

## SECTION NINE

# ON THE HOUSE OF REPRESENTATIVES



The House of Representatives was to be the branch of the government most closely connected to the American people. Members were to be elected locally, for the shortest terms, and were the only element of the newly formed government that would be elected by the people directly.

Among the greatest debates regarding the House of Representatives were the appropriateness of a two-year term of office and the ratio of representation. The Anti-Federalists tended to hold to the axiom that “where annual elections end, tyranny begins.” They wanted to keep a very tight leash on their political leaders, requiring them to stand for re-election every year. Publius, therefore, must spend considerable time arguing that biennial elections are both safe and useful to free government. He does so in *Federalist 52* and *Federalist 53* and considers the history of the states, as well as other countries. He notes that there is no clear formula but argues that term lengths should be adapted to the circumstances of the political community. In the American context, given the separation of powers, federalism, a fixed constitution, and limited federal powers, a two-year term is both safe and required so that legislators can gain the requisite knowledge to make laws.

Regarding the most appropriate representation ratio (number of constituents per representative), Publius first must deal with the question of *who* is represented. *Federalist 54* deals with the issue of the Three-Fifths Compromise, in which enslaved people were considered to count as  $\frac{3}{5}$  of a free person when calculating representation. The Anti-Federalist Brutus argues for a type of representation as “resemblance.” He argues that to adequately represent people, representatives must look like us and share the same class and economic interests as we do. Publius’ understanding of representation, however, is quite different. As best stated in *Federalist 10*, Publius assumes our representatives should be better than we are—more virtuous with a wider scope of knowledge and a

broader understanding of the public good.

Where the Anti-Federalists' understanding of representation as resemblance would require a large assembly in which all classes, localities, and interests can be "resembled" in Congress, Publius spends *Federalist 55* to *Federalist 58* outlining the logistical difficulties of calling such a large assembly. He argues that large groups of people are more prone to be led by their passions rather than their reason, are likely to end up controlled by small groups of leaders that function as an oligarchy and will be filled by inferior representatives. On the other hand, he says assemblies that are too small suffer from the problem of not being representative enough and not having an adequate knowledge of local circumstances in their constituency. The answer, Publius contends, is the scheme of representation outlined in the Constitution, which would begin with just 65 representatives in the House and grow with the population. He predicts there will be 400 representatives in the House within 50 years.

## QUESTIONS FOR OUR TIME

1. Publius promises that the House of Representatives would keep growing with the population of the United States. In 1929, we permanently capped the membership in the House to 435. While the Anti-Federalists objected that one representative per 30,000 Americans was not adequate representation, today the average district size is one representative per 710,000! Do you think one representative can adequately represent so many people? If not, what would be your solution?
2. Is the House of Representatives functioning today as a representative body, like Publius intends? If not, how is it different? Should any changes be made?
3. Do you want your representatives in Congress to closely resemble you and your interests, as Brutus indicates is proper, or do you value something else in your representatives?
4. We elect our members of Congress every two years. Some argue that today's members never seem to stop running for office because the next election is so close after they take their seats. Do you think the two-year term for representatives is too short? Too long? Still about right?
5. Publius famously argues in *Federalist* 57 that "The aim of every political constitution is, or ought to be, first, to obtain for rulers men who possess most wisdom to discern, and most virtue to pursue, the common good of the society; and in the next place, to take the most effectual precautions for keeping them virtuous, whilst they continue to hold their public trust." If that is true, are we today electing the most virtuous among us? Are they pursuing the common good of society? Are there adequate precautions in place to keep them virtuous while they are in office? Or should the aim of a constitution be something different than Publius here articulates?

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## FEDERALIST NO. 52

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### CONCERNING THE HOUSE OF REPRESENTATIVES WITH A VIEW TO THE QUALIFICATIONS OF THE ELECTORS AND ELECTED, AND THE TIME OF SERVICE OF THE MEMBERS

From the more general inquiries pursued in the four last papers, I pass on to a more particular examination of the several parts of the government. I shall begin with the house of representatives.

The first view to be taken of this part of the government, relates to the qualifications of the electors, and the elected.

Those of the former are to be the same with those of the electors of the most numerous branch of the state legislatures. The definition of the right of suffrage is very justly regarded as a fundamental article of republican government. It was incumbent on the convention, therefore, to define and establish this right in the constitution. To have left it open for the occasional regulation of the congress, would have been improper for the reason just mentioned. To have submitted it to the legislative discretion of the states, would have been improper for the same reason; and for the additional reason, that it would have rendered too dependent on

the state governments, that branch of the federal government which ought to be dependent on the people alone. To have reduced the different qualifications in the different states to one uniform rule, would probably have been as dissatisfactory to some of the states, as it would have been difficult to the convention. The provision made by the convention appears, therefore, to be the best that lay within their option. It must be satisfactory to every state; because it is conformable to the standard already established, or which may be established by the state itself. It will be safe to the United States; because, being fixed by the state constitutions, it is not alterable by the state governments, and it cannot be feared that the people of the states will alter this part of their constitutions, in such a manner as to abridge the rights secured to them by the federal constitution.

The qualifications of the elected, being less carefully and properly defined by the state constitutions, and being at the same

time more susceptible of uniformity, have been very properly considered and regulated by the convention. A representative of the United States must be of the age of twenty-five years; must have been seven years a citizen of the United States; must, at the time of his election, be an inhabitant of the state he is to represent, and during the time of his service, must be in no office under the United States. Under these reasonable limitations, the door of this part of the federal government is open to merit of every description, whether native or adoptive, whether young or old, and without regard to poverty or wealth, or to any particular profession of religious faith.

The term for which the representatives are to be elected, falls under a second view which may be taken of this branch. In order to decide on the propriety of this article, two questions must be considered; first, whether biennial elections will, in this case, be safe; secondly, whether they be necessary or useful.

*First.* As it is essential to liberty, that the government in general should have a common interest with the people; so it is particularly essential, that the branch of it under consideration should have an immediate dependence on, and an intimate sympathy with, the people. Frequent elections are unquestionably the only policy, by which this dependence and sympathy can be effectually secured. But what particular degree of frequency may be absolutely necessary for the purpose, does not appear to be susceptible of any precise calculation, and must depend on a variety of circumstances with which

it may be connected. Let us consult experience, the guide that ought always to be followed whenever it can be found.

The scheme of representation, as a substitute for a meeting of the citizens in person, being at most but very imperfectly known to ancient polity; it is in more modern times only that we are to expect instructive examples. And even here, in order to avoid a research too vague and diffusive, it will be proper to confine ourselves to the few examples which are best known, and which bear the greatest analogy to our particular case. The first to which this character ought to be applied, is the house of commons in Great Britain. The history of this branch of the English constitution, anterior to the date of Magna Charta, is too obscure to yield instruction. The very existence of it has been made a question among political antiquaries. The earliest records of subsequent date prove, that parliaments were to *sit* only, every year; not that they were to be *elected* every year. And even these annual sessions were left so much at the discretion of the monarch, that under various pretexts, very long and dangerous intermissions were often contrived by royal ambition. To remedy this grievance, it was provided by a statute in the reign of Charles II, that the intermissions should not be protracted beyond a period of three years. On the accession of William III, when a revolution took place in the government, the subject was still more seriously resumed, and it was declared to be among the fundamental rights of the people, that parliaments ought to be held *frequently*. By another statute which passed a few years later in the same reign,

the term “frequently,” which had alluded to the triennial period settled in the time of Charles II, is reduced to a precise meaning, it being expressly enacted, that a new parliament shall be called within three years after the determination of the former. The last change, from three to seven years, is well known to have been introduced pretty early in the present century, under an alarm for the Hanoverian succession. From these facts it appears, that the greatest frequency of elections which has been deemed necessary in that kingdom, for binding the representatives to their constituents, does not exceed a triennial return of them. And if we may argue from the degree of liberty retained even under septennial elections, and all the other vicious ingredients in the parliamentary constitution, we cannot doubt that a reduction of the period from seven to three years, with the other necessary reforms, would so far extend the influence of the people over their representatives as to satisfy us, that biennial elections, under the federal system, cannot possibly be dangerous to the requisite dependence of the house of representatives on their constituents.

Elections in Ireland, till of late, were regulated entirely by the discretion of the crown, and were seldom repeated, except on the accession of a new prince, or some other contingent event. The parliament which commenced with George II, was continued throughout his whole reign, a period of about thirty-five years. The only dependence of the representatives on the people, consisted in the right of the latter to supply occasional vacancies, by the election of new members, and in

the chance of some event which might produce a general new election. The ability also of the Irish parliament to maintain the rights of their constituents, so far as the disposition might exist, was extremely shackled by the control of the crown over the subjects of their deliberation. Of late, these shackles, if I mistake not, have been broken; and octennial parliaments have besides been established. What effect may be produced by this partial reform, must be left to further experience. The example of Ireland, from this view of it, can throw but little light on the subject. As far as we can draw any conclusion from it, it must be, that if the people of that country have been able, under all these disadvantages, to retain any liberty whatever, the advantage of biennial elections would secure to them every degree of liberty, which might depend on a due connexion between their representatives and themselves.

