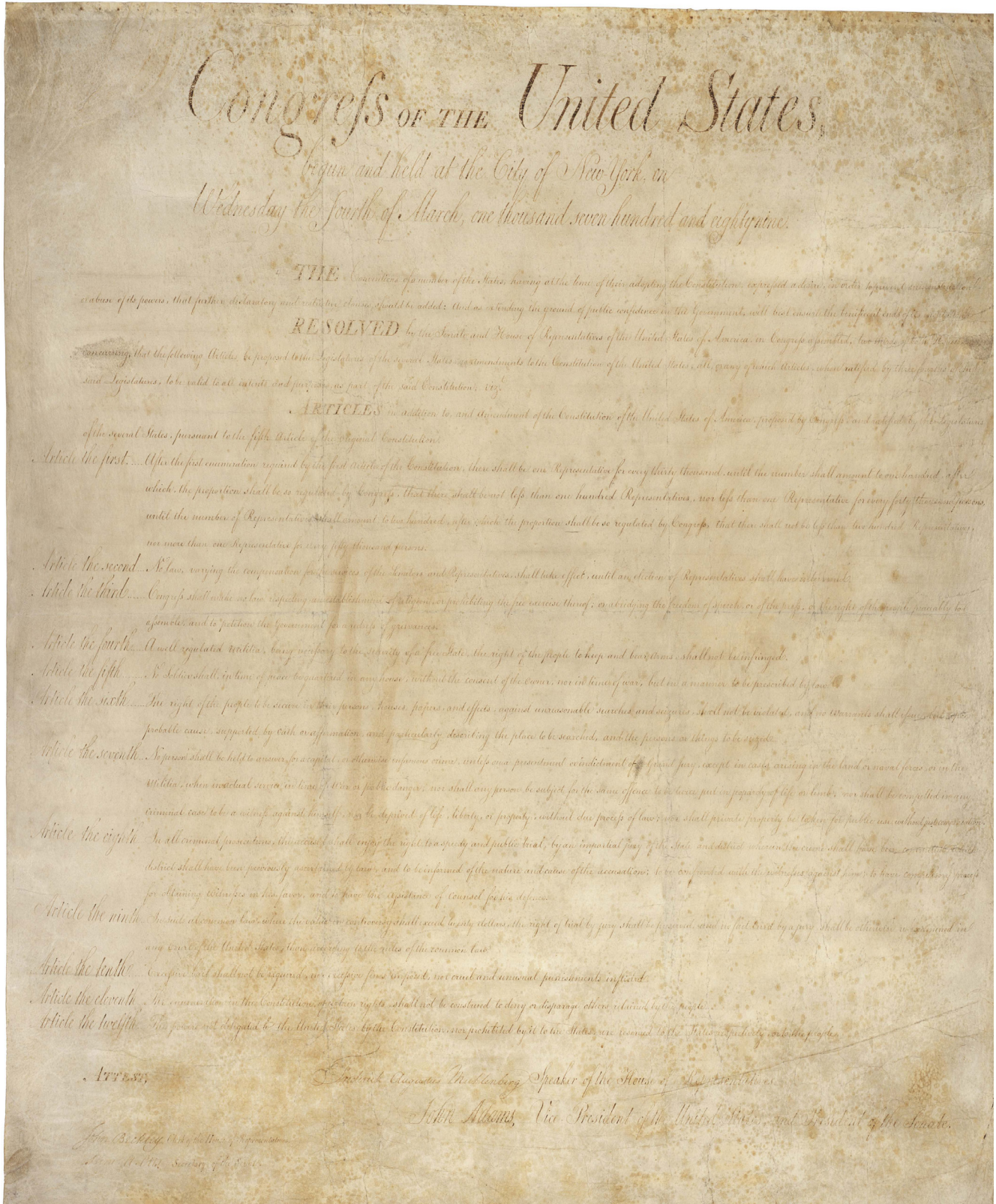
To the People of the State of New York:

ACCORDING to the formal division of the subject of these papers, announced in my first number, there would appear still to remain for discussion two points: "the analogy of the proposed government to your own State constitution," and "the additional security which its adoption will afford to republican government, to liberty, and to property." But these heads have been so fully anticipated and exhausted in the progress of the work, that it would now scarcely be possible to do any thing more than repeat, in a more dilated form, what has been heretofore said, which the advanced stage of the question, and the time already spent upon it, conspire to forbid.

