A

COMPARATIVE VIEW

OF THE

CONSTITUTIONS

OF THE

SEVERAL *STATES* WITH EACH OTHER, AND WITH THAT OF THE *UNITED STATES:*

EXHIBITING IN

TABLES

The prominent Features of each Conſtitution,

AND CLASSING TOGETHER THEIR MOST IMPORTANT PROVISIONS UNDER THE SEVERAL HEADS OF ADMINISTRATION;

WITH

Notes and Obſervations.

By William Smith, OF SOUTH CAROLINA, L. L. D.
AND MEMBER OF THE CONGRESS OF THE UNITED STATES.

Dedicated to the People of the United States.

Philadelphia,
PRINTED BY JOHN THOMPSON, AND SOLD BY ALL THE BOOKSELLERS IN THE UNITED STATES.

1796.

DEDICATION.

FELLOW CITIZENS,

TO you I dedicate this ſmall work, as a token of my love and reſpect for a people, who are the ſource and authors of the conſtitutions it contains. Excuſe the freedom of my criticiſms of the parts I have diſapproved, and receive with candor and indulgence the alterations I have ventured to ſuggeſt. If this imperfect performance ſhall, in the ſmalleſt degree, contribute to make ſome of you better acquainted with thoſe conſtitutions, in the formation of which you have not immediately participated, or to enable others of you to ameliorate hereafter thoſe which may become the ſubject of your deliberations, I ſhall be moſt amply rewarded.

Warmly attached to the intereſts and proſperity of this country, every circumſtance which can increaſe its political advantages muſt, at the ſame time, advance the happineſs of

Your affectionate fellow citizen,

WILLIAM SMITH.

PHILADELPHIA,
OCTOBER 2, 1796.

N° 170.

District of Pennsylvania, to wit---

BE IT REMEMBERED, that on the twenty-fourth day of January, in the twenty-first year of the Independence of the United States of Amcrica, JOHN THOMPSON of the said District, hath deposited in this Office the Title of a Book, the right whereof he claims as proprietor, in the words following, to wit—

'*A Comparative View of the Constitutions of the several States with each other, and with that of the United States, exhibiting in Tables, the prominent Features of each Constitution, and classing together their most important Provisions under the several Heads of Administration: with Notes and Observations. By William Smith, of South Carolina, L.L.D. and Member of the Congress of the United States*'—

In conformity to the Act of the United States, intituled 'An Act for the Encouragement of Learning by securing the Copies of Maps, Charts, and Books, to the Authors and Proprietors of such Copies during the Times therein mentioned.'

SAMUEL CALDWELL,

Clerk, District of Pennsylvania.

Errata.

Table I. column 2. line 4, for 105, read 106.
Page 11, line 20, for 25,000,000, read 21,500,000.
Page 12, (Note k) line 2, instead of FOR, read OF.
Page 24, line 3, for EXCLUDE, read EXCLUDES.
Page 24, line 4, for EXCLUDES, read EXCLUDE.
Page 28, line 9, for GENNERALLY, read GENERALLY.
Page 29, line 15, for TO, read TILL.

PRELIMINARY DISCOURSE.

AMONG the various branches of ſcience, which conſtitute the education of American citizens, that of *Government* is highly important and neceſſary; poſſeſſing the power of creating and altering their governments, it is peculiarly incumbent on them to acquire that kind of knowledge, which will beſt qualify them for the judicious exerciſe of ſo precious a right. The ſeveral Conſtitutions, which have been framed for the United States, and the individual States, though not free from errors and even blemiſhes, will be allowed to exhibit, on the whole, more political wiſdom and ingenuity than can be found in the conſtitutions of any other country. By examining the American Conſtitutions, by comparing them one with the other, and by referring at the ſame time to the various degrees of order and proſperity, and to the ſtate of ſociety and morals, of each particular ſtate, a tolerably correct eſtimate may be formed of the relative perfec-

tion or imperfection of thoſe conſtitutions, and a rational guide may be obtained to aſſiſt in altering and improving them. Notwithſtanding the utility of this knowledge, and the advantages to be derived from ſuch a compariſon, I have found, with regret, in travelling through the ſtates, that, however the conſtitution of each ſtate may be well known within its own limits, the conſtitutions of the ſeveral ſtates are but imperfectly known beyond the territory which they are intended to govern.

This diſcovery led me to devote a few leiſure hours of the laſt ſummer to the work here offered to the public. To make the people of the ſeveral parts of the Union better acquainted with each other, and with their reſpective conſtitutional codes, and thus to lead their minds to a more attentive contemplation of this intereſting ſubject, was a primary object. It occurred to me, that the exhibiting at one view the leading conſtitutional proviſions of all the different ſtates, concerning each ſpecific branch of adminiſtration, and claſſing them under diſtinct heads, would incite the reader to an examination of their comparative merits, which would be further ſtimulated by the notes ſubjoined; and that this examination would be attended with the double advantage of impreſſing on his memory the prominent features of all the conſtitutions, and of maturing his judgment as to their reſpective merits. Some collateral advantages have been an additional inducement to this performance. Thoſe of our fellow citizens who may, from time to time, be delegated to reviſe theſe conſtitutions, will be furniſhed with a work, which will aſſiſt them in the diſcharge of their duty, and greatly facilitate their labours.

Obſerving at one glance, the organizations of government in every ſtate, on each branch of adminiſtration, they will be enabled to ſelect that modification which ſhall appear beſt adapted to their own local habits, and to have been moſt productive of good in the ſtates where it prevailed. A competent knowledge of this ſubject, at preſent poſſeſſed but by few, will thus be quickly diſſeminated to all, and every member of a ſtate convention may become qualified to decide on important and intereſting points, the adjuſtment of which has hitherto been monopolized by a few leading individuals, who too often make the public good ſubſervient to private views. Our youth in ſchools and colleges will be encouraged to devote ſome of their time to this neceſſary ſcience, by finding it thus ſimplified and methodized. At preſent, too little attention is paid to this kind of education; while the governments of Rome, Sparta, and Athens, are induſtriouſly taught, while the inſtitutions of Lycurgus and Solon form important features of public education, the conſtitutions of our own country are ſcarcely read. Hence, a ſpecies of knowledge, which ought to be general, is confined to a few politicians, who ſtudy it as a particular profeſſion. It will not be denied that this work ought to claim a place in our ſchools, along with the elementary works of ancient hiſtory or philoſophy. Many foreigners who come to ſettle among us, are anxious to acquire a general knowledge of our ſeveral conſtitutions; their curioſity will be gratified by a peruſal of this book.

The great diverſity of modifications in the ſeveral ſtates, on the ſame branch of adminiſtration, all however tending to the

ſame reſult, namely the preciſe *level* of liberty and law, muſt afford much entertainment to thoſe, who delight in the contemplation of political topics, and are fond of purſuing the ſcience of government through all its ramifications.

Not having had ſufficient leiſure to make the work as complete and perfect as I could have wiſhed, I am apprized of its being liable to many criticiſms, although, to inſure accuracy, the tables were ſubmitted to the inſpection of a Member of Congreſs from each ſtate. Should it meet a favourable reception, the objections to which it may be expoſed will be attempted to be obviated in a future edition; thoſe friends of the author who feel a ſolicitude for the perfection of a work of this kind, are requeſted to tranſmit to him the corrections which may occur to them.

I truſt it will be attended with no inconſiderable benefit. ſhould it however diſappoint my expectations, and produce but a trifling portion of the good which I have anticipated, ſtill I ſhall not regret the time and labour I have beſtowed on it.

Being calculated for the general information of the citizens throughout the United States, it was not thought neceſſary that it ſhould embrace all the minuter details of each conſtitution, which would only be intereſting to the inhabitants of the particular ſtates, for which they are intended, and would have ſwelled the performance to too large a ſize.

[Table I.]

LECISLATIVE.

Period of Adoption.	*Number of Branches.*	*Mode of Election.*	*Term of Duration.*	*Qualifications of Members.*	*Qualification of Electors.*	*Peculiar Powers.*	*General Remarks.*
UNITED STATES. Completed in Convention { Sept. 17, 1787. Began operation, March 4, 1789.	Two Branches---Senate and House of Representatives, called, The CONGRESS: The former 32 Members, the latter 105.	Senate by the State-Legislatures. [a] House of Represent. by the People. [b]	Senate, 6 years, [c] with a biennial rotation of one third, Representatives, 2 years. [d]	Senate---Citizens 9 years; 30 years old. Representatives---Citizens, 7 years; 25 years old.---No peculiar qualification.	For Representatives, the same as for the most numerous branch of the State Legislatures.	House of Representatives originate bills for raising revenue, [f] and vote impeachment. Senate try on impeachment, two thirds convict. Senate appoint officers, nominated by the President.	
NEW HAMPSHIRE 1792.	Two Branches-----Senate and House of Representatives; called The GENERAL COURT: The former 12 Members, and the latter 120-130.	*The People.*	*Annual.*	Freemen---possessing freehold or personal estate.	21 years of age, and payment of taxes.	House of Representatives originate bills for raising revenue, and vote impeachment.---Senate try on impeachment.	
MASSACHUSETTS. March 2, 1780.	Two Branches----Senate and House of Representat. called, The GENERAL COURT. The former 31 Members, the latter 356.	*The People:* but Vacancies in the Senate can be filled by the Senate: [g] and in the H. of Representat. from those who were in nomination by the votes of the People at the last preceding election.	*Annual.*	Senator---Freehold of 300l. or personal estate, 600l. and inhabitant 5 years. Representative---Freehold of 100l. or other property, 200l.	Freeholder---income, 3l. or any estate, value 60l.	Representatives originate money bills, and vote impeachment.----Senate try [h]	
CONNECTICUT. Old Colonial Charter of Charles II. unaltered, except where necessary to adapt it to the Independence of the United States.	Two Branches---The GENERAL COURT. Governor and Lieut. Governor and 12 Assistants forming the Upper House, or Council: [i] the Representatives, or Lower House, consisting of 179 Members.	*The People.*	The Governor, Lieutenant Governor, and Council or assistants, annually. Representatives, semi-annually. [k]	*Freemen.* [l]	Freemen,---freehold 40s. or, 40l. personal estate.	The Legislature hears and determines certain causes. [m] Grants reprieves and pardons.	Governor, as Presid. of the council, and the Speaker of the House, have each a vote, besides a casting vote. [n]
RHODE ISLAND. Old Colonial Charter of Charles II.	Two Branches---GENERAL ASSEMBLY. Governor, Deputy Governor, and 10 Assistants. Representatives, 70 Members.	*The People.*	Council,---Annually. Representatives,---semi-annually.	Freehold worth 40l. or annual rent of 40s.	Freemen---freehold worth 40l. or annual rent of 40s.	Awards new Trials in the Courts of Law.	
VERMONT. July 4, 1786. (Since revised.)	One Branch---Representatives of the Freemen, called, The GENERAL ASSEMBLY: 145 Members [o] --- But the Governor and Council (of 12) may suspend a Law to the next Session.	*The People.*	*Annual.*			Impeachment.-----To raise a tax two thirds of the members must be present. [p]	
NEW YORK. April 20, 1777.	Two Branches----Senate, 24 Members; the Lieuten. Governor, President. Assembly, 70 Members.	*The People.*	Senate for 4 years with annual rotation of one fourth. Assembly,---annual.		Electors of the Senate, freehold, 100l. Electors of Representatives, freehold, 20l. or annual rent of 40s.	Two thirds of the Assembly vote impeachment.---Two thirds of the Senate to convict.	Senate are never to exceed 100 [q] Repres: never to exceed 300. Governor and Council of revision have a qualified negative on the laws. Clergy excluded.
NEW JERSEY. July 2, 1776.	Two Branches---Legislative Council, 13 Mem. and Assembly, 39 Members.	*The People.*	*Annual.*	Counsellor, 1000l. real and personal estate. Representatives, 500l. ditto.	Electors---50l. real and personal estate.	The Council cannot prepare or alter any money bills. [r]	
PENNSYLVANIA. September 2, 1790.	Two Branches----Senate, 23 Members; and House of Representatives, 79 Members.	*The People.*	Senate for 4 years with annual rotation of one fourth, Representatives,--annually.	Residence one year in the District or County. For Senators---Citizens 4 years, and 25 years of age. Representatives---Citizens 3 years, and 21 years of age.	21 years of age, having resided in the State two years next before the election, and within that time paid a State or County Tax, which shall have been assessed at least six months before the Election.----Sons of Persons qualified as aforesaid, between the age of 21 and 22 may vote, although they may not have paid Tax.	Bills to raise revenue must originate in the Representatives. [s] Impeachment by a majority of Representatives, tried by Senate: conviction by two thirds of the Members present.---Judgment not to extend further than removal from Office, and Disqualification.	Senate are never to be less than one fourth, nor more than one third of Representatives. [t] Representatives never to be fewer than 60 nor more than 100.
DELAWARE. 1790.	Two Branches-----Called, The GENERAL ASSEMBLY. Senate, 9 Members: House of Representatives, 21 Members.	*The People.*	Senate for 3 years with annual rotation of one third. Representatives,--annually.	Senator---27 years old; freehold 200 acres, or real and personal estate, 1000l. Representative,---24 years old; freehold. Both, 3 years residence.	Residence for two years, and payment of Tax, assessed at least 6 months before the Election.	Money bills originate in the Assembly. Impeachment by two thirds of the Representatives. Conviction by two thirds of the Senate.	
MARYLAND. August 14, 1776.	Two Branches-----Called, The GENERAL ASSEMBLY. Senate 15 Members: House of Delegates 80 Members.	Senate by Electors chosen by the People [u] Delegates by the People. Senate fill vacancies in their own body by ballot	Senate elected for 5 years, without rotation. House of Delegates,---annually.	For Senate, residence 3 years; real or personal estate, 1000l. For Delegates, real or personal estate, 500l.	Electors for Delegates, and Electors, freehold, 50 acres, or freemen, having property, value, 30l. and having been residents in the County one whole year preceding.	Money bills must originate in the House of Delegates; but they must not tack extraneous matter----both houses may commit for crimes and contempt. [v] The House of Delegates appoint Treasurers during [illegible]	Delegates and Electors chosen viva voce, [x] but Electors vote by ballot, and take an oath. Peculiar regulations for the freemen of Annapolis and Baltimore. Clergy excluded.