Let us bring our inquiries nearer home. The example of these states, when British colonies, claims particular attention; at the same time that it is so well known as to require little to be said on it. The principle of representation, in one branch of the legislature at least, was established in all of them. But the periods of election were different. They varied, from one to seven years. Have we any reason to infer, from the spirit and conduct of the representatives of the people, prior to the revolution, that biennial elections would have been dangerous to the public liberties? The spirit, which every where displayed itself, at the commencement of the struggle, and which vanquished the obstacles to independence, is the best of proofs, that a sufficient portion of liberty had been

every where enjoyed, to inspire both a sense of its worth, and a zeal for its proper enlargement. This remark holds good, as well with regard to the then colonies, whose elections were least frequent, as to those whose elections were most frequent. Virginia was the colony which stood first in resisting the parliamentary usurpations of Great Britain: it was the first also in espousing, by public act, the resolution of independence. In Virginia, nevertheless, if I have not been misinformed, elections under the former government were septennial. This particular example is brought into view, not as a proof of any peculiar merit, for the priority in those instances was probably accidental; and still less of any advantage in *septennial* elections, for when compared with a greater frequency, they are inadmissible; but merely as a proof, and I conceive it to be a very substantial proof, that the liberties of the people can be in no danger from *biennial* elections.

The conclusion resulting from these examples will be not a little strengthened, by recollecting three circumstances. The first is, that the federal legislature will possess a part only of that supreme legislative authority which is vested completely in the British parliament;

and which, with a few exceptions, was exercised by the colonial assemblies, and the Irish legislature. It is a received and well founded maxim, that, where no other circumstances affect the case, the greater the power is, the shorter ought to be its duration; and, conversely, the smaller the power, the more safely may its duration be protracted. In the second place, it has, on another occasion, been shown, that the federal legislature will not only be restrained by its dependence on the people, as other legislative bodies are; but that it will be moreover watched and controled by the several collateral legislatures, which other legislative bodies are not. And in the third place, no comparison can be made between the means that will be possessed by the more permanent branches of the federal government, for seducing, if they should be disposed to seduce, the house of representatives from their duty to the people; and the means of influence over the popular branch, possessed by the other branches of the governments above cited. With less power, therefore, to abuse, the federal representatives can be less tempted on one side, and will be doubly watched on the other.

PUBLIUS

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## FEDERALIST NO. 53

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### THE SAME SUBJECT CONTINUED, WITH A VIEW OF THE TERM OF SERVICE OF THE MEMBERS

I shall here, perhaps, be reminded of a current observation, “that where annual elections end, tyranny begins.” If it be true, as has often been remarked, that sayings which become proverbial, are generally founded in reason, it is not less true, that, when once established, they are often applied to cases to which the reason of them does not extend. I need not look for a proof beyond the case before us. What is the reason on which this proverbial observation is founded? No man will subject himse[l]f to the ridicule of pretending that any natural connexion subsists between the sun or the seasons, and the period within which human virtue can bear the temptations of power. Happily for mankind, liberty is not, in this respect, confined to any single point of time; but lies within extremes, which afford sufficient latitude for all the variations which may be required by the various situations and circumstances of civil society.

The election of magistrates might be,

if it were found expedient, as in some instances it actually has been, daily, weekly, or monthly, as well as annual; and if circumstances may require a deviation from the rule on one side, why not also on the other side? Turning our attention to the periods established among ourselves, for the election of the most numerous branches of the state legislatures, we find them by no means coinciding any more in this instance, than in the elections of other civil magistrates. In Connecticut and Rhode Island, the periods are half-yearly. In the other states, South Carolina excepted, they are annual. In South Carolina they are biennial; as is proposed in the federal government. Here is a difference, as four to one, between the longest and the shortest periods; and yet it would be not easy to show, that Connecticut or Rhode Island is better governed, or enjoys a greater share of rational liberty, than South Carolina; or that either the one or the other of these states are distinguished in these respects,



and by these causes, from the states whose elections are different from both.

In searching for the grounds of this doctrine, I can discover but one, and that is wholly inapplicable to our case. The important distinction, so well understood in America, between a constitution established by the people, and unalterable by the government; and a law established by the government, and alterable by the government, seems to have been little understood, and less observed in any other country. Wherever the supreme power of legislation has resided, has been supposed to reside also a full power to change the form of the government. Even in Great Britain, where the principles of political and civil liberty have been most discussed, and where we hear most of the rights of the constitution, it is maintained, that the authority of the parliament is transcendent and uncontrolable, as well with regard to the constitution, as the ordinary objects of legislative provision. They have accordingly, in several instances, actually changed, by legislative acts, some of the most fundamental articles of the government. They have, in particular, on several occasions, changed the period of election; and on the last occasion, not only introduced septennial, in place of triennial elections; but, by the same act, continued themselves in place four years beyond the term for which they were elected by the people. An attention to these dangerous practices has produced a very natural alarm in the votaries of free government, of which frequency of elections is the corner stone; and has led them to seek for some security to liberty, against the danger to which it is exposed.

Where no constitution, paramount to the government, either existed or could be obtained, no constitutional security, similar to that established in the United States, was to be attempted. Some other security, therefore, was to be sought for; and what better security would the case admit, than that of selecting and appealing to some simple and familiar portion of time, as a standard for measuring the danger of innovations, for fixing the national sentiment, and for uniting the patriotic exertions? The most simple and familiar portion of time, applicable to the subject, was that of a year; and hence the doctrine has been inculcated, by a laudable zeal to erect some barrier against the gradual innovations of an unlimited government, that the advance towards tyranny was to be calculated by the distance of departure from the fixed point of annual elections. But what necessity can there be of applying this expedient to a government, limited as the federal government will be, by the authority of a paramount constitution? Or who will pretend, that the liberties of the people of America will not be more secure under biennial elections, unalterably fixed by such a constitution, than those of any other nation would be, where elections were annual, or even more frequent, but subject to alterations by the ordinary power of the government?

The second question stated is, whether biennial elections be necessary or useful? The propriety of answering this question in the affirmative, will appear from several very obvious considerations.

No man can be a competent legislator, who does not add to an upright intention

and a sound judgment, a certain degree of knowledge of the subjects on which he is to legislate. A part of this knowledge may be acquired by means of information, which lie within the compass of men in private, as well as public stations. Another part can only be attained, or at least thoroughly attained, by actual experience in the station which requires the use of it. The period of service ought, therefore, in all such cases, to bear some proportion to the extent of practical knowledge, requisite to the due performance of the service. The period of legislative service established in most of the states for the more numerous branch is, as we have seen, one year. The question then may be put into this simple form: does the period of two years bear no greater proportion to the knowledge requisite for federal legislation, than one year does to the knowledge requisite for state legislation? The very statement of the question, in this form, suggests the answer that ought to be given to it.

In a single state, the requisite knowledge relates to the existing laws, which are uniform throughout the state, and with which all the citizens are more or less conversant; and to the general affairs of the state, which lie within a small compass, are not very diversified, and occupy much of the attention and conversation of every class of people. The great theatre of the United States presents a very different scene. The laws are so far from being uniform, that they vary in every state; whilst the public affairs of the union are spread throughout a very extensive region, and are extremely diversified by the local affairs connected with them, and can with difficulty be

correctly learnt in any other place, than in the central councils, to which a knowledge of them will be brought by the representatives of every part of the empire. Yet some knowledge of the affairs, and even of the laws of all the states, ought to be possessed by the members from each of the states. How can foreign trade be properly regulated by uniform laws, without some acquaintance with the commerce, the ports, the usages, and the regulations of the different states? How can the trade between the different states be duly regulated, without some knowledge of their relative situations in these and other respects? How can taxes be judiciously imposed, and effectually collected, if they be not accommodated to the different laws and local circumstances relating to these objects in the different states? How can uniform regulations for the militia be duly provided, without a similar knowledge of some internal circumstances, by which the states are distinguished from each other? These are the principal objects of federal legislation, and suggest most forcibly, the extensive information which the representatives ought to acquire. The other inferior objects will require a proportional degree of information with regard to them.

It is true, that all these difficulties will, by degrees, be very much diminished. The most laborious task will be the proper inauguration of the government, and the primeval formation of a federal code. Improvements on the first draught will every year become both easier and fewer. Past transactions of the government will be a ready and accurate source of information to new members. The affairs

of the union will become more and more objects of curiosity and conversation among the citizens at large. And the increased intercourse among those of different states, will contribute not a little to diffuse a mutual knowledge of their affairs, as this again will contribute to a general assimilation of their manners and laws. But, with all these abatements, the business of federal legislation must continue so far to exceed, both in novelty and difficulty, the legislative business of a single state, as to justify the longer period of service assigned to those who are to transact it.