It is remarkable, that the resemblance of the plan of the convention to the act which organizes the government of this State holds, not less with regard to many of the supposed defects, than to the real excellences of the

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Bill of Rights, 1791



Am I Not a Man and a Brother?, 1837



OUR QUANTITIES IN CHAINS!
By A. A. WILKINS.

The millions which are taken and sold to America, and
sent to the plantations, are a heavy and
burdening tax on the nation. It is a
poll tax on the living, which is a heavy and
burdening tax on the living. It is a
poll tax on the living, which is a heavy and
burdening tax on the living.

It is a heavy and burdening tax on the living,
and it is a heavy and burdening tax on the living,
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It is a heavy and burdening tax on the living,
and it is a heavy and burdening tax on the living,
and it is a heavy and burdening tax on the living,
and it is a heavy and burdening tax on the living.

But, what then is the value of this thing?
What is the value of this thing?

It is a heavy and burdening tax on the living,
and it is a heavy and burdening tax on the living,
and it is a heavy and burdening tax on the living,
and it is a heavy and burdening tax on the living.

It is a heavy and burdening tax on the living,
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It is a heavy and burdening tax on the living,
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It is a heavy and burdening tax on the living,
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It is a heavy and burdening tax on the living,
and it is a heavy and burdening tax on the living,
and it is a heavy and burdening tax on the living,
and it is a heavy and burdening tax on the living.

Just that we shall be wiser yet,
The chains are not the only thing

It is a heavy and burdening tax on the living,
and it is a heavy and burdening tax on the living,
and it is a heavy and burdening tax on the living,
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and it is a heavy and burdening tax on the living,
and it is a heavy and burdening tax on the living.



An account of proceedings on the trial of Susan B. Anthony on the charge of illegal voting at the Presidential election in Nov., 1872 (Pg. 1)

MISS ANTHONY—Yes, your honor, I have many things to say; for in your ordered verdict of guilty, you have trampled under foot every vital principle of our government. My natural rights, my civil rights, my political rights, my judicial rights, are all alike ignored. Robbed of the fundamental privilege of citizenship, I am degraded from the status of a citizen to that of a subject; and not only myself individually, but all of my sex, are, by your honor's verdict, doomed to political subjection under this, so-called, form of government.

JUDGE HUNT—The Court cannot listen to a rehearsal of arguments the prisoner's counsel has already consumed three hours in presenting.

MISS ANTHONY—May it please your honor, I am not arguing the question, but simply stating the reasons why sentence cannot, in justice, be pronounced against me. Your denial of my citizen's right to vote, is the denial of my right of consent as one of the governed, the denial of my right of representation as one of the taxed, the denial of my right to a trial by a jury of my peers as an offender against law, therefore, the denial of my sacred rights to life, liberty, property and—

JUDGE HUNT—The Court cannot allow the prisoner to go on.

MISS ANTHONY—But your honor will not deny me this one and only poor privilege of protest against this high-handed outrage upon my citizen's rights. May it please the Court to remember that since the day of my arrest last November, this is the first time that either myself or any person of my disfranchised class has been allowed a word of defense before judge or jury—

JUDGE HUNT—The prisoner must sit down—the Court cannot allow it.

An account of proceedings on the trial of Susan B. Anthony on the charge of illegal voting at the Presidential election in Nov., 1872 (Pg. 2)

MISS ANTHONY—All of my prosecutors, from the 8th ward corner grocery politician, who entered the complaint, to the United States Marshal, Commissioner, District Attorney, District Judge, your honor on the bench, not one is my peer, but each and all are my political sovereigns; and had your honor submitted my case to the jury, as was clearly your duty, even then I should have had just cause of protest, for not one of those men was my peer; but, native or foreign born, white or black, rich or poor, educated or ignorant, awake or asleep, sober or drunk, each and every man of them was my political superior; hence, in no sense, my peer. Even, under such circumstances, a commoner of England, tried before a jury of Lords, would have far less cause to complain than should I, a woman, tried before a jury of men. Even my counsel, the Hon. Henry R. Selden, who has argued my cause so ably, so earnestly, so unanswerably before your honor, is my political sovereign. Precisely as no disfranchised person is entitled to sit upon a jury, and no woman is entitled to the franchise, so, none but a regularly admitted lawyer is allowed to practice in the courts, and no woman can gain admission to the bar—hence, jury, judge, counsel, must all be of the superior class.