NEW JERSEY. July 2, 1776.	Two Branches.--Legiſlative Council, 13 Mem. and Aſſembly, 39 Members.	*The People.*	*Annual.*	Counſellor, 1000l. and perſonal eſtate. Repreſentatives, 500l. ditto.	Electors---50l. real and perſonal eſtate.	The Council cannot prepare or alter any money bills. [r]	
PENNSYLVANIA. September 2, 1790.	Two Branches----Senate, 23 Members; and Houſe of Repreſentatives, 79 Members.	*The People.*	Senate for 4 years with annual rotation of one fourth, Repreſentatives,--annually.	Reſidence one year in the Diſtrict or County. For Senators---Citizens 4 years, and 25 years of age. Repreſentatives---Citizens 3 years, and 21 years of age.	21 years of age, having reſided in the State two years next before the election, and within that time paid a State or County Tax, which ſhall have been aſſeſſed at leaſt ſix months before the Election.----Sons of Perſons qualified as aforeſaid, between the age of 21 and 22 may vote, although they may not have paid Tax.	Bills to raiſe revenue muſt originate in the Repreſentatives. [s] Impeachment by a majority of Repreſentatives, tried by Senate: conviction by two thirds of the Members preſent.---Judgment not to extend further than removal from Office, and Diſqualification.	Senate are never to be leſs than one fourth, nor more than one third of Repreſentatives. [t] Repreſentatives never to be fewer than 60 nor more than 100.
DELAWARE. 1790.	Two Branches-----Called, The GENERAL ASSEMBLY. Senate, 9 Members: Houſe of Repreſentatives, 21 Members.	*The People.*	Senate for 3 years with annual rotation of one third. Repreſentatives,--annually.	Senator---27 years old; freehold 200 acres, or real and perſonal eſtate, 1000l. Repreſentative,---24 years old; freehold. Both, 3 years reſidence.	Reſidence for two years, and payment of Tax, aſſeſſed at leaſt 6 months before the Election.	Money bills originate in the Aſſembly. Impeachment by two thirds of the Repreſentatives. Conviction by two thirds of the Senate.	
MARYLAND. Auguſt 14, 1776.	Two Branches-----Called, The GENERAL ASSEMBLY. Senate 15 Members: Houſe of Delegates 80 Members.	Senate by Electors choſen by the People [u] Delegates by the People. Senate fill vacancies in their own body by ballot.	Senate elected for 5 years, without rotation. Houſe of Delegates,---annually.	For Senate, reſidence 3 years; real or perſonal eſtate, 1000l. For Delegates, real or perſonal eſtate, 500l.	Electors for Delegates, and Electors, freehold, 50 acres, or freemen, having property, value, 30l. and having been reſidents in the County one whole year preceding.	Money bills muſt originate in the Houſe of Delegates; but they muſt not tack extraneous matter----Both houſes may commit for crimes and contempt. [v] The Houſe of Delegates appoint Treaſurers during their pleaſure. [w]	Delegates and Electors choſen viva voce, [x] but Electors vote by ballot, and take an oath. Peculiar regulations for the freemen of Annapolis and Baltimore. Clergy excluded.
KENTUCKY. 1792.	Two Branches---Senate, 11 Members: Houſe of Repreſentatives 40 Members.	Senate by Electors choſen by the People. Repreſent. by the People.	Senate for 4 years. Repreſentatives--annually.	Senator muſt be 27 years of age. Repreſentative muſt be 24 years of age, both, inhabitants 2 years.	Inhabitant of the State 2 years, or reſident of the County 1 year.	Money bills originate ſolely in the Houſe of Repreſentatives. The Senate may propoſe amendments. Houſe of Repreſentatives have the ſole right of impeachment. The Senate try, two thirds neceſſary in both.	Senate is to conſiſt of one member more than one fourth of the number of Repreſentatives.
VIRGINIA. July 5, 1776.	Two Branches-----Called The GENERAL ASSEMBLY. Senate 24 Members: Houſe of Repreſentatives 150-160 Members.	*The People.*	Senate for 4 years with annual rotation of one fourth; Delegates,---annually.	No particular pecuniary qualification; but Senators and Delegates muſt be reſidents and freeholders in the Diſtrict or County.	Electors---Freeholders. [y]	All laws originate in the Houſe of Delegates. Senate cannot alter money bills. [z] Houſe of Delegates vote impeachments, which are tried by the General Court, or Court of appeals.	
N. CAROLINA. December 18, 1776.	Two Branches---Senate, and Houſe of Commons, called, The GENERAL ASSEMBLY: the former 60 Members; the latter 120 Members.	*The People.*	*Annual.*	Senate---Freehold, 300 acres. Commons---Freehold, 100 Acres.	Electors of the Senate----Freehold, 50 acres. Electors of the Commons---payment of Taxes, and a year's reſidence in the County.	Two houſes jointly adjourn themſelves by ballot to any future day and place. [aa] Impeachment by the commons, tried by ſupr. Court; if the judges impeached, then by a ſpecial Tribunal.	Bills muſt be read three times in each houſe. [bb] Clergy excluded.
S. CAROLINA. June 3, 1790.	Two Branches--- Senate, 37 Members. Houſe of Repreſentatives, 124 Members---Called the GENERAL ASSEMBLY.	*The People.*	Senate for 4 years, with a biennial rotation of one half. Repreſent:--biennially. [cc]	Senator, 30 years of age, Citizen and reſident in the State 5 years; if reſident in the Diſtrict, freehold, 300l. if non reſident, freehold eſtate in the Diſtrict, 1000l. Repreſentative---Citizen and reſident 3 years; if reſident freehold 100 acres and 10 negroes, or real eſtate, 150l. if non reſident, then freehold eſtate in the Diſtrict of 500l.	Electors---Citizens, and reſident 2 years; freehold 50 acres; or town lot; or Tax 3s. reſidence 6 months in the diſtrict prior to Election.	Impriſonment for contempt, &c. Impeachment by Houſe of Repreſentatives, two thirds. Trial by Senate two thirds neceſſary. Repreſentatives originate bills for raiſing revenue.	Bills muſt be read three times on three diff. days in each houſe---no rejected bill reintroduced without leave, and notice ten days. [dd] Clergy excluded. [ee]
GEORGIA. May, 1795.	Two Branches--- Senate, 23 Members. Houſe of Repreſentatives, 51 Members---Called, The GENERAL ASSEMBLY.	*The People.*	*Annual.* See Note [u]	Senator---28 years; 9 years inhabitant of the United States, 3 years citizen of Georgia; reſidence in the County 6 months, freehold, 250 acres; or property, 250l. Repreſentatives---21 years; 7 years Citizen of the United States, 2 years inhabitant of Georgia, and reſident in the County 3 months; freehold 200 acres, or 150l.	Electors---payment of tax, and 6 months reſidence in the county.	Impeachment.---One third forms a quorum of each branch to do buſineſs.	Clergy excluded. Convention to reviſe the Conſtitution to be elected November 1797; to conſiſt of three members from each county, and to meet in May 1798.
TENNESSEE. February 6, 1796.	Two Branches--- Senate, 11 Members. Houſe of Repreſentatives, 22 Members---Called, The GENERAL ASSEMBLY.	*The People.*	Senate and Repreſentatives biennial. See Note [cc]	Reſident 3 years in the State, and 1 year in the County, and freehold in County 200 acres.	Electors---freehold in the County.	Impriſonment for contempt. Impeach. All Bills may originate in either Houſe. See Note [f.]	Clergy excluded. Number of Senate never leſs than one third, nor more than one half of Repreſent. Repreſ. never to exceed 40.
Territory N. W. of Ohio. July 13, 1787. [ff]	Governor and Judges legiſlate.	The Preſident and Senate U. S. appoint the Governor and Judges.	The Gov. for 3 years, remov. by the Preſident U. S. The Judges during good behav. See Ord. July 1787.			To adopt ſuch exiſting Laws of the ſeveral States as may be applicable to the Territory; ſubject to the reviſion of Congreſs. See Note [ff]	

LEGISLATIVE.

No. II.

ABRIDGED TABLE.

Term of Duration.

SENATE.		REPRESENTATIVES.	
United States,	Six Years.	United States, South Carolina, Tenneſſee,	Biennial.
Maryland,	Five Years.		
New York, Pennſylvania, Kentucky, Virginia, South Carolina,	Four Years.	New Hampſhire, Maſſachuſetts, Vermont, New York, New Jerſey, Pennſylvania, Delaware, Maryland, Kentucky, Virginia, North Carolina, Georgia,	Annual.
Delaware,	Three Years.		
Tenneſſee,	Two Years.		
New Hampſhire, Maſſachuſetts, Connecticut, Rhode Iſland, Vermont, New Jerſey, (Councils.) North Carolina, Georgia,	One Year.	Connecticut, Rhode Iſland,	Semi-ann.

Qualification of Members.

Rhode Iſland, New Jerſey, Delaware, Virginia, North Carolina, South Carolina, Tenneſſee,	Freehold eſtate neceſſary.
New Hampſhire, Maſſachuſets, Maryland, Georgia,	Freehold or perſonal eſtate neceſſary.
United States, Connecticut, Vermont, New York, Pennſylvania, Kentucky,	No proprietary qualification requiſite.

Qualification of Electors.

United States,	Same as the ſtate in which the Elector reſides.
Rhode Iſland, New York, Virginia, North Carolina,	Freehold requiſite.
Maſſachuſetts, Connecticut, New Jerſey, Maryland, South Carolina,	Freehold or perſonal eſtate neceſſary.
New Hampſhire, Vermont, Pennſylvania, Delaware, Kentucky, Georgia, Tenneſſee,	No proprietary qualification neceſſary.

Rotations.

United States,	Biennial rotation of one third.
New York, Pennſylvania, Virginia,	Annual rotation of one fourth.
South Carolina,	Biennial rotation of one half.
Delaware,	Annual rotation of one third.
Maryland, Kentucky, Tenneſſee,	No rotation.

No. III.

EXECUTIVE.