A branch of knowledge, which belongs to the acquirements of a federal representative, and which has not been mentioned, is that of foreign affairs. In regulating our own commerce, he ought to be not only acquainted with the treaties between the United States and other nations, but also with the commercial policy and laws of other nations. He ought not to be altogether ignorant of the law of nations; for that, as far as it is a proper object of municipal legislation, is submitted to the federal government. And although the house of representatives is not immediately to participate in foreign negotiations and arrangements, yet, from the necessary connexion between the several branches of public affairs, those particular branches will frequently deserve attention in the ordinary course of legislation, and will sometimes demand particular legislative sanction and co-operation. Some portion of this knowledge may, no doubt, be acquired in a man's closet; but some of it also can only be derived from the public sources of

information; and all of it will be acquired to best effect, by a practical attention to the subject, during the period of actual service in the legislature.

There are other considerations, of less importance perhaps, but which are not unworthy of notice. The distance which many of the representatives will be obliged to travel, and the arrangements rendered necessary by that circumstances, might be much more serious objections with fit men to this service, if limited to a single year, than if extended to two years. No argument can be drawn on this subject, from the case of the delegates to the existing congress. They are elected annually, it is true; but their re-election is considered by the legislative assemblies almost as a matter of course. The election of the representatives by the people, would not be governed by the same principle.

A few of the members, as happens in all such assemblies, will possess superior talents; will, by frequent re-elections, become members of long standing; will be thoroughly masters of the public business, and perhaps not unwilling to avail themselves of those advantages. The greater the proportion of new members, and the less the information of the bulk of the members, the more apt will they be to fall into the snares that may be laid for them. This remark is no less applicable to the relation which will subsist between the house of representatives and the senate.

It is an inconvenience mingled with the advantages of our frequent elections, even in single states, where they are large, and hold but one legislative session in the year, that spurious elections cannot be investigated and annulled in time

for the decision to have its due effect. If a return can be obtained, no matter by what unlawful means, the irregular member, who takes his seat of course, is sure of holding it a sufficient time to answer his purposes. Hence a very pernicious encouragement is given to the use of unlawful means, for obtaining irregular returns. Were elections for the federal legislature to be annual, this practice might become a very serious abuse, particular[l]y in the more distant states. Each house is, as it necessarily must be, the judge of the elections, qualifications and returns of its members;

and whatever improvements may be suggested by experience, for simplifying and accelerating the process in disputed cases, so great a portion of a year would unavoidably elapse before an illegitimate member could be dispossessed of his seat, that the prospect of such an event would be little check to unfair and illicit means of obtaining a seat.

All these considerations taken together, warrant us in affirming, that biennial elections will be as useful to the affairs of the public, as we have seen that they will be safe to the liberties of the people.

PUBLIUS

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## FEDERALIST NO. 54

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### THE SAME SUBJECT CONTINUED, WITH A VIEW TO THE RATIO OF REPRESENTATION

The next view which I shall take of the house of representatives, relates to the apportionment of its members to the several states, which is to be determined by the same rule with that of direct taxes.

It is not contended, that the number of people in each state ought not to be the standard for regulating the proportion of those who are to represent the people of each state. The establishment of the same rule for the apportionment of taxes, will probably be as little contested; though the rule itself, in this case, is by no means founded on the same principle. In the former case, the rule is understood to refer to the personal rights of the people, with which it has a natural and universal connexion. In the latter, it has reference to the proportion of wealth, of which it is in no case a precise measure, and in ordinary cases a very unfit one. But notwithstanding the imperfection of the rule as applied to the relative wealth and contributions of the states, it is evidently the least exceptionable among the

practicable rules; and had too recently obtained the general sanction of America, not to have found a ready preference with the convention.

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

We subscribe to the doctrine, might one of our southern brethren observe, that representation relates more immediately to persons, and taxation more imme-

diately to property; and we join in the application of this distinction to the case of our slaves. But we must deny the fact, that slaves are considered merely as property, and in no respect whatever as persons. The true state of the case is, that they partake of both these qualities; being considered by our laws, in some respects, as persons, and in other respects as property. In being compelled to labour not for himself, but for a master; in being vendible by one master to another master; and in being subject at all times to be restrained in his liberty, and chastised in his body, by the capricious will of another, the slave may appear to be degraded from the human rank, and classed with those irrational animals which fall under the legal denomination of property. In being protected, on the other hand, in his life and in his limbs, against the violence of all others, even the master of his labour and his liberty; and in being punishable himself for all violence committed against others; the slave is no less evidently regarded by the law as a member of the society, not as a part of the irrational creation; as a moral person, not as a mere article of property. The federal constitution, therefore, decides with great propriety on the case of our slaves, when it views them in the mixt character of persons and of property. This is in fact their true character. It is the character bestowed on them by the laws under which they live; and it will not be denied that these are the proper criterion; because it is only under the pretext, that the laws have transformed the negroes into subjects of property, that a place is disputed them in the computation of numbers; and it is admitted that if the laws were to restore

the rights which have been taken away, the negroes could no longer be refused an equal share of representation with the other inhabitants.

This question may be placed in another light. It is agreed on all sides, that numbers are the best scale of wealth and taxation, as they are the only proper scale of representation. Would the convention have been impartial or consistent, if they had rejected the slaves from the list of inhabitants, when the shares of representation were to be calculated; and inserted them on the lists when the tariff of contributions was to be adjusted? Could it be reasonably expected, that the southern states would concur in a system, which considered their slaves in some degree as men, when burdens were to be imposed, but refused to consider them in the same light, when advantages were to be conferred? Might not some surprise also be expressed, that those who reproach the southern states with the barbarous policy of considering as property a part of their human brethren, should themselves contend, that the government to which all the states are to be parties, ought to consider this unfortunate race more completely in the unnatural light of property, than the very laws of which they complain?

It may be replied, perhaps, that slaves are not included in the estimate of representatives in any of the states possessing them. They neither vote themselves, nor increase the votes of their masters. Upon what principle then, ought they to be taken into the federal estimate of representation? In rejecting them altogether, the constitution would,

in this respect, have followed the very laws which have been appealed to, as the proper guide.

This objection is repelled by a single observation. It is a fundamental principle of the proposed constitution, that as the aggregate number of representatives allotted to the several states, is to be determined by a federal rule, founded on the aggregate number of inhabitants; so, the right of choosing this allotted number in each state, is to be exercised by such part of the inhabitants, as the state itself may designate. The qualifications on which the right of suffrage depend, are not perhaps the same in any two states. In some of the states, the difference is very material. In every state, a certain proportion of inhabitants are deprived of this right by the constitution of the state, who will be included in the census by which the federal constitution apportions the representatives. In this point of view, the southern states might retort the complaint, by insisting, that the principle laid down by the convention, required that no regard should be had to the policy of particular states towards their own inhabitants; and consequently, that the slaves, as inhabitants, should have been admitted into the census according to their full number, in like manner with other inhabitants, who, by the policy of other states, are not admitted to all the rights of citizens. A rigorous adherence, however, to this principle, is waived by those who would be gainers by it. All that they ask is, that equal moderation be shown on the other side. Let the case of the slaves be considered, as it is in truth a peculiar one. Let the compromising expedient of

the constitution be mutually adopted, which regards them as inhabitants, but as debased by servitude below the equal level of free inhabitants, which regards the *slave* as divested of two-fifths of the *man*.

After all, may not another ground be taken on which this article of the constitution will admit of a still more ready defence? We have hitherto proceeded on the idea, that representation related to persons only, and not at all to property. But is it a just idea? Government is instituted no less for protection of the property, than of the persons of individuals. The one, as well as the other, therefore, may be considered as represented by those who are charged with the government. Upon this principle it is, that in several of the states, and particularly in the state of New York, one branch of the government is intended more especially to be the guardian of property, and is accordingly elected by that part of the society which is most interested in this object of government. In the federal constitution, this policy does not prevail. The rights of property are committed into the same hands, with the personal rights. Some attention ought, therefore, to be paid to property, in the choice of those hands.

For another reason, the votes allowed in the federal legislature to the people of each state, ought to bear some proportion to the comparative wealth of the states. States have not, like individuals, an influence over each other, arising from superior advantages of fortune. If the law allows an opulent citizen but a single vote in the choice of his representative, the respect and consequence which he derives from his fortunate situation, very



frequently guide the votes of others to the objects of his choice; and through this imperceptible channel, the rights of property are conveyed into the public representation. A state possesses no such influence over other states. It is not probable, that the richest state in the confederacy will ever influence the choice of a single representative, in any other state. Nor will the representatives of the larger and richer states, possess any other advantage in the federal legislature, over the representatives of other states, than what may result from their superior number alone. As far, therefore, as their superior wealth and weight may justly entitle them to any advantage, it ought to be secured to them by a superior share of representation. The new constitution is, in this respect, materially different from the existing confederation, as well as from that of the United Netherlands, and other similar confederacies. In each of the latter, the efficacy of the federal resolutions depends on the subsequent and voluntary resolutions of the states composing the union. Hence the states, though possessing an equal vote in the public councils, have an unequal influence, corresponding with the unequal importance of these subsequent and voluntary resolutions. Under the proposed constitution, the federal acts will take effect without the necessary intervention of the individual states. They will depend merely on the majority of votes in the federal legislature, and consequently each vote, whether proceeding from a larger or smaller state, or a state more or less wealthy or powerful, will have an equal weight and

efficacy; in the same manner as the votes individually given in a state legislature, by the representatives of unequal counties or other districts, have each a precise equality of value and effect; or if there be any difference in the case, it proceeds from the difference in the personal character of the individual representative, rather than from any regard to the extent of the district from which he comes.