JUDGE HUNT—The Court must insist—the prisoner has been tried according to the established forms of law.

MISS ANTHONY—Yes, your honor, but by forms of law all made by men, interpreted by men, administered by men, in favor of men, and against women; and hence, your honor's ordered verdict of guilty, against a United States citizen for the exercise of "*that citizen's right to vote,*" simply because that citizen was a woman and not a man. But, yesterday, the same man made forms of law, declared it a crime punishable with \$1,000 fine and six months' imprisonment, for you, or me, or any of us, to give a cup of cold water, a crust

An account of proceedings on the trial of Susan B. Anthony on the charge of illegal voting at the Presidential election in Nov., 1872 (Pg. 3)

of bread, or a night's shelter to a panting fugitive as he was tracking his way to Canada. And every man or woman in whose veins coursed a drop of human sympathy violated that wicked law, reckless of consequences, and was justified in so doing. As then, the slaves who got their freedom must take it over, or under, or through the unjust forms of law, precisely so, now, must women, to get their right to a voice in this government, take it; and I have taken mine, and mean to take it at every possible opportunity.

JUDGE HUNT—The Court orders the prisoner to sit down. It will not allow another word.

MISS ANTHONY—When I was brought before your honor for trial, I hoped for a broad and liberal interpretation of the Constitution and its recent amendments, that should declare all United States citizens under its protecting ægis—that should declare equality of rights the national guarantee to all persons born or naturalized in the United States. But failing to get this justice—failing, even, to get a trial by a jury *not* of my peers—I ask not leniency at your hands—but rather the full rigors of the law:

JUDGE HUNT—The Court must insist—

(Here the prisoner sat down.)

JUDGE HUNT—The prisoner will stand up.

(Here Miss Anthony arose again.)

The sentence of the Court is that you pay a fine of one hundred dollars and the costs of the prosecution.

MISS ANTHONY—May it please your honor, I shall never pay a dollar of your unjust penalty. All the stock in trade I possess is a \$10,000 debt, incurred by publishing my paper—*The Revolution*—four years ago, the sole object of which was to educate all women to

An account of proceedings on the trial of Susan B. Anthony on the charge of illegal voting at the Presidential election in Nov., 1872 (Pg. 4)

85

do precisely as I have done, rebel against your man-made, unjust, unconstitutional forms of law, that tax, fine, imprison and hang women, while they deny them the right of representation in the government; and I shall work on with might and main to pay every dollar of that honest debt, but not a penny shall go to this unjust claim. And I shall earnestly and persistently continue to urge all women to the practical recognition of the old revolutionary maxim, that "Resistance to tyranny is obedience to God."

JUDGE HUNT—Madam, the Court will not order you committed until the fine is paid.

INDICTMENT AGAINST BEVERLY W. JONES,
EDWIN T. MARSH, AND WILLIAM B. HALL.

DISTRICT COURT OF THE UNITED STATES OF
AMERICA, IN AND FOR THE NORTHERN DIS-
TRICT OF NEW YORK.