States.	*Mode of Appoint.*	*Term of Appoint.*	*Whether re-eligible.*	*Whether a Council.*	*Powers of Appointment to Office.*	*Other Powers.*	*Qualifications.*	*Whether a Lieut. Governor.*
UNITED STATES.	By Electors. [a]	Four Years.	Re-eligible.	No Council. [b]	Nomi[nate] Senate confirm; fills up vac[ancies] during the recess of the Senate.	Pardon. [c] Qualified negative. Receives Foreign Miniſters.	Citizen, 14 years reſident, 35 years old.	Vice-Preſident of the United States, Preſident of the Senate.
NEW HAMPSHIRE.	By the People.	One Year.	Re-eligible.	Council of five Members elected by the People.	Appo[int] all officers with advice of the Council.	Pardon. Qualified negative.		No Lieut. Governor.
MASSACHUSETTS.	By the People.	One Year.	Re-eligible.	Council. [cc]	Appoi[nts] with ſome exceptions. [d]	Pardon. Qualified negative.	Inhabitant 7 years.	Lieut. Governor, who is ex officio Member of the Council, and preſides there.
CONNECTICUT.	By the People.	One Year.	Re-eligible.	No executive Council.	Appo[int] with the Aſſiſtants, [e] only Sheri[ffs]	Preſident of the Aſſiſtants or Council, with caſting vote.		Lieut. Governor, who is Member of the Council.
RHODE ISLAND.	By the People.	One Year.	Re-eligible.	No executive Council.	No im[portant] appointments.	Preſident of the Aſſiſtants or Council.	Freeholder, and Freeman of ſome Corporate Town.	Lieut. Governor, called in the Charter, Deputy-Governor.
VERMONT.	By the People.	One Year.	Re-eligible.	Lieut. Governor and Council. [f]	Appoi[nts] ſome officers.	Governor and Council can ſuſpend Laws to next Seſſion. Pardon. Try impeachments.		Lieut. Governor.
NEW YORK.	By the Freeholders of 100l. [g]	Three Years.	Re-eligible.	No executive Council, other than the Councils of Appoint. and of Reviſion.	Nomi[nate] the Council of Appointment[s] to all offices, except a few.	Pardon. Qualified negative, with the Council of Reviſion. [i]		Lieut. Governor, Preſident of the Senate.
NEW JERSEY.	By the Legiſlature. [k]	One Year.	Re-eligible.	The legiſlat. Council act as his executive Council.		Preſident of the Council. Chancellor. Ordinary. Governor and Council Court of Appeals. Pardon.		Vice-Preſident.
PENNSYLVANIA.	By the People.	Three Years.	Re-eligible for nine years in every twelve.	No Council.	Make [ſome] appointments, except Sheriffs [l] Coroners, who are appointed by the People, and State Treaſurer, by the Legiſlature. Militia, Regimental Officers and Company Officers, by the Regiments and Companies.	Pardon, except in caſe of Impeachment. Qualified negative.	Citizen and Inhabitant 7 years, and 30 years of age.	Vacancy in the office of Governor, by death, reſignation, or removal, ſupplied, ad interim, by Speaker of the Senate.
DELAWARE.	By the People.	Three Years.	Re-eligible for three years in every ſix.	No Council.	Appoi[nt] except Treaſurers, Sheriffs, and Coro[ners]	Pardon, except in caſes of Impeachment.	30 Years age, Citizen of the United States 12 years, and State 6.	
MARYLAND.	By the Legiſlature.	One Year.	Re-eligible for three years in every ſeven.	A Council.	Appo[int] with Council, except Treaſurer[s] Sheriffs.	Pardon. Embargoes. [m] Removes and ſuſpends officers, except thoſe who hold during good behaviour.	Reſident 5 years, 500l. property.	
KENTUCKY,	By Electors. [n]	Four Years.	Re-eligible.	No Council.	Appo[int] with advice of Senate.	Pardon, except for Treaſon or Impeachment.	30 Years of age, and reſident two years in the State, previous to the Election.	No Lieut. Governor.
VIRGINIA.	By the Legiſlature.	One Year.	Re-eligible for three years in every ſeven.	Council of State.	Appo[int] with Council, only Juſtices of the Peace.	Pardon.	30 Years of age.	Preſident of the Council acts as Lieut. Governor, in caſe of vacancy in the Government.
NORTH CAROLINA.	By the Legiſlature.	One Year.	Re-eligible for three years in every ſix.	Council of State.	No a[ppointments]; but temporary till the meeting of the Legiſlature.	Pardon. Embargoes.	Reſident 5 years, Freehold 100cl.	No Lieut. Governor.
SOUTH CAROLINA.	By the Legiſlature.	Two Years.	Not re-eligible till after the expiration of 4 years. [o]	No Council.	Appoi[nt] the interior officers.	Pardon. Embargoes.	Reſident and Citizen 10 years, Property 1500l.	Lieut. Governor.
GEORGIA.	By the Legiſlature.	Two Years.	Re-eligible.	No Council.	Appo[int] few civil officers, and all militia officers.	Pardon. Qualified negative.	Citizen 12 years, Reſident 6 years, 500acres, and other property worth 1000l.	No Lieut. Governor.
TENNESSEE.	By the People.	Two Years.	Re-eligible for 6 years in every eight.	No Council.	No a[ppointments], unleſs in the receſs of the Legiſlature, and except the Adjutant General of the Militia.	Pardon. Convenes Legiſlature on extraordinary occaſions.	Citizen or Inhabitant 4 years, Freehold 500 acres, 25 years of age.	Speaker of the Senate Lieut. Governor, as in Pennſylvania.
TERRITORY NORTH WEST OF THE OHIO,	By the Preſident and Senate of U. S.	Three Years---but removable by the Preſident of U. S. at any time.	Re-eligible.	No Council.	Appo[int] all Magiſtrates, and other civil officers except the Judges; and all officers of the militia, except the Generals [&c.]	The Governor and Judges legiſlate for the Territory. See note [ff] on the Legiſlative.	Reſident in the Territory, and Freehold of 1000 acres.	Secretary of the Territory, appointed in ſame manner as the Governor, acts as Lieut. Governor in caſe of abſence, &c.

No. IV.

EXECUTIVE.

ABRIGE TABLE.

Mode of Appointment.	*Term of Appointment.*	*Re-eligibility.*	*Conſtitutional Council.*	*Power of appointing to Office.*	*Qualified Negative.*
United States, Kentucky, — Electors.	United States, Kentucky, — Four years.	United States, New Hampſhire, Maſſachuſetts, Connecticut, Rhode Iſland, Vermont, New York, New Jerſey, Kentucky, Georgia, — Unlimited.	United States, Connecticut, Rhode Iſland, New York, Pennſylvania, Delaware, Kentucky, South Carolina, Georgia, Tenneſſee, — No Conſtitutional Council.	United States, New Hampſhire, Maſſachuſetts, Vermont, New York, Pennſylvania, Delaware, Maryland, Kentucky, — Nomination or appointment with the modifications mentioned.	United States, New Hampſhire, Maſſachuſetts, Vermont, New York, Pennſylvania, Kentucky, Georgia, — Qualified negative, with the modifications mentioned.
New Hampſhire, Maſſachuſetts, Connecticut, Rhode Iſland, Vermont, New York, Pennſylvania, Delaware, Tenneſſee, — The people.	New York, Pennſylvania, Delaware, — Three years.				
	South Carolina, Georgia, Tenneſſee, — Two years.				
New Jerſey, Maryland, Virginia, North Carolina, South Carolina, Georgia. — The Legiſlature.	New Hampſhire, Maſſachuſetts, Connecticut, Rhode Iſland, Vermont, New Jerſey, Maryland, Virginia, North Carolina, — One year.	Pennſylvania, — Re-eligible for nine years in twelve.	New Hampſhire, Maſſachuſetts, Vermont, New Jerſey, Maryland, Virginia, North Carolina, — Council.	Connecticut, Rhode Iſland, New Jerſey, Virginia, North Carolina, South Carolina, Georgia, Tenneſſee, — No important appointment.	Connecticut, Rhode Iſland, New Jerſey, Delaware, Maryland, Virginia, North Carolina, South Carolina, Tenneſſee, — No qualified negative.
		Delaware, North Carolina, — For three years ſix.			
		Maryland, Virginia, — For three years ſeven.			
		South Carolina, — For two years in ſix.			
		Tenneſſee, — For ſix years in eight.			

JUDICIARY.

States.	*Mode of Appointment.*	*Tenure.*	*Removability.*	*Remarks.*
UNITED STATES.	Nominated by President, appro[illegible] by Senate. [a]	During good be[illegible]	[illegible] Impeachment by the House of Repre[illegible]entatives, before the Senate.	Compenſation undiminiſhable during term of appointment.
NEW HAMPSHIRE.	By the Governor and Council.	During good [illegible] the Peace for [illegible]	[illegible] Impeachment, and by addreſs of the Legiſlature to the Governor.	Compenſation fixed by Law. Adviſe Governor.
MASSACHUSETTS.	By the Governor and Council.	During good beh[illegible] ces of [illegible] Commiſſions 7 [illegible]	By Impeachment, and by Governor and Council, on addreſs of both Houſes to remove.	Give their opinions to Governor and Council on ſolemn occaſions, [b] and to Legiſlature on queſtions of Law. Decide on Divorces.
CONNECTICUT.	By the Legiſlature.	Annual appointme[illegible]	Uſually re-appointed during capacity to ſerve, unleſs guilty of miſbehaviour.	Their Courts take cognizance of Divorces.
RHODE ISLAND.	By the Legiſlature.	Annual appointmen[illegible]	Uſually re-appointed during capacity to ſerve, unleſs guilty of miſbehaviour.	Courts decide on Divorces.
VERMONT.	By Council and Aſſembly.	Annually, and oftne[illegible]	Impeachment by Aſſembly; tried by Governor and Council.	
NEW YORK.	By Governor and Council of appointment.	During good behavio[illegible]	Diſqualified, when 60 years old. [c]	
NEW JERSEY.	By Council and Aſſembly.	Superior Court 7 years[illegible] Inferior 5 years [illegible]igible.	Impeachment by Aſſembly; tried by Council.	
PENNSYLVANIA.	By the Governor.	During good behavior [illegible]	The Governor may remove, on addreſs of two-thirds of each houſe, in caſes not ſufficient for impeachment. [d]	Compenſation not diminiſhed during continuance in office; may not receive fees or perquiſites, nor hold any office of profit. Supreme Court have cognizance of Alimony and Divorce; may ſupply defects in Titles occaſioned by Deeds loſt or defaced. No Chancery.
DELAWARE.	By the Governor.	During good behaviour.	Impeachment by Houſe of Repreſentatives, two thirds of all the Members agreeing. The Governor may remove on addreſs of two-thirds of Members of each Branch, in caſes not ſufficient for Impeachment.	Compenſation not diminiſhed during continuance in office.
MARYLAND.	By the Governor and Council.	During good behaviour.	For miſbehaviour, on conviction in Court of Law, and by the Governor, on the addreſs of the Aſſembly, provided two-thirds of each Houſe concur.	
KENTUCKY.	By the Governor and Senate.	During good behaviour.	Impeachment, or by joint addreſs of two-thirds of both Houſes of the Legiſlature.	Compenſation not diminiſhed during continuance in office. [e]
VIRGINIA.	By the Legiſlature.	During good behaviour.	Impeachment by Houſe of Delegates. Judges of the General Court tried by Court of Appeals, and vice verſa.	
NORTH CAROLINA.	By the Legiſlature, nominated by the Governor.	During good behaviour.	Impeachment by Aſſembly or Grand Jury, and tried by a Special Court.	
SOUTH CAROLINA.	By the Legiſlature.	During good behaviour.	Impeachment by Aſſembly, tried by Senate.	Compenſation unalterable during continuance.
GEORGIA.	By the Legiſlature.	Three years, re-eligible.	Impeachment by Aſſembly, tried by Senate.	Compenſation unalterable during continuance.
TENNESSEE.	By the Legiſlature.	During good behaviour.	Impeachment by Aſſembly, tried by Senate.	Not allowed to charge Juries with reſpect to matters of fact, but may ſtate the teſtimony and declare the Law.
TERRITORY NORTH WEST OF THE OHIO.	The Preſident and Senate of the United States.	During good behaviour.	Impeachment by Houſe of Repreſentatives of United States; tried by the Senate of the United States.	Compenſations regulated by Congreſs. With the Governor, poſſeſs ſeveral Legiſlative powers. See note [ff] on Legiſlative. Freehold qualification of 500 acres requiſite.