Such is the reasoning which an advocate for the southern interests might employ on this subject: and although it may appear to be a little strained in some points, yet on the whole, I must confess, that it fully reconciles me to the scale of representation which the convention have established.

In one respect, the establishment of a common measure for representation and taxation, will have a very salutary effect. As the accuracy of the census to be obtained by the congress, will necessarily depend, in a considerable degree, on the disposition, if not the co-operation of the states, it is of great importance that the states should feel as little bias as possible, to swell or to reduce the amount of their numbers. Were their share of representation alone to be governed by this rule, they would have an interest in exaggerating their inhabitants. Were the rule to decide their share of taxation alone, a contrary temptation would prevail. By extending the rule to both objects, the states will have opposite interests, which will control and balance each other, and produce the requisite impartiality.

PUBLIUS



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## FEDERALIST NO. 55

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### THE SAME SUBJECT CONTINUED, IN RELATION TO THE TOTAL NUMBER OF THE BODY

The number of which the house of representatives is to consist, forms another, and a very interesting point of view, under which this branch of the federal legislature may be contemplated. Scarce any article indeed in the whole constitution, seems to be rendered more worthy of attention, by the weight of character, and the apparent force of argument, with which it has been assailed.

The charges exhibited against it are, first, that so small a number of representatives will be an unsafe depository of the public interests; secondly, that they will not possess a proper knowledge of the local circumstances of their numerous constituents; thirdly, that they will be taken from that class of citizens which will sympathize least with the feelings of the mass of the people, and be most likely to aim at a permanent elevation of the few, on the depression of the many; fourthly, that defective as the number will be in the first instance, it will be more and more disproportionate, by the increase of

the people, and the obstacles which will prevent a correspondent increase of the representatives.

In general it may be remarked on this subject, that no political problem is less susceptible of a precise solution, than that which relates to the number most convenient for a representative legislature: nor is there any point on which the policy of the several states is more at variance; whether we compare their legislative assemblies directly with each other, or consider the proportions which they respectively bear to the number of their constituents. Passing over the difference between the smallest and largest states, as Delaware, whose most numerous branch consists of twenty-one representatives, and Massachusetts, where it amounts to between three and four hundred; a very considerable difference is observable among states nearly equal in population. The number of representatives in Pennsylvania is not more than one-fifth of that in the state last mentioned. New

York, whose population is to that of South Carolina as six to five, has little more than one-third of the number of representatives. As great a disparity prevails between the states of Georgia and Delaware or Rhode Island. In Pennsylvania, the representatives do not bear a greater proportion to their constituents, than of one for every four or five thousand. In Rhode Island, they bear a proportion of at least one for every thousand. And according to the constitution of Georgia, the proportion may be carried to one for every ten electors; and must unavoidably far exceed the proportion in any of the other states.

Another general remark to be made is, that the ratio between the representatives and the people, ought not to be the same, where the latter are very numerous, as where they are very few. Were the representatives in Virginia to be regulated by the standard in Rhode Island, they would, at this time, amount to between four and five hundred; and twenty or thirty years hence, to a thousand. On the other hand, the ratio of Pennsylvania, if applied to the state of Delaware, would reduce the representative assembly of the latter to seven or eight members. Nothing can be more fallacious, than to found our political calculations on arithmetical principles. Sixty or seventy men may be more properly trusted with a given degree of power, than six or seven. But it does not follow, that six or seven hundred would be proportionably a better depository. And if we carry on the supposition to six or seven thousand, the whole reasoning ought to be reversed. The truth is, that in all cases, a certain number at least seems to be necessary to secure the benefits of free consultation and

discussion; and to guard against too easy a combination for improper purposes: as on the other hand, the number ought at most to be kept within a certain limit, in order to avoid the confusion and intemperance of a multitude. In all very numerous assemblies, of whatever characters composed, passion never fails to wrest the sceptre from reason. Had every Athenian citizen been a Socrates, every Athenian assembly would still have been a mob.

It is necessary also to recollect here, the observations which were applied to the case of biennial elections. For the same reason that the limited powers of the congress, and the control of the state legislatures, justify less frequent elections than the public safety might otherwise require; the members of the congress need be less numerous than if they possessed the whole power of legislation, and were under no other than the ordinary restraints of other legislative bodies.

With these general ideas in our minds, let us weigh the objections which have been stated against the number of members proposed for the house of representatives. It is said, in the first place, that so small a number cannot be safely trusted with so much power.

The number of which this branch of the legislature is to consist, at the outset of the government, will be sixty-five. Within three years a census is to be taken, when the number may be augmented to one for every thirty thousand inhabitants; and within every successive period of ten years, the census is to be renewed, and augmentations may continue to be made under the above limitation. It will not be thought an extravagant conjecture, that

the first census will, at the rate of one for every thirty thousand, raise the number of representatives to at least one hundred. Estimating the negroes in the proportion of three-fifths, it can scarcely be doubted, that the population of the United States will, by that time, if it does not already, amount to three millions. At the expiration of twenty-five years, according to the computed rate of increase, the number of representatives will amount to two hundred; and of fifty years, to four hundred. This is a number, which I presume will put an end to all fears arising from the smallness of the body. I take for granted here, what I shall, in answering the fourth objection, hereafter show, that the number of representatives will be augmented, from time to time, in the manner provided by the constitution. On a contrary supposition, I should admit the objection to have very great weight indeed.

The true question to be decided then is, whether the smallness of the number, as a temporary regulation, be dangerous to the public liberty? Whether sixty-five members for a few years, and a hundred, or two hundred, for a few more, be a safe depository for a limited and well guarded power of legislating for the United States? I must own that I could not give a negative answer to this question, without first obliterating every impression which I have received, with regard to the present genius of the people of America, the spirit which actuates the state legislatures, and the principles which are incorporated with the political character of every class of citizens. I am unable to conceive, that the people of America, in their present temper, or under any circumstances which can speedily

happen, will choose, and every second year repeat the choice, of sixty-five or an hundred men, who would be disposed to form and pursue a scheme of tyranny or treachery. I am unable to conceive, that the state legislatures, which must feel so many motives to watch, and which possess so many means of counteracting the federal legislature, would fail either to detect or to defeat a conspiracy of the latter against the liberties of their common constituents. I am equally unable to conceive, that there are at this time, or can be in any short time in the United States, any sixty-five or an hundred men, capable of recommending themselves to the choice of the people at large, who would either desire or dare, within the short space of two years, to betray the solemn trust committed to them. What change of circumstances, time, and a fuller population of our country, may produce, requires a prophetic spirit to declare, which makes no part of my pretensions. But judging from the circumstances now before us, and from the probable state of them within a moderate period of time, I must pronounce, that the liberties of America cannot be unsafe, in the number of hands proposed by the federal constitution.

From what quarter can the danger proceed? Are we afraid of foreign gold? If foreign gold could so easily corrupt our federal rulers, and enable them to ensnare and betray their constituents, how has it happened that we are at this time a free and independent nation? The congress which conducted us through the revolution, were a less numerous body than their successors will be: they were not chosen by, nor responsible to, their fellow citizens at large:

though appointed from year to year, and recallable at pleasure, they were generally continued for three years; and prior to the ratification of the federal articles, for a still longer term: they held their consultations always under the veil of secrecy: they had the sole transaction of our affairs with foreign nations: through the whole course of the war, they had the fate of their country more in their hands, than it is to be hoped will ever be the case with our future representatives; and from the greatness of the prize at stake, and the eagerness of the party which lost it, it may well be supposed, that the use of other means than force would not have been scrupled: yet we know by happy experience, that the public trust was not betrayed; nor has the purity of our public councils in this particular ever suffered, even from the whispers of calumny.