At a stated Session of the District Court of the United States of America, held in and for the Northern District of New York, at the City Hall, in the city of Albany, in the said Northern District of New York, on the third Tuesday of January, in the year of our Lord one thousand eight hundred and seventy-three, before the Honorable Nathan H. Hall, Judge of the said Court, assigned to keep the peace of the said United States of America, in and for the said District, and also to hear and determine divers Felonies, Misdemeanors

Suffrage Parade, 1913



Courtesy of Library of Congress

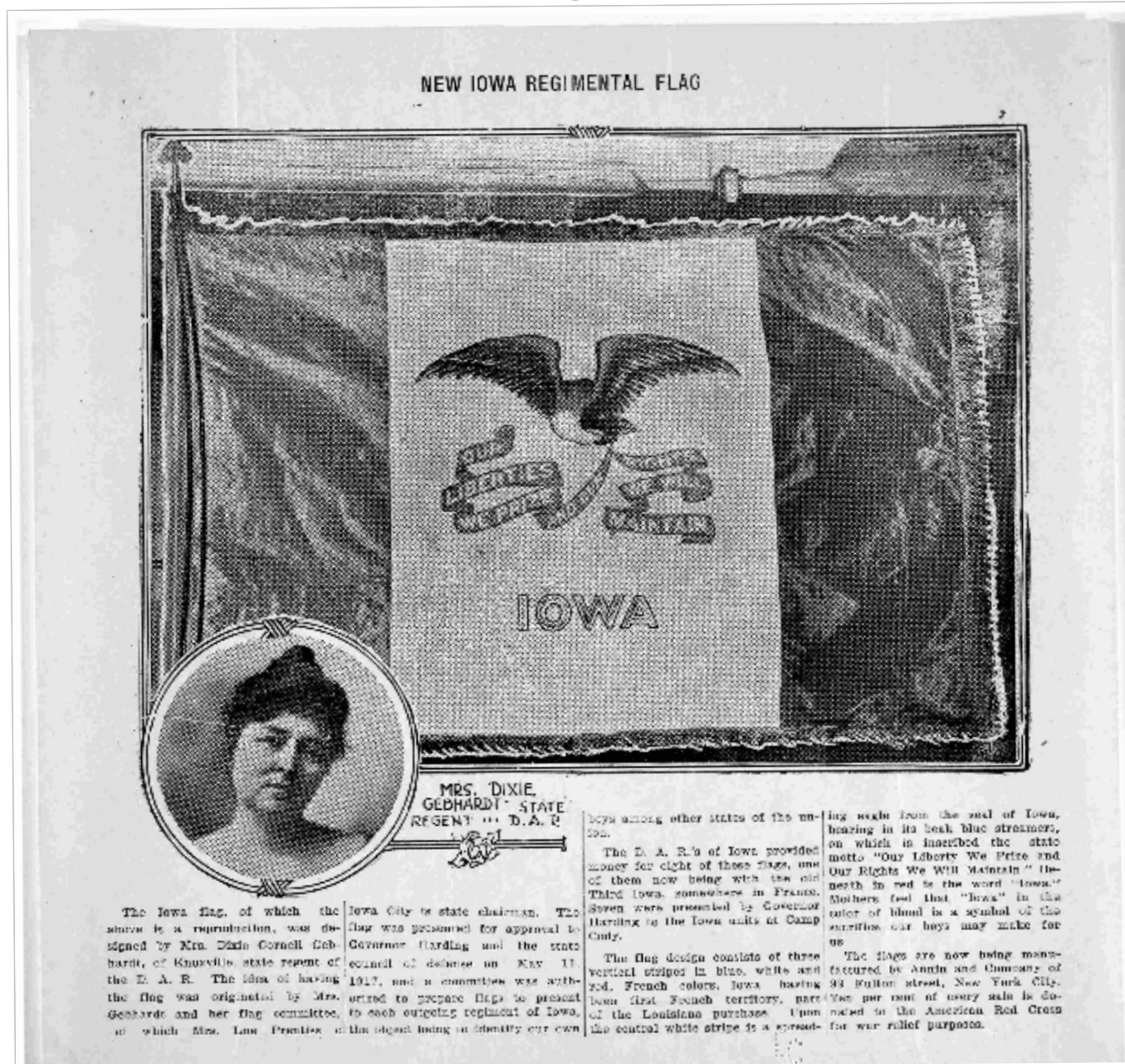
Delegation representing 20,000 Californian Indians meeting with Senator Hiram Johnson, 1922