NOTES ON THE LEGISLATIVE.

[a] THERE are various modes in the ſtates of appointing the Senators of the United States: theſe are generally regulated by law. In ſome, one Houſe nominates to the other, till both concur:—In others, both Houſes unite in convention, and make a joint choice; the firſt is called a *concurrent* vote, the laſt a *joint* vote. Both modes are either *viva voce*, or by *ballot*. In the firſt mode, the Senate have the ſame equal power with the other Houſe, which they have in every other act, and which they ought not to be deprived of in this; in the laſt, their numbers being always ſmaller than the other Houſe, their influence is proportionably ſmaller. The mode by *joint vote*, or *joint ballot*, is the moſt prevalent; the Repreſentatives being the more popular branch, have too generally carried the point againſt the Senate. (See the table.)

[b] There are alſo various modes eſtabliſhed by the laws of the ſeveral ſtates, of electing the Repreſentatives: in ſome, the whole number to which the ſtate is entitled, is elected by the whole people of the ſtate; in others, they are diſtributed into election diſtricts. In ſome, a majority of all the votes is requiſite; in others, only a plurality. In ſome, reſidence of the candidate in the diſtrict is required; in others not. The mode by diſtricts and plurality of votes, with reſidence of the candidate, is the moſt general. (See the table.) The number of Congreſſional Repreſentatives from each ſtate is regulated by an act of Congreſs, apportioning the repreſentation from the ſeveral ſtates, at a ratio of one Repreſentative for every thirty-three thouſand inhabitants. See Act, 1792. The cenſus of the inhabitants is to be taken every ten years, and a correſpondent apportionment then made.

[c] An excellent mode for giving ſyſtem and ſtability to this branch, which, in two important caſes, acts as an Executive, and in one as a Judicial branch.

[d] This frequent recurrence to the people, which is attended with ſome good effects, is thought by many to make the Repreſentatives too *local* in their policy, and to induce them rather to aim at pleaſing their conſtituents than to advance the *general* good, which frequently requires an apparent ſacrifice of *local* intereſts. A triennial election would have been better ſuited to a government for ſo extenſive a country.

[e] In many of the ſtate conſtitutions, pecuniary qualifications are requiſite. Here none are required even for the Preſidency, which is a very republican trait in this conſtitution. Both may be right. Men without property not only feel leſs ſolicitude for the public tranquility and proſperity, but are more open to ſeduction. The candidates, however, for the Federal Legiſlature, will generally be men, not only of ſome property, but diſtinguiſhed in their reſpective ſtates for their virtues, talents, or integrity; they will be generally characters of ſome political eminence.

[f] The practice in moſt of the ſtates of originating *money bills* in the Houſe of Repreſentatives, is derived from a ſimilar practice in the Houſe of Commons of England, which was tranſplanted here, and engrafted on our provincial policy. Whatever reaſon there might be for it in England, or however neceſſary it might have been under our colonial governments, where the Councils, or Upper Houſes, were appointed by the Crown, there does not ſeem the ſame urgent neceſſity for it in our American Conſtitutions, where the Senators and Repreſentatives emanate, with only three exceptions, viz. United States, Maryland, and Kentucky, from the ſame ſource. In England, the Commons will not ſuffer the Lords even to alter a *money bill*, a term ſo vague, that frequent and ſometimes ſerious diſputes have taken place between the two Houſes. In our American Conſtitutions, the jealouſy goes, with one or two exceptions, no further than to the *originating*: the Senates have generally the power of altering and amending. In New Jerſey and Virginia, however, even that right is withheld; in New Jerſey, the Council, which is a legiſlative body, cannot alter a money bill: in Virginia, not only money bills, but all bills muſt originate in the Houſe of Delegates, and the Senate are prohibited from altering a money bill. The conſtitution of Tenneſſee (the laſt formed) wiſely provides, that all bills may originate (without any exception) in either Houſe. Contentions have ſometimes ariſen in ſeveral ſtates between the two branches, reſpecting the true ſignification of the term, *money bill*: To obviate this, the conſtitution of Maryland has this clauſe: (XI.) "That the Senate may be at full and perfect liberty to "exerciſe their judgment in paſſing laws, and that they may not be compelled "by the Houſe of Delegates, either to reject a money bill, which the emergency "of affairs may require, or to aſſent to ſome other act of legiſlation in their con-

" ſciences and judgment injurious to the public welfare—the Houſe of Delegates " ſhall not, on any occaſion, or under any pretence, annex to, or blend with a " money bill, any matter, cauſe, or thing, not immediately relating to, and neceſ- " ſary for the impoſing, aſſeſſing, levying, or applying the taxes or ſupplies, to be " raiſed for the ſupport of government, or the current expences of the ſtate; and " to prevent altercation about ſuch bills, it is declared, that no bill, impoſing duties " or cuſtoms for the mere regulation of commerce, or inflicting fines for the refor- " mation of morals, or to enforce the execution of the laws, by which an incidental " revenue may ariſe, ſhall be accounted a money bill: but every bill, aſſeſſing, levy- " ing, or applying taxes or ſupplies, for the ſupport of government, or the cur- " rent expences of the ſtate, or appropriating money in the Treaſury, ſhall be " deemed a money bill." In nearly all the ſtates, where the reſtriction exiſts, the term is, a *money bill*, a term of vague ſignification. The Maryland clauſe ſpecifies indeed, minutely enough, the objects comprehended under the term, but it has carried them to too great an extent, for it is cramping the Senate too much to reſtrain them from originating any bill, *applying money in the Treaſury* to certain current expences. The conſtitution of the United States, and thoſe of Pennſylvania and South Carolina, confine the right of originating in the Houſe of Repreſentatives merely to bills *for raiſing revenue*, not for applying or appropriating money to be raiſed, or lying in the Treaſury. Thus the propoſition for *aſſuming* 25,000,000 *Dollars of ſtate debt*, which had been moved and loſt in the Houſe of Repreſentatives, was introduced in the Senate as an *amendment* to the funding bill, and paſſed afterwards by the Repreſentatives, without any conſtitutional objection.

[g] This mode of ſupplying vacancies, is found only in the conſtitutions of Maſſachuſetts and Maryland. In the conſtitution of Maſſachuſetts, by 4th Sect. 1ſt Chap. it is provided, that " in caſe there ſhall not appear to be the full number of " Senators returned, elected by a majority of votes for any diſtrict, the deficiency " ſhall be ſupplied in the following manner, viz. The members of the Houſe of " Repreſentatives, and ſuch Senators as ſhall be declared elected, ſhall take the " names of ſuch perſons, as ſhall be found to have the higheſt number of votes in " ſuch diſtrict, and not elected, amounting to twice the number of Senators want- " ing, if there be ſo many voted for; and out of theſe ſhall elect by ballot, a number " of Senators, ſufficient to fill up the vacancies in ſuch diſtrict; and in this manner " all ſuch vacancies ſhall be filled in every diſtrict of the Commonwealth: and in like " manner, all vacancies in the Senate, ariſing by death, removal out of the ſtate, or " otherwiſe, ſhall be ſupplied as ſoon as may be, after ſuch vacancies ſhall happen."

In Maryland, it is provided by the 19th article, that " In caſe of refuſal, death, " reſignation, diſqualification, or removal out of this ſtate, of any Senator, or on

" his becoming governor, or a member of the council, the Senate ſhall, immediately " thereupon, or at their next meeting thereafter, elect by ballot (in the ſame " manner as the electors are directed to chooſe Senators) another perſon in his " place, for the reſidue of the ſaid term of five years."

[h] In the conſtitution of the United States, and in thoſe of all the States, except Virginia and North Carolina, there ſeems to be the ſame mode of trying by impeachment—the accuſation proceeding from the more numerous branch, and being heard before the other. There are ſome variations as to the number required in both Houſes to conſtitute an accuſation and conviction; in ſome, ſimple majorities being ſufficient, in others, two-thirds: In ſome, a majority of the Houſe may vote an impeachment, but it requires two-thirds of the Senate to convict.

[i] In Connecticut, the aſſiſtants, or council, are a legiſlative, as well as an executive branch; and, in certain cauſes, as well as in caſe of impeachment, a judicial branch.

[k] This frequency of election is peculiar to this ſtate, and to Rhode Iſland; in no other is there a ſhorter period for election than a whole year. It is however attended, in Connecticut, with no conſiderable inconvenience, the orderly and enlightened habits of the people generally counteracting the miſchievous tendency of their policy in this, as in many other exceptionable parts of their conſtitution, which is nothing but the old charter, unaltered, except ſo far as to make it conſiſtent with our independence. There have been indeed lately, ſome marks of inſtability in their legiſlative conduct, in the caſe of their weſtern lands, in which contending intereſts, and too frequent changes in their legiſlature, have occaſioned fluctuations in their proceedings, which were not to have been expected from a people, heretofore diſtinguiſhed for their peculiar ſteadineſs.

[l] Nothing can be more orderly than their *freemen's* meetings. The voters or freeholders aſſemble in ſome commodious building, and being all ſeated, the managers of the election announce the candidates, and the conſtables, or other officers, go round and collect the votes.

[m] Theſe powers of a judicial and executive nature, form another bad feature in this conſtitution: The governor alone ſhould be veſted with the power of pardon, and the judicial courts excluſively entruſted with the trial of cauſes. There can ſcarce be a more improper tribunal for this purpoſe than a legiſlative body, where ignorance in matters of law, party, and paſſion, frequently confound right and wrong. The Repreſentatives, on theſe occaſions, adjourn into the Council

Chamber, when the Governor, as Preſident of the Council, preſides over the two Houſes: the advocates are heard on behalf of their clients, and when the pleadings are finiſhed, the Houſes ſeparate; the queſtion is put by the Speaker of the Repreſentatives, whether they confirm or annul the decree, and the queſtion is generally taken without debate: it often happens, when the Houſe divides, that a number of members, who diſapprove of the practice, or who do not underſtand the ſubject, detach themſelves from both ſides, form a ſeparate corps in the centre of the Houſe, and are not counted. Theſe caſes are called "public hearings."

[n] This is another peculiarity. In all the other ſtates, the Preſident, or Speaker, has only the caſting vote.

[o] This is the *only* ſtate in the Union which has but *one* legiſlative branch; and it is remarkable, that while all the other ſtates, which formerly had but a ſingle branch, have, from experience, ſeen the neceſſity of an alteration, and reformed their conſtitutions accordingly, *Vermont*, with that experience, and the aid of the ſeveral ſtate conſtitutions, has, ſo late as 4th July 1786 *, organized her government on the plan of a ſingle branch: there is indeed a check on the legiſlative body, by a power veſted in the Governor and Council, to propoſe alterations to bills, and, in caſe of their being diſſented to by the Aſſembly, to ſuſpend the operation of the bills till the next ſeſſion; but this power not extending to the originating of bills, and giving only a ſuſpenſory power to the next ſeſſion, is an inadequate check. The clauſe is to this effect: "To the end that laws, before they are enacted, may be "more maturely conſidered, and the inconvenience of haſty determinations as much "as poſſible prevented, all bills which originate in the Aſſembly ſhall be laid before "the Governor and Council, for their reviſion and concurrence, or propoſals of "amendment, who ſhall return the ſame to the Aſſembly, with their propoſals of "amendment (if any) in writing: and if the ſame are not agreed to by the Aſſembly, "it ſhall be in the power of the Governor and Council to ſuſpend the paſſing of ſuch "bills until the next ſeſſion of the legiſlature. Provided, that if the Governor and "Council ſhall neglect or refuſe to return any ſuch bill to the Aſſembly, with "written propoſals of amendment within five days, or before the riſing of the legiſ-"lature, the ſame ſhall become a law."

[p] The propriety of this reſtriction is not very obvious. When the members of the legiſlature are themſelves affected by the tax, they will not be likely to impoſe unneceſſary burdens; indeed, a ſolicitude to ſecure popularity, by exempting

* The Conſtitution of Vermont underwent a reviſion in July 1793, but received no improvement in this particular.

the people from taxes, and the too great facility with which the people are induced to reprobate all taxation, are circumstances which have a very opposite tendency.