Is the danger apprehended from the other branches of the federal government? But where are the means to be found by the president or the senate, or both? Their emoluments of office, it is to be presumed, will not, and without a previous corruption of the house of representatives cannot, more than suffice for very different purposes: their private fortunes, as they must all be American citizens, cannot possibly be sources of danger. The only means then which they can possess, will be in the dispensation of appointments. Is it here that suspicion rests her charge? Sometimes we are told, that this fund of corruption is to be exhausted by the president, in subduing the virtue of the senate. Now, the fidelity of the other house is to be the victim. The improbability of such a mercenary and perfidious combination of the several members of government,

standing on as different foundations as republican principles will well admit, and at the same time accountable to the society over which they are placed, ought alone to quiet this apprehension. But fortunately, the constitution has provided a still further safeguard. The members of the congress are rendered ineligible to any civil offices, that may be created, or of which the emoluments may be increased, during the term of their election. No offices therefore can be dealt out to the existing members, but such as may become vacant by ordinary casualties; and to suppose that these would be sufficient to purchase the guardians of the people, selected by the people themselves, is to renounce every rule by which events ought to be calculated, and to substitute an indiscriminate and unbounded jealousy, with which all reasoning must be vain. The sincere friends of liberty, who give themselves up to the extravagancies of this passion, are not aware of the injury they do their own cause. As there is a degree of depravity in mankind, which requires a certain degree of circumspection and distrust: so there are other qualities in human nature, which justify a certain portion of esteem and confidence. Republican government presupposes the existence of these qualities in a higher degree than any other form. Were the pictures which have been drawn by the political jealousy of some among us, faithful likenesses of the human character, the inference would be, that there is not sufficient virtue among men for self-government; and that nothing less than the chains of despotism can restrain them from destroying and devouring one another.

PUBLIUS

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## FEDERALIST NO. 56

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### THE SAME SUBJECT CONTINUED, IN RELATION TO THE SAME POINT

The *second* charge against the house of representatives is, that it will be too small to possess a due knowledge of the interests of its constituents.

As this objection evidently proceeds from a comparison of the proposed number of representatives, with the great extent of the United States, the number of their inhabitants, and the diversity of their interests, without taking into view, at the same time, the circumstances which will distinguish the congress from other legislative bodies, the best answer that can be given to it will be a brief explanation of these peculiarities.

It is a sound and important principle, that the representative ought to be acquainted with the interests and circumstances of his constituents. But this principle can extend no farther, than to those circumstances and interests to which the authority and care of the representative relate. An ignorance of a variety of minute and particular objects, which do not lie within the compass

of legislation, is consistent with every attribute necessary to a due performance of the legislative trust. In determining the extent of information required in the exercise of a particular authority, recourse then must be had to the objects within the purview of that authority.

What are to be the objects of federal legislation? Those which are of most importance, and which seem most to require local knowledge, are commerce, taxation, and the militia.

A proper regulation of commerce requires much information, as has been elsewhere remarked; but as far as this information relates to the laws and local situation of each individual state, a very few representatives would be very sufficient vehicles of it to the federal councils.

Taxation will consist, in a great measure, of duties which will be involved in the regulation of commerce. So far the preceding remark is applicable to this object. As far as it may consist of internal

collections, a more diffusive knowledge of the circumstances of the state may be necessary. But will not this also be possessed in sufficient degree by a very few intelligent men, diffusively elected within the state. Divide the largest state into ten or twelve districts, and it will be found that there will be no peculiar local interest in either, which will not be within the knowledge of the representative of the district. Besides this source of information, the laws of the state, framed by representatives from every part of it, will be almost of themselves a sufficient guide. In every state there have been made, and must continue to be made, regulations on this subject, which will, in many cases, leave little more to be done by the federal legislature, than to review the different laws, and reduce them into one general act. A skilful individual in his closet, with all the local codes before him, might compile a law on some subjects of taxation for the whole union, without any aid from oral information; and it may be expected, that whenever internal taxes may be necessary, and particularly in cases requiring uniformity throughout the states, the more simple objects will be preferred. To be fully sensible of the facility which will be given to this branch of federal legislation, by the assistance of the state codes, we need only suppose for a moment, that this or any other state were divided into a number of parts, each having and exercising within itself a power of local legislation. Is it not evident that a degree of local information and preparatory labour, would be found in the several volumes of their proceedings, which would very much shorten the

labours of the general legislature, and render a much smaller number of members sufficient for it?

The federal councils will derive great advantage from another circumstance. The representatives of each state will not only bring with them a considerable knowledge of its laws, and a local knowledge of their respective districts; but will probably in all cases have been members, and may even at the very time be members of the state legislature, where all the local information and interests of the state are assembled, and from whence they may easily be conveyed by a very few hands into the legislature of the United States.

With regard to the regulation of the militia, there are scarcely any circumstances in reference to which local knowledge can be said to be necessary. The general face of the country, whether mountainous or level, most fit for the operations of infantry or cavalry, is almost the only consideration of this nature that can occur. The art of war teaches general principles of organization, movement, and discipline, which apply universally.

The attentive reader will discern that the reasoning here used, to prove the sufficiency of a moderate number of representatives, does not, in any respect, contradict what was urged on another occasion, with regard to the extensive information which the representatives ought to possess, and the time that might be necessary for acquiring it. This information, so far as it may relate to local objects, is rendered necessary and difficult, not by a difference of laws and local circumstances within a single state, but of

those among different states. Taking each state by itself, its laws are the same, and its interests but little diversified. A few men, therefore, will possess all the knowledge requisite for a proper representation of them. Were the interests and affairs of each individual state, perfectly simple and uniform, a knowledge of them in one part, would involve a knowledge of them in every other, and the whole state might be competently represented by a single member taken from any part of it. On a comparison of the different states together, we find a great dissimilarity in their laws, and in many other circumstances connected with the objects of federal legislation, with all of which the federal representatives ought to have some acquaintance. Whilst a few representatives, therefore, from each state, may bring with them a due knowledge of their own state, every representative will have much information to acquire concerning all the other states. The changes of time, as was formerly remarked, on the comparative situation of the different states, will have an assimilating effect. The effect of time on the internal affairs of the states, taken singly, will be just the contrary. At present, some of the states are little more than a society of husbandmen. Few of them have made much progress in those branches of industry, which give a variety and complexity to the affairs of a nation. These, however, will in all of them be the fruits of a more advanced population; and will require, on the part of each state, a fuller representation. The foresight of the convention has accordingly taken care,

that the progress of population may be accompanied with a proper increase of the representative branch of the government.

The experience of Great Britain, which presents to mankind so many political lessons, both of the monitory and exemplary kind, and which has been frequently consulted in the course of these inquiries, corroborates the result of the reflections which we have just made. The number of inhabitants in the two kingdoms of England and Scotland, cannot be stated at less than eight millions. The representatives of these eight millions in the house of commons, amount to five hundred and fifty-eight. Of this number, one-ninth are elected by three hundred and sixty-four persons, and one half, by five thousand seven hundred and twenty-three persons.<sup>36</sup> It cannot be supposed that the half thus elected, and who do not even reside among the people at large, can add any thing either to the security of the people against the government, or to the knowledge of their circumstances and interests in the legislative councils. On the contrary, it is notorious, that they are more frequently the representatives and instruments of the executive magistrate, than the guardians and advocates of the popular rights. They might, therefore, with great propriety, be considered as something more than a mere deduction from the real representatives of the nation. We will, however, consider them in this light alone, and will not extend the deduction to a considerable number of others, who do not reside among their

36 Burgh's Political Disquisitions.

constituents, are very faintly connected with them, and have very little particular knowledge of their affairs. With all these concessions, two hundred and seventy-nine persons only, will be the depository of the safety, interest, and happiness of eight millions; that is to say, there will be one representative only, to maintain the rights, and explain the situation, of *twenty-eight thousand six hundred and seventy* constituents, in an assembly exposed to the whole force of executive influence, and extending its authority to every object of legislation within a nation, whose affairs are in the highest degree diversified and complicated. Yet it is very

certain, not only that a valuable portion of freedom has been preserved under all these circumstances, but that the defects in the British code are chargeable, in a very small proportion, on the ignorance of the legislature concerning the circumstances of the people. Allowing to this case the weight which is due to it, and comparing it with that of the house of representatives as above explained, it seems to give the fullest assurance, that a representative for every *thirty thousand inhabitants*, will render the latter both a safe and competent guardian of the interests which will be confided to it.

PUBLIUS



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## FEDERALIST NO. 57

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### THE SAME SUBJECT CONTINUED, IN RELATION TO THE SUPPOSED TENDENCY OF THE PLAN OF THE CONVENTION TO ELEVATE THE FEW ABOVE THE MANY

The *third* charge against the house of representatives is, that it will be taken from that class of citizens which will have least sympathy with the mass of the people; and be most likely to aim at an ambitious sacrifice of the many, to the aggrandizement of the few.

Of all the objections which have been framed against the federal constitution, this is perhaps the most extraordinary. Whilst the objection itself is levelled against a pretended oligarchy, the principle of it strikes at the very root of republican government.

The aim of every political constitution is, or ought to be, first, to obtain for rulers men who possess most wisdom to discern, and most virtue to pursue, the common good of the society; and in the next place, to take the most effectual precautions for keeping them virtuous, whilst they continue to hold their public trust. The elective mode of obtaining rulers, is the characteristic policy of republican government. The means relied on in

this form of government for preventing their degeneracy, are numerous and various. The most effectual one, is such a limitation of the term of appointments, as will maintain a proper responsibility to the people.