15th Amendment, 1871



Iowa Flag, 1918



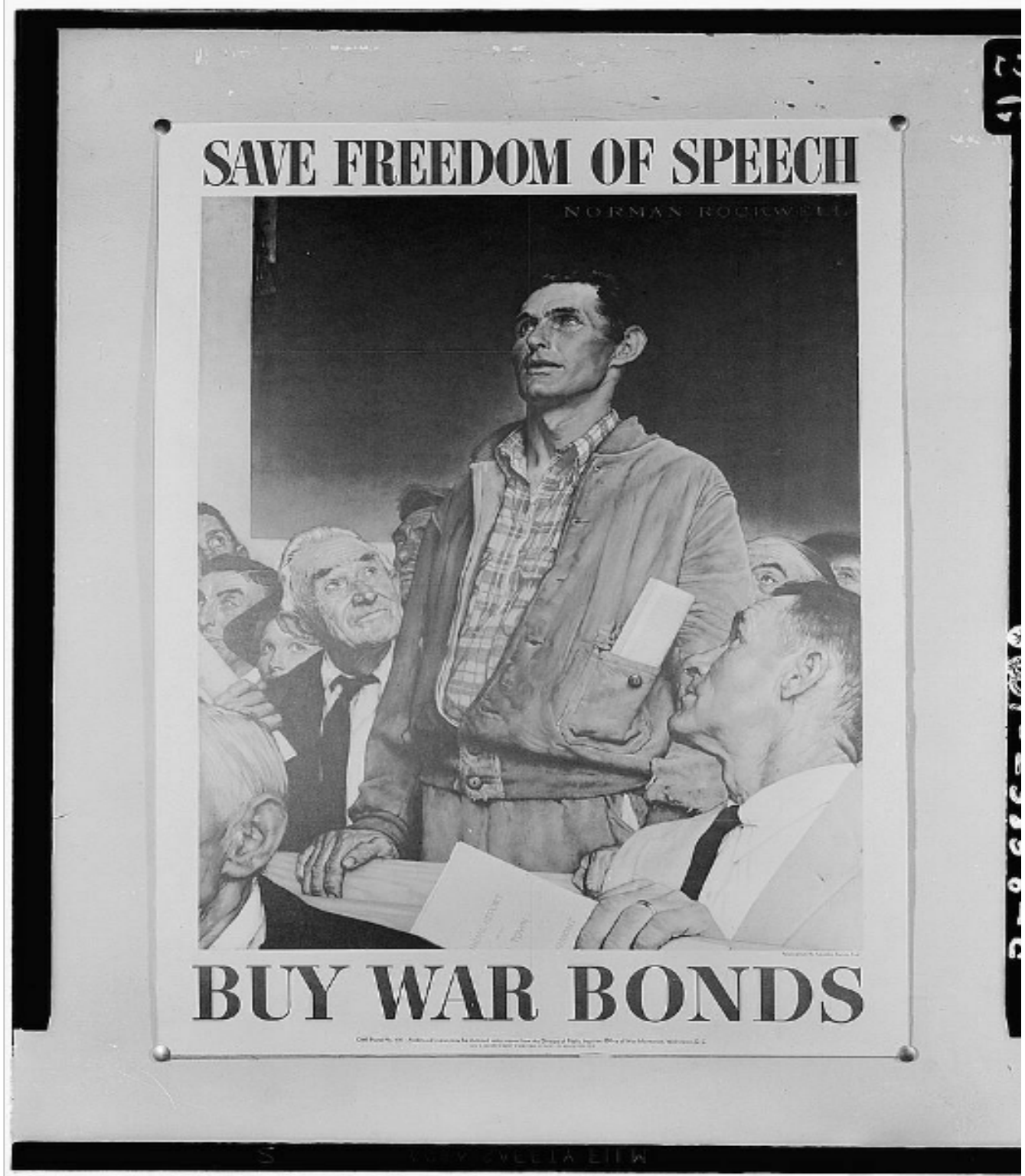
The Four Freedoms, 1943 (Pg. 1)



The Four Freedoms, 1943 (Pg. 2)



The Four Freedoms, 1943 (Pg. 3)



The Four Freedoms, 1943 (Pg. 4)