[q] Some limitation of this kind would be proper in all the state constitutions. The limits here are however too extensive. By the constitution of Pennsylvania, the number of Representatives cannot exceed 100, nor be less than 60, and the Senate are never to be less than one-fourth, nor more than one-third of the Representatives. By the constitution of Kentucky, the Senate is to consist of one member more than one-fourth of the Representatives. Twenty or 30 Senators, and 100 or 120 members of the other body, appear fully sufficient, in any state, however populous, for the purposes of legislation *. By the constitution of the United States, the number of the two houses will not, for some years to come, much exceed the above limits: and if they be sufficient for the whole Union, there can be no reason for a larger number in any individual state. Beyond that number, deliberation and temper yield to enthusiastic passion and disorder. The more numerous a legislative body, the more unworthy and ignorant men will be found in it, the fewer members will transact the business; the more power will be necessarily vested in the leaders, the more will party influence prevail: this is verified by the experience of all countries. It is impossible to fix precisely the proper limits, but from observation we may assert, that the number above mentioned will be fully competent to ensure deliberate information and safety, and that beyond that point, the evils just mentioned commence, and increase in proportion to the increase of numbers. See Federalist, No. 55.

[r] This restriction on the Council, which is one branch of the legislature, is extremely unwise; it has no parallel in any of the constitutions, except in that of Virginia. Why should they not alter a money bill? The Council, composed of the best men, and elected by the people, though less numerous, are as safely to be trusted in this respect as the other branch: their calm revision of a money bill would be attended with very salutary effects. They have, it is true, the power of rejection, but the exercise of that power often leads to heats and pertinacity. It has been remarked, ever since the organization of the Federal government, under the

*	Senate, or Coun.	Repres.
United States,	32	106
New Hampshire,	12	125
Massachusetts,	31	256
Connecticut,	12	179
Rhode Island,	10	70
Vermont,	12	145
New York,	24	70
New Jersey,	13	39
Pennsylvania,	23	79
Delaware,	9	21
Maryland,	15	80

	Senate, or Coun.	Repres.
Kentucky,	11	40
Virginia,	24	140
North Carolina,	60	120
South Carolina,	37	124
Georgia,	23	51
Tennessee,	11	22
	360	1776
Average	21	104

preſent conſtitution, that the Senate of the United States have been conſiderably more diſcreet and economical in the diſpenſations of public money than the other branch. This may be attributed to their greater ſenſe of reſponſibility from their ſmallneſs of numbers, to their greater attention to buſineſs from the ſame cauſe, and to their greater exemption from thoſe partialities and impulſes, which often produce in numerous bodies very improvident and la[illegible] grants of public money.

[s] The conſtitution of no ſtate has been ſo ameliorated as that of Pennſylvania, in every department; from one of the worſt, it may now be pronounced one of the beſt in the Union. Unity, power, and reſponſibility in the Executive, a diviſion of powers in the legiſlative, by a creation of two branches, independence and ſtability in the Judiciary, are the diſtinguiſhed and excellent features of this conſtitution. Until the year 1790, a feeble and clogged Executive, a ſingle uncontrouled and deſpotic branch, and a dependent Judiciary, rendered this ſtate a perpetual ſcene of faction and diſorder. Notwithſtanding the numerous evils which had obviouſly reſulted from a ſingle branch, ſo much was it the favourite of a ruling party, called the *Conſtitutionaliſts*, that their opponents, the *Republicans*, long ſtrove in vain to effect a ſalutary reform. The adoption of the conſtitution of the United States in 1787 in Pennſylvania, and in 1788 in moſt of the other ſtates, the diſcuſſions which it produced, the light thrown upon the ſubject of republican government, throughout America, and we may add, the firſt fruits of the Federal Government, which made it the favourite of all unprejudiced and well informed men; led to a change ſo fortunate for Pennſylvania. Accordingly, in the convention of 1790, which formed their conſtitution, there appeared only four members in favour of the former miſchievous unity of legiſlation. But with all its perfections, ſtill we find here and there ſacrifices to old habits, and popular prejudices. The veſting the appointment of ſheriffs in the people, noticed hereafter in another place, is a ſtriking deformity in their conſtitution.

[t] This is a pretty good ſtandard; it is nearly the proportion of the Senates of the United States and of South Carolina to the Repreſentatives. In general this proportion has not been ſufficiently attended to by the ſtates.

[u] The conduct of the ſtate of Maryland has long born teſtimony to the wiſdom diſplayed in its conſtitutional organization. The appointment of electors for the expreſs purpoſe of chooſing the Senators, the oath they take to ſelect men, moſt diſtinguiſhed for their wiſdom, talents and virtues, their voting by ballot, free from all influence, and the duration of five years, are almoſt peculiar to the conſtitution of this ſtate, and are the beſt means to enſure a well conſtituted Senate. Upon ſeveral

occaſions their integrity and firmneſs have withſtood the dangerous and tumultuous ſhocks of the more numerous branch, and though they have, at the moment, been the ſubjects of popular indignation, yet returning reaſon and moderation have always rewarded them with the public eſteem and affection. The features in other conſtitutions, which moſt reſemble this, are the appointment by electors of ſtate Senators in Kentucky, and of Federal Senators by the ſtate legiſlatures, and of the Preſident and Vice-Preſident of the United States by electors. In the other ſtates, the election of Senators immediately by the people, is not only liable to cabal, but makes the Senators too dependent on leading and intriguing characters in the ſeveral diſtricts. As the Senate is intended to be a check on the popular branch, it ought to be conſtituted in ſome mode different from the other, either by electors, or by the people, modified and reſtricted by particular qualifications. *Mr Jefferſon*, in his notes on Virginia, p. 126, condemns the conſtitution of that ſtate for having overlooked this important circumſtance. He makes the following judicious obſervations: "The Senate is, by its conſtitution, too homogeneous with "the Houſe of Delegates. Being choſen by the ſame electors, at the ſame time, "and out of the ſame ſubjects, the choice falls of courſe on men of the ſame de- "ſcription. The purpoſe of eſtabliſhing different houſes of legiſlation, is to intro- "duce the influence of different intereſts or different principles. In ſome of the "American ſtates, the Delegates and Senators are ſo choſen, as that the firſt repre- "ſent the perſons, and the ſecond the property of the ſtate. But with us, wealth "and wiſdom have an equal chance for admiſſion into both Houſes. We do not "therefore, derive, from the ſeparation of our legiſlature into two houſes, thoſe "benefits which a proper complication of principles is capable of producing, and "thoſe which alone can compenſate the evils which may be produced by their "diſſentions." In Maryland and Kentucky alone, the mode of chooſing by electors prevails: in ſeveral of the other ſtates, the voters for Senators muſt have a greater pecuniary qualification than the voters for the other branch, and the Senators more property than the Repreſentatives. In other countries, the upper or *checking* branch may emanate from ſome ſource, other than the people; but with us, all power muſt flow mediately or immediately from the ſame ſource; in order therefore to invigorate this branch with an adequate checking power, it is neceſſary that it ſhould be leſs dependent on the people than the popular branch: this can only be done by one or other of the modes above ſuggeſted: the Maryland and Kentucky mode appears the beſt. The time of greateſt danger in republics, is when the *violent paſſions* which agitate the people, have got poſſeſſion of the popular branch, which will commonly be the caſe, while annual elections prevail; if the Senate be elected immediately by the people, it is not to be doubted that generally the ſame paſſions will pervade the Senate, and render all checks *ineffectual*. The longer

duration of the Senate, which exiſts in many of the ſtates, is certainly a conſiderable remedy to this evil, and the experience of the American people has, in all their reviſions of their conſtitutions (except that of Georgia) invited them to make this *inequality* as great as may be thought to conſiſt with a proper reſponſibility and dependence. By the conſtitution of the United States, the Senators are elected for ſix years; in Maryland for five, in New York, Pennſylvania, Kentucky, Virginia, and South Carolina, for four, and in Delaware for three years; and in order to unite firmneſs, ſtability, and ſyſtem, with dependence and reſponſibility, they have all (except Maryland and Kentucky) eſtabliſhed the ſalutary plan of *rotation*, by which an adequate permanency is combined with a neceſſary change: the mode and frequency of rotation vary in almoſt all; the reſult however is the ſame. In the Federal Government there is a *biennial* rotation of one *third;* in thoſe of New York, Pennſylvania and Virginia, an annual *rotation* of one *fourth*; in South Carolina a *biennial* rotation of one *half;* in Delaware an *annual* rotation of one *third.* In Maryland the Senate is for five years, in Kentucky for four, but *without rotation.* It is remarkable, that the eaſtern ſtates, though generally well governed, have not thought this kind of check neceſſary, and conſequently we find, that in New Hampſhire, Maſſachuſetts, Rhode Iſland and Vermont, the Senates or Councils are annually elected: the Council of New Jerſey, and the Senates of North Carolina and Georgia, are alſo elected annually. As to the eaſtern ſtates, it may be remarked, as on a former occaſion, that the habits of order and moderation, and the generally extenſive progreſs of information in thoſe ſtates, may perhaps render a check to the popular branch, leſs neceſſary than in ſome others. But there is another obſervation, which accounts more naturally for this difference, and applies to the ſtates of New Jerſey and North Carolina, as well as to the eaſtern ſtates, which is, that the conſtitutions of thoſe ſtates were all, except Vermont, made *flagrante bello*, when they had little experience to guide them in framing conſtitutions, and when the arbitrary proceedings of the *Royal* Councils may have created a conſiderable antipathy to councils and ſenatorial branches: and as to Vermont, though their conſtitution is of modern date, the newly ſettled ſtate of the country could not be expected to furniſh them with legiſlators, quite as enlightened as their neighbours. With reſpect to Georgia, the recent change in the duration of her Senate from three years to one, is not eaſily accounted for. She ſeems to make retrograde movements in the ſcience of government, while her ſiſters are daily advancing. The conſtitutions of Connecticut and Rhode Iſland, are the old charters obtained from Charles II.; thoſe of Maſſachuſetts, New Jerſey, and North Carolina, were eſtabliſhed in the years 1776 and 1780. The conſtitutions of the United States, Pennſylvania, Kentucky, and South Carolina, have been framed ſince the year 1787. It is true, that thoſe of New York and Maryland were made during the war, viz.

in 1776 and 1777, and it is therefore ſurprizing they ſhould have contained ſuch judicious arrangements, in reſpect to the Senate. Whenever the eaſtern ſtates reviſe their conſtitutions, it is expected they will make their Senates more independent, and more ſalutary checks to the popular branch.

The Senate of Maryland can fill up vacancies in their own body, a power not poſſeſſed by any other Senate, except that of Maſſachuſetts, in the manner above mentioned, and that of Kentucky.

[v] It was obſerved, in reſpect to Connecticut, that the powers veſted in the legiſlature, of hearing and determining certain cauſes, and of granting reprieves and pardons, were improperly veſted in that department. The legiſlature is certainly not a fit body to perform theſe judicial and executive functions. The ſame objections apply here to the conſtitution of Maryland, which aſſigns to the legiſlature the power of commitment for crimes, a power which properly belongs to the judicial courts. In large repreſentative bodies, there will rarely be found that coolneſs and patience, ſo requiſite for the inveſtigation of facts, which characterize the courts of juſtice: When ſuch bodies are diſpoſed to puniſh, it is too generally under the influence of heat and party, and in thoſe caſes, juſtice is of courſe overlooked.

[w] Appointments are generally veſted, by the conſtitution of Maryland, in the Governor and Council; but from an exceſs of jealouſy, the appointment of *treaſurers* is not entruſted to them, though one would think the offices of judge and chancellor, at leaſt, as intereſting to the public ſafety as that of treaſurer. This inconſiſtent jealouſy is here carried ſo far, that the Houſe of Delegates have confined the appointment entirely to themſelves, excluding even the Senate from a participation, and making the treaſurers dependent on themſelves, by holding their offices at the pleaſure of that Houſe. This is all wrong: the appointment ought to be in the Governor and Council, and held at their pleaſure, or during a term of years, and the officer impeachable by the Houſe of Delegates. It ſeems as if the care of their property was deemed more important than that of their lives and liberties.