Let me now ask, what circumstance there is in the constitution of the house of representatives, that violates the principles of republican government; or favours the elevation of the few, on the ruins of the many? Let me ask, whether every circumstance is not, on the contrary, strictly conformable to these principles; and scrupulously impartial to the rights and pretensions of every class and description of citizens?

Who are to be the electors of the federal representatives? Not the rich, more than the poor; not the learned, more than the ignorant; not the haughty heirs of distinguished names, more than the humble sons of obscure and unpropitious fortune. The electors are to be the great body of the people of the United States.

They are to be the same who exercise the right in every state of electing the correspondent branch of the legislature of the state.

Who are to be the objects of popular choice? Every citizen whose merit may recommend him to the esteem and confidence of his country. No qualification of wealth, of birth, of religious faith, or of civil profession, is permitted to fetter the judgment, or disappoint the inclination of the people.

If we consider the situation of the men on whom the free suffrages of their fellow citizens may confer the representative trust, we shall find it involving every security which can be devised or desired for their fidelity to their constituents.

In the first place, as they will have been distinguished by the preference of their fellow citizens, we are to presume that, in general, they will be somewhat distinguished also by those qualities which entitle them to it, and which promise a sincere and scrupulous regard to the nature of their engagements.

In the second place, they will enter into the public service under circumstances which cannot fail to produce a temporary affection at least to their constituents. There is in every breast a sensibility to marks of honour, of favour, of esteem, and of confidence, which, apart from all considerations of interest, is some pledge for grateful and benevolent returns. Ingratitude is a common topic of declamation against human nature; and it must be confessed, that instances of it are but too frequent and flagrant, both in public and in private life. But the universal and extreme indignation which

it inspires, is itself a proof of the energy and prevalence of the contrary sentiment.

In the third place, those ties which bind the representative to his constituents, are strengthened by motives of a more selfish nature. His pride and vanity attach him to a form of government which favours his pretensions, and gives him a share in its honours and distinctions. Whatever hopes or projects might be entertained by a few aspiring characters, it must generally happen, that a great proportion of the men deriving their advancement from their influence with the people, would have more to hope from a preservation of their favour, than from innovations in the government subversive of the authority of the people.

All these securities, however, would be found very insufficient without the restraint of frequent elections. Hence, in the fourth place, the house of representatives is so constituted, as to support in the members an habitual recollection of their dependence on the people. Before the sentiments impressed on their minds by the mode of their elevation can be effaced by the exercise of power, they will be compelled to anticipate the moment when their power is to cease, when their exercise of it is to be reviewed, and when they must descend to the level from which they were raised; there for ever to remain, unless a faithful discharge of their trust shall have established their title to a renewal of it.

I will add, as a fifth circumstance in the situation of the house of representatives, restraining them from oppressive measures, that they can make no law which will not have its full operation on

themselves and their friends, as well as on the great mass of the society. This has always been deemed one of the strongest bonds by which human policy can connect the rulers and the people together. It creates between them that communion of interest, and sympathy of sentiments, of which few governments have furnished examples; but without which every government degenerates into tyranny. If it be asked, what is to restrain the house of representatives from making legal discriminations in favour of themselves, and a particular class of the society? I answer, the genius of the whole system; the nature of just and constitutional laws; and, above all, the vigilant and manly spirit which actuates the people of America; a spirit which nourishes freedom, and in return is nourished by it.

If this spirit shall ever be so far debased, as to tolerate a law not obligatory on the legislature, as well as on the people, the people will be prepared to tolerate any thing but liberty.

Such will be the relation between the house of representatives and their constituents. Duty, gratitude, interest, ambition itself, are the chords by which they will be bound to fidelity and sympathy with the great mass of the people. It is possible that these may all be insufficient to control the caprice and wickedness of men. But are they not all that government will admit, and that human prudence can devise? Are they not the genuine, and the characteristic means, by which republican government provides for the liberty and happiness of the people? Are they not the identical means on which every state government

in the union relies for the attainment of these important ends? What then are we to understand by the objection which this paper has combatted? What are we to say to the men who profess the most flaming zeal for republican government, yet boldly impeach the fundamental principle of it; who pretend to be champions for the right and the capacity of the people to choose their own rulers, yet maintain that they will prefer those only who will immediately and infallibly betray the trust committed to them?

Were the objection to be read by one who had not seen the mode prescribed by the constitution for the choice of representatives, he could suppose nothing less, than that some unreasonable qualification of property was annexed to the right of suffrage; or that the right of eligibility was limited to persons of particular families or fortunes; or at least, that the mode prescribed by the state constitutions was, in some respect or other, very grossly departed from. We have seen how far such a supposition would err, as to the two first points. Nor would it, in fact, be less erroneous as to the last. The only difference discoverable between the two cases is, that each representative of the United States will be elected by five or six thousand citizens; whilst, in the individual states, the election of a representative is left to about as many hundred. Will it be pretended, that this difference is sufficient to justify an attachment to the state governments, and an abhorrence to the federal government? If this be the point on which the objection turns, it deserves to be examined.

Is it supported by *reason*? This cannot

be said, without maintaining, that five or six thousand citizens are less capable of choosing a fit representative, or more liable to be corrupted by an unfit one, than five or six hundred. Reason, on the contrary, assures us that, as in so great a number, a fit representative would be most likely to be found; so the choice would be less likely to be diverted from him, by the intrigues of the ambitious, or the bribes of the rich.

Is the *consequence* from this doctrine admissible? If we say that five or six hundred citizens are as many as can jointly exercise their right of suffrage, must we not deprive the people of the immediate choice of their public servants in every instance, where the administration of the government does not require as many of them as will amount to one for that number of citizens?

Is the doctrine warranted by *facts*? It was shown in the last paper, that the real representation in the British house of commons, very little exceeds the proportion of one for every thirty thousand inhabitants. Besides a variety of powerful causes, not existing here, and which favour in that country the pretensions of rank and wealth, no person is eligible as a representative of a county, unless he possess real estate of the clear value of six hundred pounds sterling per year; nor of a city or borough, unless he possess a like estate of half that annual value. To this qualification, on the part of the county representatives, is added another on the part of the county electors, which restrains the right of suffrage to persons having a freehold estate of the annual value of more than

twenty pounds sterling, according to the present rate of money. Notwithstanding these unfavourable circumstances, and notwithstanding some very unequal laws in the British code, it cannot be said, that the representatives of the nation have elevated the few, on the ruins of the many.

But we need not resort to foreign experience on this subject. Our own is explicit and decisive. The districts in New Hampshire, in which the senators are chosen immediately by the people, are nearly as large as will be necessary for her representatives in the congress. Those of Massachusetts are larger than will be necessary for that purpose. And those of New York still more so. In the last state, the members of assembly, for the cities and counties of New York and Albany, are elected by very nearly as many voters as will be entitled to a representative in the congress, calculating on the number of sixty-five representatives only. It makes no difference that, in these senatorial districts and counties, a number of representatives are voted for by each elector at the same time. If the same electors, at the same time, are capable of choosing four or five representatives, they cannot be incapable of choosing one. Pennsylvania is an additional example. Some of her counties, which elect her state representatives, are almost as large as her districts will be by which her federal representatives will be elected. The city of Philadelphia is supposed to contain between fifty and sixty thousand souls. It will, therefore, form nearly two districts for the choice of federal representatives. It forms, however, but one county, in which every elector votes for each of its representatives in the

state legislature. And what may appear to be still more directly to our purpose, the whole city actually elects a *single member* for the executive council. This is the case in all the other counties of the state.

Are not these facts the most satisfactory proofs of the fallacy, which has been employed against the branch of the federal government under consideration? Has it appeared on trial, that the senators of New Hampshire, Massachusetts, and New York; or the executive council of Pennsylvania; or the members of the assembly in the two last states, have betrayed any peculiar disposition to sacrifice the many to the few; or are in any respect less worthy of their places, than the representatives and

magistrates appointed in other states, by very small divisions of the people?

But there are cases of a stronger complexion than any which I have yet quoted. One branch of the legislature of Connecticut is so constituted, that each member of it is elected by the whole state. So is the governor of that state, of Massachusetts, and of this state, and the president of New Hampshire. I leave every man to decide, whether the result of any one of these experiments can be said to countenance a suspicion, that a diffusive mode of choosing representatives of the people, tends to elevate traitors, and to undermine the public liberty.

PUBLIUS

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## FEDERALIST NO. 58

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### THE SAME SUBJECT CONTINUED, IN RELATION TO THE FUTURE AUGMENTATION OF THE MEMBERS

The remaining charge against the house of representatives, which I am to examine, is grounded on a supposition that the number of members will not be augmented from time to time, as the progress of population may demand.