[x] It has often been a diſputed point, whether there is greater ſafety in *viva voce* or *ballot* elections. In moſt of the ſtates, the elections by the people are by ballot. *Maryland* and *Virginia* purſue the old Engliſh cuſtom of *polling*; every voter there goes up to the huſtings, or place of election, and declares aloud the candidate for whom he votes. It is remarkable, in the conſtitution of Maryland, that all elections for the Houſe of delegates, and for the electors of the Senators, are to be

viva voce, but the electors are to vote for the Senators by *ballot*. If the *balloting* was conſidered the mode the moſt free from influence or undue bias, then it ought to prevail in the elections generally; and vice verſa, if *open votes* were conſidered the ſafeſt, then the electors of the Senators ſhould purſue that mode. The Governor and Council are elected by the joint *ballot* of the two Houſes, and the Senate ſupply vacancies in their own body by the ſame mode: the Senators of the United States are alſo choſen by *ballot*. By the conſtitution of New York, elections are directed to be *viva voce*; but the framers of it, doubting the expediency of that mode, inſerted the following clauſe in their conſtitution: (Sec. 6th) "And whereas "an opinion hath long prevailed among divers of the good people of this ſtate, "that voting at elections by *ballot*, would tend more to preſerve the liberty and "equal freedom of the people, than voting *viva voce*:—To the end, therefore, that "a fair experiment be made, which of thoſe two methods of voting is to be pre-"ferred:

"Be it ordained, that as ſoon as may be after the termination of the preſent war "between the United States of America and Great Britain, an act, or acts, be "paſſed by the legiſlature of this ſtate, for cauſing all elections, thereafter to be "held in this ſtate, for Senators and Repreſentatives in Aſſembly, to be by ballot, "and directing the manner in which the ſame ſhall be conducted. And whereas "it is poſſible, that after all the care of the legiſlature, in framing the ſaid act, or "acts, certain inconveniences and miſchiefs, unforeſeen at this day, may be found "to attend the ſaid mode of electing by ballot:

"It is further ordained, that if, after a full and fair experiment ſhall be made "of voting by ballot aforeſaid, the ſame ſhall be found leſs conducive to the "ſafety or intereſt of the ſtate, than the method of voting *viva voce*, it ſhall be "lawful and conſtitutional for the legiſlature to aboliſh the ſame, provided two-"thirds of the members preſent, in each Houſe reſpectively, ſhall concur therein: "And further, that during the continuance of the preſent war, and until the le-"giſlature of this ſtate ſhall provide for the election of Senators and Repreſenta-"tives in Aſſembly, by ballot, the ſaid elections ſhall be made *viva voce*."
The mode of electing by *ballot* has long prevailed in New York, and ſtill continues.

By the conſtitution of Pennſylvania, it is declared, (2d. Sect. 3d. Art.) "That "all elections ſhall be by *ballot*, except thoſe by perſons in their *repreſentative* "capacities, who ſhall vote *viva voce*." This is the very reverſe of Maryland, where the electors are appointed *viva voce*, and afterwards in their repreſentative capacities vote by *ballot*. The moſt prevailing mode of electing, viz. by *ballot*,

is believed to be the ſafeſt; the fear of giving offence to powerful individuals, to relations, friends, and even to diſtant acquaintances, frequently induces the giving a vote, viva voce, which, by ballot, would be given for a more worthy object. Voting by ballot removes all reſtraint, and leaves the voter perfectly at liberty to follow the dictates of his own conſcience and judgment. The argument in favour of the other mode is, that it creates a greater reſponſibility, and lays the voter under the neceſſity of voting for men of approved worth and merit; he would be aſhamed, it is ſaid, of publicly beſtowing his vote, from perſonal friendſhip or any improper influence, on a worthleſs object: but this reaſoning has been found by fatal experience to be more plauſible than ſolid: Mankind, when determined to do wrong, too readily find arguments to juſtify themſelves in their own eyes. Beſides, it frequently happens, previous to an election, that clamors are unjuſtly excited, and rumors wickedly circulated againſt one of the candidates, who, though not the moſt popular character at the time, is the moſt honeſt and able man. The friends of his adverſary will propagate, with unbounded zeal, every thing they can to his diſadvantage: this, for a while, will create a certain prejudice, which time, reflection, and better information would remove. Under theſe circumſtances, many well-meaning voters, if they voted viva voce, would be reſtrained by timidity from voting for this ſeemingly unpopular candidate, though at the ſame time they might be ſatisfied, in their own minds, that he was the moſt deſerving of their ſuffrages: they would either ſtay at home, or vote for the favourite of the moment, whom they deſpiſed. In all popular governments, ſome idle men of the worſt characters, and with the worſt views, calling themſelves, "the people," will, at particular junctures, ſet up a loud clamor. Peaceable men, who remain much at home, attending to their buſineſs, are alarmed, ignorant either of the ſource or extent of this clamor, and often ſuppoſe both to be more important, and of much greater magnitude, than they are afterwards diſcovered to be. Were they to vote *openly*, under theſe circumſtances, few would have nerves enough to reſiſt the popular current: for their perſonal ſafety, they would be compelled to ſacrifice thoſe opinions, by which, in a *ballot* election, they would honeſtly abide.

[y] The Virginia policy, of excluding from the legiſlature, and from the right of ſuffrage, all who are not poſſeſſed of *freeholds*, has been often complained of as an *ariſtocratic trait* in their ſyſtem, ill becoming a ſtate, which boaſts ſo much of the purity of her *democratic* principles. It has been aſked, whether a citizen poſſeſſing a large *perſonal* eſtate, has not as well-founded a pretenſion to one and the other right, as another holding a few barren acres of land? Were it not for the circumſtance above mentioned, namely, the claim of peculiar pre-eminence in democratic republicaniſm, this feature in the conſtitution of Virginia would probably

have been little noticed, for the objection would otherwiſe lie as well againſt the conſtitutions of ſeveral of the other ſtates, where the qualification of a freehold is indiſpenſable. Thoſe of Rhode Iſland, New York, New Jerſey, Delaware, North and South Carolina, require the ſame qualification, either in the electors or in the elected. The objection, in the abſtract, does not appear a very ſerious one. It has been long the policy of ſeveral of the ſtates to require this qualification, which is thought to attach an individual more to his country than the mere poſſeſſion of perſonal property, which is of a tranſient and removable quality. It is true, that in the ſouthern ſtates, where negroes conſtitute one of the principal ſources of wealth, the owner of negroes may be ſuppoſed to have a ſufficient attachment to his country; but as it will ſeldom happen, that the owner of negroes will not be, at the ſame time, the proprietor of ſome land, the qualification can operate no eſſential injury. There is, however, in Virginia, a remnant of the old feudal ſyſtem, as abſurd as it is diſhoneſt, and which is altogether incompatible with pretenſions to ſuperior purity of republicaniſm, that is, the exemption of lands from execution for the payment of debts: frequent attempts have been made to aboliſh this odious appendage of ariſtocracy; there can be no doubt that they will be repeated, and there is every appearance that the extenſion of information and a ſpirit of liberality and juſtice will ſoon enſure them ſucceſs.

[z] Both theſe reſtrictions are injudicious. Why ſhould not the Senate originate bills? Why ſhould they not alter money bills when they can reject them? The one is the effect of an overſtrained jealouſy, the other an unmeaning imitation of Engliſh policy, which has been ſhewn to be inapplicable to America. In no other ſtate is the firſt reſtriction to be found. In every other, each Houſe may originate all bills, except money bills; in Vermont, the Council is not a branch of the legiſture, though it has the power of propoſing amendments to bills, (none of which it can originate) and of ſuſpending their operation to another ſeſſion. This reſtriction is then peculiar to Virginia; the other reſtriction is peculiar to Virginia and New Jerſey alone; in all the other ſtates, where the right of originating money bills is excluſively veſted in the Repreſentatives, the Senates or Councils, when the latter poſſeſs legiſlative functions, have the right of altering them. Even in Vermont, where the Council is an *executive* body, this right exiſts *ſub modo*, as above mentioned.

[aa] The reaſon of this proviſion, peculiar to North Carolina, is not obvious. A queſtion of adjournment, like any other queſtion, is always decided *viva voce*.

[bb] This regulation, apparently calculated to enſure deliberation, is ineffectual; when a diſpoſition exiſts in the majority to hurry through a bill, they are ſeldom prevented by ſo feeble a barrier: a ſhort bill is eaſily read in each Houſe three

times *in one day*: this is frequently done at the close of a session, when the exhausted state of the minds of members, the preparations for their return home, the absence of many, the inattention of all who remain, and the confusion which then always prevails, while they render men less fit for public business, require greater checks in the passing of laws. South Carolina has provided that the bills shall be read three times in each House *on three different* days. This meets the evil, and if not relaxed, is an effectual guard. These are the only two states, in which such a *constitutional* regulation exists. It is generally a *rule* of the House, which being repealable at pleasure, is dispensed with, whenever the will of the majority requires it, and is therefore of no avail in those cases of precipitancy and intemperance, where alone it is necessary, for then the remonstrances of the minority are always over-ruled by the determined enthusiasm of the majority. By the constitution of France of 1791, bills were to be read in the legislature on *distant* days before they could become laws, *unless in cases of urgency*; the proviso, like many others, defeated the rule, for the ardent disposition of that impetuous body could ill brook the tedious delays of such a restraint, and accordingly, whenever the majority were apprehensive that a day's reflection might frustrate a favourite measure, they availed themselves of the prevailing temper of the House, and always voted, *that a case of urgency existed*. By the rules of the two Houses of Congress, every bill must be read three times in each House, and by the rule of the Senate, no bill can be read twice on the same day, which rule cannot be dispensed with, but by the *unanimous* consent of the members. This puts it in the power of any member, at the close of the session, to fix his veto on a bill, by adhering to the rule. It has been often proposed to dispense with it, but the Senate have always thought the barrier so wise and beneficial, that even those who have been the friends of a bill thus obstructed, have preferred the loss of it to a deviation from so wholesome a provision. Indeed, the inconveniences attending the loss of a bill are generally over-balanced by the safety resulting from a restriction, which compels the friends of particular measures to bring them forward in such seasonable time, as to ensure them a fair and calm discussion.

[cc] South Carolina and Tennessee are the only states in the Union, whose most numerous branch is elected for so long a term as two years: in all the rest, it is annually elected, except in Connecticut and Rhode Island, where elections are semi-annual. On Connecticut some remarks have already been made. The *biennial* seems preferable to the *annual* term. The former is short enough to secure responsibility, the latter diminishes that firmness and independence, so essential in a legislator. Surely, a man, who has his property, his connections, and every thing dear to him at stake, will (with the responsibility arising from a biennial election) feel ties strong enough to attach him to the public good; at least, let there be one

ſeſſion out of two where he may act, unawed by the terrors of public diſgrace. If a ſufficient time intervene after the ſeſſion, he may have opportunities to convince his conſtituents, in the cool moments of reflection, of the rectitude and propriety of his conduct: but where the election immediately ſucceeds the ſeſſion, and the paſſions of the conſtituents are induſtriouſly inflamed by the intereſted partizans of aſpiring competitors, and their judgments ſurprized by uncandid miſrepreſentations, the member unvindicated has but a poor chance of a re-election. Theſe apprehenſions too often lead well-diſpoſed men, over-fond of popularity and place, to ſacrifice their own honeſt ſentiments to the current opinions and prejudices of the day, or to the wild caprices of the influential demagogues of their election diſtricts. At the ſame time, it is to be underſtood, that too remote a term of election ought to be avoided, leaſt leading characters, poſſeſſed of talents and ambition, might purſue meaſures injurious to the ſtate, unreſtrained by the public voice, which ought always to have its due influence on the conſtituted authorities. The conſtitution of South Carolina, by the biennial election of the Repreſentatives, and by the quartennial and rotatory election of the Senate, is happily calculated, in this reſpect, to combine a ſufficient independence of the member, with a proper reſponſibility, and the public ſecurity. See Federaliſt, No. 52, &c.