It has been admitted that this objection, if well supported, would have great weight. The following observations will show, that, like most other objections against the constitution, it can only proceed from a partial view of the subject; or from a jealousy which discolours and disfigures every object which is beheld.

1. Those who urge the objection, seem not to have recollected, that the federal constitution will not suffer by a comparison with the state constitutions, in the security provided for a gradual augmentation of the number of representatives. The number which is to prevail in the first instance, is declared to be temporary. Its duration is limited to the short term of three years.

Within every successive term of ten

years, a census of inhabitants is to be repeated. The unequivocal objects of these regulations are, first, to re-adjust, from time to time, the apportionment of representatives to the number of inhabitants; under the single exception, that each state shall have one representative at least: secondly, to augment the number of representatives at the same periods; under the sole limitation, that the whole number shall not exceed one for every thirty thousand inhabitants. If we review the constitutions of the several states, we shall find that some of them contain no determinate regulations on this subject; that others correspond pretty much on this point with the federal constitution; and that the most effectual security in any of them is resolvable into a mere directory provision.

2. As far as experience has taken place on this subject, a gradual increase of representatives under the state constitutions, has at least kept pace with that of the constituents; and it appears

that the former have been as ready to concur in such measures as the latter have been to call for them.

3. There is a peculiarity in the federal constitution, which insures a watchful attention in a majority both of the people and of their representatives, to a constitutional augmentation of the latter. The peculiarity lies in this, that one branch of the legislature is a representation of citizens; the other of the states: in the former, consequently the larger states will have most weight; in the latter, the advantage will be in favour of the smaller states. From this circumstance it may with certainty be inferred that the larger states will be strenuous advocates for increasing the number and weight of that part of the legislature, in which their influence predominates. And it so happens, that four only of the largest will have a majority of the whole votes in the house of representatives. Should the representatives or people, therefore, of the smaller states, oppose at any time a reasonable addition of members, a coalition of a very few states will be sufficient to overrule the opposition; a coalition, which, notwithstanding the rivalry and local prejudices which might prevent it on ordinary occasions, would not fail to take place, when not merely prompted by common interest, but justified by equity and the principles of the constitution.

It may be alleged, perhaps, that the senate would be prompted by like motives to an adverse coalition; and as their concurrence would be indispensable, the just and constitutional views of the other branch might be defeated. This is the

difficulty which has probably created the most serious apprehensions in the jealous friends of a numerous representation. Fortunately it is among the difficulties which, existing only in appearance, vanish on a close and accurate inspection. The following reflections will, if I mistake not, be admitted to be conclusive and satisfactory on this point.

Notwithstanding the equal authority which will subsist between the two houses on all legislative subjects, except the originating of money bills, it cannot be doubted, that the house composed of the greater number of members, when supported by the more powerful states, and speaking the known and determined sense of a majority of the people, will have no small advantage in a question depending on the comparative firmness of the two houses.

This advantage must be increased by the consciousness felt by the same side, of being supported in its demands, by right, by reason, and by the constitution; and the consciousness on the opposite side, of contending against the force of all these solemn considerations.

It is farther to be considered, that in the gradation between the smallest and largest states, there are several, which, though most likely in general to arrange themselves among the former, are too little removed in extent and population from the latter, to second an opposition to their just and legitimate pretensions. Hence it is by no means certain, that a majority of votes, even in the senate, would be unfriendly to proper augmentations in the number of representatives.

It will not be looking too far to add,

that the senators from all the new states may be gained over to the just views of the house of representatives, by an expedient too obvious to be overlooked. As these states will, for a great length of time, advance in population with peculiar rapidity, they will be interested in frequent re-apportionments of the representatives to the number of inhabitants. The large states, therefore, who will prevail in the house of representatives, will have nothing to do, but to make re-apportionments and augmentations mutually conditions of each other; and the senators from all the most growing states will be bound to contend for the latter, by the interest which their states will feel in the former.

These considerations seem to afford ample security on this subject; and ought alone to satisfy all the doubts and fears which have been indulged with regard to it. Admitting, however, that they should all be insufficient to subdue the unjust policy of the smaller states, or their predominant influence in the councils of the senate; a constitutional and infallible resource still remains with the larger states, by which they will be able at all times to accomplish their just purposes. The house of representatives can not only refuse, but they alone can propose the supplies requisite for the support of government. They, in a word, hold the purse; that powerful instrument by which we behold, in the history of the British constitution, an infant and humble representation of the people, gradually enlarging the sphere of its activity and importance, and finally reducing, as far as it seems to have wished, all the overgrown prerogatives of the other branches of the government. This power

over the purse may, in fact, be regarded as the most complete and effectual weapon, with which any constitution can arm the immediate representatives of the people, for obtaining a redress of every grievance, and for carrying into effect every just and salutary measure.

But will not the house of representatives be as much interested as the senate, in maintaining the government in its proper functions; and will they not therefore be unwilling to stake its existence or its reputation on the pliancy of the senate? Or if such a trial of firmness between the two branches were hazarded, would not the one be as likely first to yield as the other? These questions will create no difficulty with those who reflect, that, in all cases, the smaller the number, and the more permanent and conspicuous the station of men in power, the stronger must be the interest which they will individually feel in whatever concerns the government. Those who represent the dignity of their country in the eyes of other nations, will be particularly sensible to every prospect of public danger, or of a dishonourable stagnation in public affairs. To those causes we are to ascribe the continual triumph of the British house of commons over the other branches of the government, whenever the engine of a money bill has been employed. An absolute inflexibility on the side of the latter, although it could not have failed to involve every department of the state in the general confusion, has neither been apprehended nor experienced. The utmost degree of firmness that can be displayed by the federal senate or president, will not be more than equal to a resistance, in which



they will be supported by constitutional and patriotic principles.

In this review of the constitution of the house of representatives, I have passed over the circumstance of economy, which in the present state of affairs, might have had some effect in lessening the temporary number of representatives; and a disregard of which would probably have been as rich a theme of declamation against the constitution, as has been furnished by the smallness of the number proposed. I omit also any remarks on the difficulty which might be found, under present circumstances, in engaging in the federal service a large number of such characters as the people will probably elect. One observation, however, I must be permitted to add on this subject, as claiming, in my judgment, a very serious attention. It is, that in all legislative assemblies, the greater the number composing them may be, the fewer will be the men who will in fact direct their proceedings. In the first place, the more numerous any assembly may be, of whatever characters composed, the greater is known to be the ascendancy of passion over reason. In the next place, the larger the number, the greater will be the proportion of members of limited information and of weak capacities. Now it is precisely on characters of this description, that the eloquence and address of the few are known to act with all their force. In the ancient republics, where the whole body of the people assembled in person, a single orator, or an artful statesman, was generally seen to rule with as complete a sway, as if a sceptre had been placed in his single hands. On the same principle, the more

multitudinous a representative assembly may be rendered, the more it will partake of the infirmities incident to collective meetings of the people. Ignorance will be the dupe of cunning; and passion the slave of sophistry and declamation. The people can never err more than in supposing, that by multiplying their representatives beyond a certain limit, they strengthen the barrier against the government of a few. Experience will for ever admonish them, that, on the contrary, *after securing a sufficient number for the purposes of safety, of local information, and of diffusive sympathy with the whole society*, they will counteract their own views, by every addition to their representatives. The countenance of the government may become more democratic; but the soul that animates it, will be more oligarchic. The machine will be enlarged, but the fewer, and often the more secret, will be the springs by which its motions are directed.

As connected with the objection against the number of representatives, may properly be here noticed, that which has been suggested against the number made competent for legislative business. It has been said that more than a majority ought to have been required for a quorum; and in particular cases, if not in all, more than a majority of a quorum for a decision.

That some advantages might have resulted from such a precaution, cannot be denied. It might have been an additional shield to some particular interests, and another obstacle generally to hasty and partial measures. But these considerations are outweighed by the inconveniences in the opposite scale. In all cases where

justice, or the general good, might require new laws to be passed, or active measures to be pursued, the fundamental principle of free government would be reversed. It would be no longer the majority that would rule; the power would be transferred to the minority. Were the defensive privilege limited to particular cases, an interested minority might take advantage of it to screen themselves from equitable sacrifices to the general weal, or, in particular emergencies, to extort

unreasonable indulgences. Lastly, it would facilitate and foster the baneful practice of secessions; a practice which has shown itself, even in states where a majority only is required; a practice subversive of all the principles of order and regular government; a practice which leads more directly to public convulsions, and the ruin of popular governments, than any other which has yet been displayed among us.

PUBLIUS

## THE ANTI-FEDERALIST PERSPECTIVE

### BRUTUS III

For the *New York Journal*

The very term, representative, implies, that the person or body chosen for this purpose, should resemble those who appoint them—a representation of the people of America, if it be a true one, must be like the people. It ought to be so constituted, that a person, who is a stranger to the country, might be able to form a just idea of their character, by knowing that of their representatives. They are the sign—the people are the thing signified. It is absurd to speak of one thing being the representative of another, upon any other principle. The ground and reason of representation, in a free government, implies the same thing. Society instituted government to promote the happiness of the whole, and this is the great end always in view in the delegation of powers. It must then have been intended, that those who are placed instead of the people, should possess their sentiments and feelings, and be governed by their interests, or, in other words, should bear the strongest resemblance of those in whose room they are substituted. It is obvious, that for an assembly to be a true likeness of the people of any country, they must be considerably numerous.—One man, or a few men, cannot possibly represent the feelings, opinions, and characters of a great multitude. In this respect, the new constitution is radically defective.—The house of assembly, which is intended as a representation of the people of America, will not, nor cannot, in the nature of things, be a proper one—sixty-five men cannot be found in the United States, who hold the sentiments, possess the feelings, or are acquainted with the wants and interests of this vast country. This extensive continent is made up of a number of different classes of people; and to have a proper representation of them, each class

ought to have an opportunity of choosing their best informed men for the purpose; but this cannot possibly be the case in so small a number. The state of New-York, on the present apportionment, will send six members to the assembly: I will venture to affirm, that number cannot be found in the state, who will bear a just resemblance to the several classes of people who compose it. In this assembly, the farmer, merchant, mecanick. and other various orders of people, ought to be represented according to their respective weight and numbers; and the representatives ought to be intimately acquainted with the wants, understand the interests of the several orders in the society, and feel a proper sense and becoming zeal to promote their prosperity. I cannot conceive that any six men in this state can be found properly qualified in these respects to discharge such important duties: but supposing it possible to find them, is there the least degree of probability that the choice of the people will fall upon such men? According to the common course of human affairs, the natural aristocracy of the country will be elected. Wealth always creates influence, and this is generally much increased by large family connections: this class in society will for ever have a great number of dependents; besides, they will always favour each other—it is their interest to combine—they will therefore constantly unite their efforts to procure men of their own rank to be elected—they will center all their force in every part of the state into one point, and by acting together, will most generally carry their election. It is probable, that but few of the merchants, and those the most opulent and ambitious, will have a representation from their body—few of them are characters sufficiently conspicuous to attract the notice of the electors of the state in so limited a representation. The great body of the yeomen of the country cannot expect any of their order in this assembly—the station will be too elevated for them to aspire to—the distance between the people and their representatives, will be so very great, that there is no probability that a farmer, however respectable, will be chosen—the mechanics of every branch, must expect to be excluded from a seat in this Body— It will and must be esteemed a station too high and exalted to be filled by any but the first men in the state, in point of fortune; so that in reality there will be no part of the people represented, but the rich, even in that branch of the legislature, which is called the democratic.—The well born, and highest orders in life, as they term themselves, will be ignorant of the sentiments of the midling class of citizens, strangers to their ability, wants,

and difficulties, and void of sympathy, and fellow feeling. This branch of the legislature will not only be an imperfect representation, but there will be no security in so small a body, against bribery, and corruption—It will consist at first, of sixty-five, and can never exceed one for every thirty thousand inhabitants; a majority of these, that is, thirty-three, are a quorum, and a majority of which, or seventeen, may pass any law—so that twenty-five men, will have the power to give away all the property of the citizens of these states—what security therefore can there be for the people, where their liberties and property are at the disposal of so few men? It will literally be a government in the hands of the few to oppress and plunder the many. You may conclude with a great degree of certainty, that it, like all others of a similar nature, will be managed by influence and corruption, and that the period is not far distant, when this will be the case, if it should be adopted; for even now there are some among us, whose characters stand high in the public estimation, and who have had a principal agency in framing this constitution, who do not scruple to say, that this is the only practicable mode of governing a people, who think with that degree of freedom which the Americans do—this government will have in their gift a vast number of offices of great honor and emolument. The members of the legislature are not excluded from appointments; and twenty-five of them, as the case may be, being secured, any measure may be carried.

The rulers of this country must be composed of very different materials from those of any other, of which history gives us any account, if the majority of the legislature are not, before many years, entirely at the devotion of the executive—and these states will soon be under the absolute domination of one, or a few, with the fallacious appearance of being governed by men of their own election.

The more I reflect on this subject, the more firmly am I persuaded, that the representation is merely nominal—a mere burlesque; and that no security is provided against corruption and undue influence. No free people on earth, who have elected persons to legislate for them, ever reposed that confidence in so small a number. The British house of commons consists of five hundred and fifty-eight members; the number of inhabitants in Great-Britain, is computed at eight millions—this gives one member for a little more than fourteen thousand, which exceeds double the proportion this country can ever have: and yet we require a larger representation in

proportion to our numbers, than Great-Britain, because this country is much more extensive, and differs more in its productions, interests, manners, and habits. The democratic branch of the legislatures of the several states in the union consists, I believe at present, of near two thousand; and this number was not thought too large for the security of liberty by the framers of our state constitutions: some of the states may have erred in this respect, but the difference between two thousand, and sixty-five, is so very great, that it will bear no comparison.

### **CATO V**

*For the New York Journal*

But the next thing to be considered in conformity to my plan, is the first article of this new government, which comprises the erection of the house of representatives and senate, and prescribes their various powers and objects of legislation. The most general objections to the first article, are that biennial elections for representatives are a departure from the safe democratical principles—of annual ones—that the number of representatives are too few; that the apportionment and principles of increase are unjust; that no attention has been paid to either the numbers or property in each state in forming the senate; that the mode in which they are appointed and their duration, will lead to the establishment of an aristocracy; that the senate and president are improperly connected, both as to appointments, and the making of treaties, which are to become the supreme law of the land; that the judicial in some measure, to-wit, as to the trial of impeachments, is placed in the senate, a branch of the legislative, and some times a branch of the executive: that Congress have the improper power of making or altering the regulations prescribed by the different legislatures, respecting the time, place, and manner of holding elections for representatives, and the time and manner of choosing senators; that standing armies may be established, and appropriation of money made for their support for two years; that the militia of the most remote state may be marched into those states situated at the opposite extreme of this continent; that the slave trade is, to all intents and purposes permanently established; and a slavish capitation, or poll-tax, may at any time be levied—these are some of the many evils that will attend the adoption of this government.

But with respect to the first objection, it may be remarked that a well digested democracy has this advantage over all others, to wit, that it affords

to many the opportunity to be advanced to the supreme command, and the honors they thereby enjoy fill them with a desire of rendering themselves worthy of them; hence this desire becomes part of their education, is matured in manhood, and produces an ardent affection for their country, and it is the opinion of the great Sidney, and Montesquieu that this is in a great measure produced by annual election of magistrates.

If annual elections were to exist in this government, and learning and information to become more prevalent, you never will want men to execute whatever you could design—Sidney observes “that a well governed state is as fruitful to all good purposes as the seven headed serpent is said to have been in evil; when one head is cut off, many rise up in the place of it.” He remarks further, that “it was also thought, that free cities by frequent elections of magistrates became nurseries of great and able men, every man endeavoring to excel others, that he might be advanced to the honor he had no other title to, than what might arise from his merit, or reputation,” but the framers of this *perfect government*, as it is called, have departed from this democratical principle, and established bi-ennial elections for the house of representatives, who are to be chosen by the people, and sextennial for the senate, who are to be chosen by the legislatures of the different states, and have given to the executive the unprecedented power of making temporary senators, in case of vacancies, by resignation or otherwise, and so far forth establishing a precedent for virtual representation (though in fact their original appointment is virtual) thereby influencing the choice of the legislatures, or if they should not be so complaisant as to conform to his appointment—offence will be given to the executive and the temporary members will appear ridiculous by rejection; this temporary member, during his time of appointment, will of course act by a power derived from the executive, and for, and under his immediate influence.

It is a very important objection to this government, that the representation consists of so few; too few to resist the influence of corruption, and the temptation to treachery, against which all governments ought to take precautions—how guarded you have been on this head, in your own state constitution, and yet the number of senators and representatives proposed for this vast continent, does not equal those of your own state; how great the disparity, if you compare them with the aggregate numbers in the United States. The history of representation in England, from which we have taken our model of legislation, is briefly this:

before the institution of legislating by deputies, the whole free part of the community usually met for that purpose; when this became impossible by the increase of numbers the community was divided into districts, from each of which was sent such a number of deputies as was a complete representation of the various numbers and orders of citizens within them; but can it be asserted with truth, that six men can be a complete and full representation of the numbers and various orders of the people in this state? Another thing [that] may be suggested against the small number of representatives is, that but few of you will have the chance of sharing even in this branch of the legislature; and that the choice will be confined to a very few; the more complete it is, the better will your interests be preserved, and the greater the opportunity you will have to participate in government, one of the principal securities of a free people; but this subject has been so ably and fully treated by a writer under the signature of Brutus, that I shall content myself with referring you to him thereon, reserving further observations on the other objections I have mentioned, for my future numbers.