[dd] The notice of ten days ſeems ſuperfluous: if leave be neceſſary, and the bill is to be read three times on three ſeveral days in each Houſe, there is a ſufficient check on the re-introduction of bills which have been thrown out. A bill may be loſt by a majority of only one member, and a further conſideration, more temper, or futher information, may convince the Houſe of its utility: Why then impoſe this reſtraint? Conſtitutional impediments, which are ſtrongly expoſed to be laid aſide, are injurious, by weakening the public reſpect for barriers, *which ought ever to be held ſacred.*

[ee] The excluſion of the clergy from the legiſlature is found in the conſtitutions of New York, Maryland, Kentucky, North and South Carolina, Georgia and Tenneſſee. Why this unjuſtifiable antipathy to the miniſters of the goſpel ſhould be found principally in the ſouthern ſtates, is not eaſily accounted for. Maryland, Kentucky, North Carolina, and Georgia, exclude them, without aſſigning any reaſons. South Carolina ſets forth, that, "Whereas the miniſters of the goſpel "are, by their profeſſion, dedicated to the *ſervice of God, and the cure of ſouls*, "and ought not to be diverted from the great duties of their function, there- "fore no miniſter of the goſpel, or public preacher, of any religious perſuaſion, "whilſt he continues in the exerciſe of his paſtoral functions, ſhall be eligible "to the office of Governor, Lieutenant-Governor, or to a ſeat in the Senate or

"House of Representatives." (See Art. 1. Sec. 23.) New York, in assigning similar reasons, exclude them from any civil or military office. Maryland and North Carolina only excludes them from the General Assembly and Council *. These ostensible reasons, so far from being conclusive, rather prove the superior claim of the clergy to admission into the legislatures. The nature of their profession, which dedicates them to the service of God, and the cure of souls, rather tends to qualify them for a service, the object of which is to promote the welfare of the people, and to regulate their conduct by the rules of morality, justice, and right. The clergy are generally well educated men, whose professional duty inculcates and requires the exercise of the moral virtues, and the observance of those principles of justice, charity, temperance, and prudence, which peculiarly qualify them for a legislative station, where such principles are of the most signal utility. Can it be doubted, that if there were many members in the legislatures of the states, thus qualified, things would be better conducted than they are? And it is no answer to say, that all clergymen are not of that description; they will at least be as likely to be so as persons of any other profession; there is indeed a greater probability of their being so than of their being otherwise: at any rate, their profession, so far from creating an incompatibility, has a strong and immediate tendency to generate those excellent qualities of the mind, which would be productive, in legislative bodies, of order, moderation, justice, and public rectitude, and destructive of acrimony, malevolence, faction, ambition, avarice, and other sordid passions, which frequently poison the sources of legislative transactions. If individual instances have occurred, where the sacred garb has been polluted by temporal vices, where ambition, pride, and selfish passions have predominated over the virtuous principles of their divine master and instructor, is it just that such should fix a prejudice against the whole order? As well might the profession of the law be disqualified, because some individuals may have prostituted their professional talents to base purposes. General disqualifications for individual misconduct are justifiable by no rule of reason. The solicitude displayed in the New York and South Carolina clauses, not to divert the ministers of the gospel from the duties of their profession, might have been left to their congregations, who would be sufficiently careful to keep them attentive to their pastoral functions. Are not lawyers, physicians, and mechanics, diverted by their attendance in the legislature from their professional duties, and would the attendance of a clergyman a few weeks in the legislature, be

* Tennessee, with a preamble nearly similar to that of South Carolina, excludes them only from the Legislature. In the same article it is declared, that "no person who denies THE BEING OF GOD, OR A "FUTURE STATE OF REWARDS AND PUNISHMENTS, shall hold an[illegible] in the CIVIL department of "the State."

a greater abſtraction from his clerical functions, than a few weeks attendance on his plantation, or farm, or other temporal concerns? In the conventions of the ſtates, which ratified the Federal Conſtitution, we have ſeen ſeveral of the miniſters of the goſpel, and their conduct has been, in general, exemplary and uſeful. In ſome inſtances, they have been much admired for their learning, candour, judgment, and political knowledge. The clergy of the United States have been generally found among the firmeſt friends to public order and good government. This has been remarkably conſpicuous during our late agitations, in their thankſgiving and faſt-ſermons, wherein they heve zealouſly and ſucceſsfully inculcated thoſe excellent principles, which form the baſis of well-conſtituted government, and promote the public happineſs. And as the clergy cannot be ſuſpected of ambitious views, or be chargeable with party ſpirit, their conduct on ſuch occaſions muſt be conſidered as *diſintereſted* as it is uſeful. The diſqualification ſeems then either a remnant of old Gothic policy, tranſmitted from times, when the clergy were immured in monaſteries, or copied from the Britiſh government, where they are excluded from Parliament, becauſe they are ſuppoſed to be repreſented in convention, or the offspring of a miſguided jealouſy, ariſing from particular inſtances of miſconduct. The *expediency* of admitting into the legiſlature the miniſters of the goſpel, ought to be left to their own ſenſe of propriety, to that of their congregations, and to the good ſenſe and diſcretion of the electors. When the *laity* undertake to exclude the clergy by conſtitutional regulations, the excluſion ſavours rather too much of political *intolerance*. The conſtitution of the United States contains no ſuch excluſion, and an experience of near eight years has not demonſtrated its neceſſity: Amidſt the innumerable objections to that inſtrument, I do not recollect to have ever found the want of ſuch an interdiction in the catalogue of its defects.

[ff] By an ordinance of Congreſs of July 1787, a conſtitution was eſtabliſhed for the territory north-weſt of the Ohio. By the act of ceſſion of North Carolina, accepted by act of Congreſs, 1790, it was ſtipulated and agreed, that the territory ceded, called the territory ſouth of the Ohio, ſhould have the ſame privileges and form of government as that north-weſt of the Ohio. By the ordinance of 1787, it was provided, that whenever the territory north-weſt of the Ohio, ſhould contain 30,000 inhabitants, they might eſtabliſh a legiſlature, and when it contained 60,000 inhabitants, it ſhould be admitted into the Union. The territory ſouth of the Ohio, having the requiſite number, accordingly eſtabliſhed a legiſlature in 1794, and having 60,000 inhabitants in 1796, was admitted into the Union, by the name of

the State of Tenneſſee. But the other territory ſtill continues under the form of government preſcribed by the ordinance, by which the Governor and Judges may ordain for their government, ſuch of the laws of the ſtates, as may be applicable to their ſituation, the ſame to be laid before and approved by Congreſs. So few of the exiſting laws of the ſtates have been found applicable, and ſo many local laws were neceſſary, that the Governor and Judges have at various times undertaken to enact laws different from any exiſting in any of the ſtates; and Congreſs, aware of the neceſſity, have been obliged to wink at this departure from the ordinance.

NOTES ON THE EXECUTIVE.

[a] In moſt of the ſtates, the electors are choſen by the people; in ſome by the legiſlature: The conſtitution has left this point undetermined. The Congreſs may determine the time of chooſing the electors, and the day on which they ſhall give their votes, which day muſt be the ſame throughout the United States.

[b] The Preſident of the United States has no conſtitutional Council, which he is obliged to conſult. He is authorized to require of the principal officers in each of the executive departments, their opinions in writing upon any ſubject, relating to the duties of their reſpective offices; and he is ſaid to be in the practice of convening and conſulting them (and with them often the Attorney-General) on all matters of importance. The States differ much on this point, ſome having a Council eſtabliſhed by the conſtitution, which the Executive muſt conſult, and without whoſe aſſent he cannot act, others having no Council: in general, a conſtitutional council may be conſidered, either as a cloak to the Executive to ſhelter him when he does wrong, or as a clog to impede his motions when he wiſhes to do right. It is beſt that he ſhould act on his own reſponſibility; in difficult matters of law, he can conſult the Attorney General, and in other caſes, the officers of ſtate; if he be an honeſt man, the people will never cenſure him haſtily for mere error of judgment: if he be otherwiſe, the ſooner it is diſcovered the better: in a complicated Executive, the ſubdiviſion of reſponſibility weakens and deſtroys it; in a ſingle Executive, it is concentred and operative.

[c] Caſes of impeachment, as in Great Britain, are always excepted by our conſtitutions, and in ſome, even murder and forgery.

[cc] Forty perſons are choſen by the people for Senators and Counſellors; of theſe, nine are ſelected by the joint ballot of the two Houſes, as Counſellors to the Governor, and the remaining thirty-one conſtitute the Senate; but the Counſellors elected may prefer remaining in the Senate, in which caſe, the requiſite number of Counſellors may be elected by the legiſlature from the citizens at large.

[d] It is underſtood, that, wherever there exiſts a conſtitutional Council, every act of the Executive, relating to appointments, qualified negative, pardons, &c. is done with the advice and conſent of ſuch Council.

[e] The aſſiſtants in Connecticut are gennerally called the Council, or Upper-Houſe, being a branch of the legiſlature, of which the Governor is Preſident, and in which he has a caſting vote, beſides a vote as a member of the Council.

[f] By the conſtitution of Vermont, the executive power is veſted in the Governor, Lieutenant-Governor, and twelve Counſellors, choſen by the people. The Governor and Council, though the Executive, yet exerciſe a kind of legiſlative power; for all bills, after paſſing the Houſe of Repreſentatives, are laid before them for their reviſion and concurrence, or propoſal of amendment, and if their amendments be not agreed to by the Houſe, the Governor and Council may ſuſpend the paſſing any bill till next ſeſſion.

[g] The Governor is elected by perſons qualified to elect Senators, who muſt poſſeſs freeholds of the value of one hundred pounds, clear of debt.

[h] The Aſſembly annually appoint one of the Senators from each great diſtrict (being four) to form a Council, called the *Council of Appointment*, for the appointment of all officers (except a few otherwiſe directed) of which the Governor is Preſident, with a caſting vote. It having been long doubted whether the Governor poſſeſſed the *excluſive* power of *nomination*, a declaratory act of the legiſlature was applied for in 1796 by Governor Jay, but properly declined by the legiſlature. When the duration of any office is not fixed by the conſtitution, it is conſtrued to be held during the pleaſure of the Council of Appointment.

[i] The Governor, the Chancellor, and the Judges of the Supreme Court, or any two of them, with the Governor, are conſtituted a *Council of reviſion*, whoſe duty it is to reviſe all bills paſſed by the legiſlature, and who have power to prevent their becoming laws, unleſs afterwards paſſed by *two-thirds* of both Houſes. The executive *veto* to acts, paſſed by the legiſlature, is an important feature in

republican conſtitutions, and has frequently been the theme of very intereſting diſcuſſions. The celebrated Neckar wrote an ingenious work on this ſubject, for the information and guide of Louis XVI. when that point was agitated in the French Conſtituent Aſſembly. Whether in a free government, one or a few individuals ſhould have authority to obſtruct altogether the will of a majority of the Repreſentatives of the people, or even arreſt and ſuſpend it, has been variouſly decided in the ſeveral ſtates. In ſome, the Executive have no controul whatever; in others, they have a *limited or qualified controul*. The current of modern opinion ſets in favour of the latter deciſion. Indeed ſo far back as the year 1777, New York eſtabliſhed this principle in her conſtitution, uniting however, as already obſerved, with the Governor, the Chancellor and Judges. Of more recent date, the conſtitution of Maſſachuſetts, 1780, veſted this power in the Governor alone. In 1786, the conſtitution of Vermont, which eſtabliſhed but one legiſlative body, veſted in the Governor and Council the power, not only to propoſe amendments to laws, but *to ſuſpend them to the next ſeſſion*. In 1787, the conſtitution of the United States veſted in the Preſident, and in 1789, that of Georgia, (unaltered in this reſpect by that of 1795) and in 1790, that of Pennſylvania, and in 1792, thoſe of New Hampſhire and Kentucky, veſted in their reſpective Governors, the ſame power as had been antecedently veſted in the Governor of Maſſachuſetts, and in the Council of Reviſion of New York, namely, to negative all laws, unleſs reconſidered and paſſed by two-thirds of both Houſes. In Connecticut, the Governor and Council, forming an Upper-Houſe, have complete legiſlative powers. The conſtitutions of Delaware, South Carolina, and Tenneſſee, are the only conſtitutions of modern date wherein this qualified negative is withheld from the Executive. By the conſtitution of South Carolina of 1776, the Governor had a *full* and unqualified *veto* in all caſes. Though this power was never abuſed, the conſtitution of 1778 annulled it, and even a qualified veto was ineffectually attempted to be inſerted in that of 1790. This ſeems an important error: the re-ineligibility of the Governor, until after an interval of four years, places him in ſo independent a ſituation, that the exerciſe of this prerogative would have probably been free from that popular impulſe, which ſometimes operates, in ſimilar caſes, in the governments of other ſtates, where the public favour is courted by a ſacrifice of duty, to enſure a re-election. The advantages of a qualified negative are many and obvious. The Senate, being generally elected by the ſame electors as the Repreſentatives, will too generally imbibe the ſame prejudices, and be propelled by the ſame momentary paſſions: it is not therefore an adequate check. When laws are paſſed under the influence of thoſe occaſional impulſes, which from time to time agitate every community, it is eſſential to the character and ſtability of the government that there ſhould exiſt ſome external check out of the legiſlature. In the event of the Governor's negative, the legiſla-

ture have ſtill a power to paſs the law, provided two-thirds of both Houſes ſanction it. But the mere circumſtance of bringing before their eyes weighty objections in calmer moments, when the ſtorm has ſubſided, will be always of conſiderable benefit; the Executive will probably never exerciſe this power incautiouſly; neither is it probable that two-thirds of both Houſes would be found to ſanction a law, againſt which ſolid objections had been ſtated. The Preſident of the United States has, only once in the courſe of eight years, objected to a bill: in that caſe, on reconſideration, there was not even a *majority* in favour of it in the Repreſentatives, in which the objections were firſt conſidered; and it is believed that a majority of both Houſes approved of the Preſident's interpoſition.

[k] The Council and General Aſſembly compoſe the legiſlature; but the former is Executive as well as legiſlative: *Seven* conſtitute a *legiſlative* quorum; but *three* are ſufficient to act as a privy *Council* to the Governor. The Governor and Council (ſeven of whom to be a quorum) conſtitute alſo a Court of Appeals in the laſt reſort, and may grant pardons to criminals, in all caſes of treaſon, felony, &c. ſo that they unite the ſeveral powers of making, expounding, executing, and diſpenſing with, the laws. As they have no power, however, to make appointments, unleſs in concurrence with the other branch, their influence is leſs conſiderable than in ſome other ſtates, where that power is excluſively veſted in the Executive council.

[l] There is ſome trifling limitation to this power, by a proviſo, " that no per- " ſon ſhall be appointed to an office in any county, who ſhall not have been a " citizen and an inhabitant therein one year next before his appointment. The exception of Sheriffs is a bad one: thoſe officers, perhaps more than all others, ought not to be immediately dependent on the people, whoſe favour is too often incompatible with a faithful and ſtrict execution of ſuch a truſt.

[m] This power of laying embargoes is ſuperſeded by the Federal Conſtitution, which veſts that power, as incident to the regulation of trade, in Congreſs.

[n] The conſtitution of Kentucky provides, That on the firſt Tueſday in May, in every fourth year, electors (equal to the number of Repreſentatives in each county) ſhall be choſen by the Freemen thereof, who ſhall aſſemble at the Seat of Government on the third Tueſday of the ſame month, and there elect the Governor and Senate, to continue in office four years from the firſt of June following. The conſtitution, in regulating the manner in which the electors are to vote, only preſcribed that it be by ballot, and that if two perſons ſhould have an equal number of votes, a ſecond ballot ſhould be taken, and if it again be equal,

one of the candidates ſhould be drawn by lot. The electors who aſſembled laſt May, conceiving that they had a right to ſupply other regulations, where the conſtitution was ſilent, came to a reſolution, that the perſon to be elected Governor, ſhould have a majority of all the electors preſent, and that on reporting the number of votes, if no *one* had a majority of the whole, a ſecond ballot ſhould be had out of the two higheſt. At that election, neither of the candidates having a majority of the electors preſent, a ſecond ballot was accordingly taken. The unſucceſsful candidate brought the matter before the Senate, the tribunal for trying all diſputes which may ariſe concerning the election of the Governor, and that body confirmed the proceedings of the electors. Kentucky is the only ſtate, whoſe Executive is choſen by electors: This mode is preferable to either that by the people at large, or to that by the legiſlatures. By the firſt, the independence of the Executive is weakened: in the conſtitutional and neceſſary exerciſe of his authority, the fear of giving offence to popular leaders, will frequently be an injurious reſtraint, as the fear of diſpleaſing the legiſlature will often make him too dependent on that department: the electors, being choſen merely for this purpoſe, are more likely to be free from party motives and the *eſprit de corps*, and have not that opportunity of caballing, which exiſts in organized and more permanent bodies. See the 68th number of the *Federaliſt*, a work replete with political wiſdom, in which this mode of electing the Preſident of the United States is highly approved, and clearly ſhewn to be ſuperior to any other.

[o] The *re-eligibility* of the *Executive* is a point much queſtioned by ſome judicious ſtateſmen: the general opinion of the ſtates has, however, been in favour of it, without any limitations. In the Federal Conſtitution, and in thoſe of New Hampſhire, Maſſachuſetts, Connecticut, Rhode Iſland, Vermont, New York, New Jerſey, Kentucky, and Georgia, the re-eligibility is unlimited: In Pennſylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Tenneſſee, it is limited: but theſe limitations are various: in Pennſylvania, the Governor is re-eligible for nine years in every twelve; in Maryland and Virginia, for three years in every ſeven; in Delaware and North Carolina, for three years in every ſix; in South Carolina, for two years in every ſix; and in Tenneſſee, for ſix years in every eight. The advantages of an unlimited re-eligibility are, thoſe of retaining a man of experience in the office, and of inviting proper characters to offer themſelves, who would, in many inſtances, be reſtrained from accepting it, were the period too limited. Few profeſſional men would quit their lucrative purſuits to be raiſed, for a few years, to this elevated ſtation, and then to return, with loſs and difficulty, to their former avocations. The office would, of courſe, be generally filled by the wealthy only. See Federaliſt, No. 72.

NOTES ON THE JUDICIARY.

[a] THERE is no part of a conſtitution, which involves more important effects than that which relates to the *Judiciary*. The great eſſentials in the organization of this branch of the government are, *a proper appointment* in the firſt inſtance, and *an adequate independence* afterwards. To ſecure the firſt, the appointment ſhould be veſted in that body, where there is the greateſt proſpect of a good choice, and the greateſt *reſponſibility* for a bad one. The Executive, by its unity, is completely reſponſible; a chief magiſtrate, for his own reputation, will ſearch for the beſt men: the legiſlature are, in a great degree, exempted from that reſponſibility; voting by ballot, as they generally do, the choice is the choice of no particular member, and every one is ſheltered by the vote of the other; beſides, many of the members change every year or two, and the ſame body which elected an unworthy officer, exiſting no longer when his incapacity is diſcovered, no public ſhame attaches on them as a body. The reſponſibility of the Executive is not leſſened by aſſigning to a Senate or Council, a negative on his nomination, and ſuch negative may ſometimes be a very ſalutary check, though in general its propriety is queſtionable: it indeed may, in a very few inſtances, prevent an improper appointment, but it may alſo defeat many proper ones. *Independence* in the Judiciary is produced by a tenure during good behaviour, and by an adequate compenſation, not liable to diminution. A limited commiſſion would create dependence on the authority inveſted with the re-appointment: a precarious compenſation would beget a dependence on the legiſlature. The conſtitution of the United States ſecures effectually all theſe advantages, the check, which the Senate has on the nomination by the Preſident, is more neceſſary, as applied to the Union at large, than it would be in relation to a particular ſtate. The conſtitutions of Pennſyluania and Delaware veſt the appointment abſolutely in the Governor, and contain every requiſite to ſecure a good Judiciary: that of New York veſts the choice in the Council of Appointment; thoſe of New Hampſhire,

Maſſachuſetts and Maryland, in the Governor and Council: that of Kentucky, like that of the United States, in the Governor, with the conſent of the Senate; thoſe of Connecticut, Rhode Iſland, Vermont, New Jerſey, Virginia, North Carolina, South Carolina, Georgia, and Tenneſſee, in the legiſlature. In north Carolina, however, the Governor has the nomination. In moſt of the ſtates, the tenure is, good behaviour; it is ſo in New Hampſhire, Maſſachuſetts, New York, Pennſylvania, Delaware, Maryland, Kentucky, Virginia, North Carolina, South Carolina, and Tenneſſee. In Connecticut and Rhode Iſland, the judges are annually appointed; but from the cuſtoms and habits of the people of Connecticut, there does not reſult much injury from this deformity in their code, becauſe it is a matter of courſe to re-appoint the former officer, unleſs guilty of ſome ſerious miſconduct. In Vermont, there is more danger of the exiſtence of an undue dependence; the judges are elected annually, and the conſtitution adds, "and oftner if need be"; one would think they might be ſatisfied with an annual election. In New Jerſey, the judges of the ſuperior court are choſen for ſeven years, and of the inferior court, for five years; ſo by the former conſtitution of Pennſylvania, their judges were appointed for ſix years; but they have had the wiſdom to convert that, by their laſt conſtitution, into a tenure during good behaviour. In Georgia, it is ſtill worſe; the judges hold their offices for only three years. It is fortunate, however, that the judges are perfectly independent in every ſtate, except Connecticut, Rhode Iſland, Vermont, New Jerſey and Georgia; and with reſpect to Connecticut, little danger is to be apprehended from their mode. At the ſame time, it is to be regretted, that any of the Eaſtern States, which are generally diſtinguiſhed for the wiſdom of their policy, ſhould countenance principles, unfavourable to order, ſtability, and political morality.

[b] This is peculiar to Maſſachuſetts, and New Hampſhire. It may be queſtionable, whether the judges ſhould ever give their opinions in matters of law, unleſs from the bench. In England, the judges are called on to deliver their opinions in the houſe of lords on ſolemn occaſions, and ſome of the judges are lords of parliament; the ſeparation of departments is not ſo accurately made there as in the United States.

[c] New York alone has eſtabliſhed this limitation; the period, admitting ſuch limitation to be wiſe, is too early a one: it is the work of the greateſt part of a man's life to acquire that knowledge and experience, which conſtitute a good judge; and to diſqualify him at a period of life, when a man can be moſt uſeful, is abſurd: Seventy or ſixty-five would be quite early enough. The regulation, as

it ſtands, is no leſs cruel than abſurd, for it makes no proviſion whatever for the diſmiſſed judge: at a time of life when he cannot enter into any other line of buſineſs, he is thrown deſtitute on the world.

[d] In all the ſtate conſtitutions, and in that of the United States, the Judges are removable by impeachment: in New Hampſhire, Maſſachuſetts, Pennſylvania, Delaware, Maryland and Kentucky, they are moreover removable by the governor, on addreſs of the Legiſlature, for caſes of miſconduct, not ſufficient to require impeachment. In New Hampſhire and Maſſachuſetts, the governor and council may remove, on addreſs of a majority of both houſes; in Pennſylvania, Delaware, Maryland, and Kentucky, on addreſs of *two thirds* of both houſes. In general, the impeachment is by the repreſentatives, tried by the ſenate or council: but in Maryland, they may be removed for miſbehaviour, on conviction in a court of law. In Virginia, the impeachment of the judges of the general court, preferred by the houſe of delegates, is tried by the court of appeals, and that of the judges of the court of appeals, by the judges of the ſupreme court. In North Carolina, the impeachment may be by the aſſembly or grand jury, and tried by a ſpecial court.

[e] The immutability of compenſation, except as to encreaſe, is a valuable feature in the judiciary: it exiſts in the conſtitutions of the United States, Pennſylvania, Delaware, Kentucky, South Carolina and Georgia: there can be no doubt that it will be extended: it has been introduced in every conſtitution, made ſince the federal conſtitution, except that of Tenneſſee, which only provides, "that the judges of the ſuperior court ſhall, *at ſtated times*, receive a compenſation for their ſervices, to be aſcertained by law." There is a ſingular proviſion in the conſtitution of that ſtate, reſpecting the judiciary, namely, "that the judges of the ſuperior and inferior courts ſhall not charge juries with reſpect to matters of fact, but may ſtate the teſtimony and declare the law."