Charles Cotesworth Pinckney, Speech in the South Carolina House of Representatives, 18 January 1788

Gen. CHARLES COTESWORTH PINCKNEY, in answer to Mr. Lowndes, observed, that, though ready to pay every tribute of applause to the great characters whose names were subscribed to the old Confederation, yet his respect for them could not prevent him from being thoroughly sensible of the defects of the system they had established; sad experience had convinced him that it was weak, inefficient, and inadequate to the purposes of good government; and he understood that most of the framers of it were so thoroughly convinced of this truth, that they were eager to adopt the present Constitution. The friends of the new system do not mean to shelter it under the respectability of mere names; they wish every part of it may be examined with critical minuteness, convinced that the more thoroughly it is investigated, the better it will appear. The honorable gentleman, in the warmth of his encomiums on the old plan, had said that it had carried us with success through the war. In this it has been shown that he is mistaken, as it was not fatally ratified till March, 1781, and, anterior to that ratification, Congress never acted under it, or considered it as binding. Our success, therefore, ought not to be imputed to the old Confederation; but to the vast abilities of a Washington, to the valor and enthusiasm of our people, to the cruelty of our enemies, and to the assistance of our friends. The gentleman had mentioned the treaty of peace in a manner as if our independence had been granted us by the king of Great Britain. But that was not the case; we were independent before the treaty, which does not in fact grant, but acknowledges, our independence. We ought to date that invaluable blessing from a much older charter than the treaty of peace from a charter which our babes should be taught to lisp in their cradles; which our youth should learn as a carmen necessarium, or indispensable lesson; which our young men should regard as their compact of freedom; and which our old should repeat with ejaculations of gratitude for the bounties it is about to bestow on their posterity: I mean the Declaration of Independence, made in Congress the 4th of July, 1776. This admirable manifesto, which, for importance of matter and elegance of composition, stands unrivalled, sufficiently confutes the honorable gentleman's doctrine of the individual sovereignty and independence of the several states.

In that Declaration the several states are not even enumerated; but after reciting, in nervous language, and with convincing arguments, our right to independence, and the tyranny which compelled us to assert it, the declaration is made in the following words: "We, therefore, the representatives of the United States of America in General Congress assembled, appealing to the Supreme Judge of the world for the rectitude of our intentions, do, in the name and by the authority of the good people of these colonies, solemnly publish and declare, that these United Colonies are, and of fight ought to be, FREE AND INDEPENDENT STATES." The separate independence and individual sovereignty of the several states were never thought of by the enlightened band of patriots who framed this Declaration; the several states are not even mentioned by name in any part of it, as if it was intended to impress this maxim on America, that our freedom and independence arose from our union, and that without it we could neither be free nor independent. Let us, then, consider all attempts to weaken this Union, by maintaining that each state is separately and individually independent, as a species of political

heresy, which
can never benefit us, but may bring on us the most serious distresses.

The general, then, in answer to Mr. Lowndes's objections, that the powers vested in the general government were too extensive, enumerated all the powers granted, and remarked particularly on each, showing that the general good of the Union required that all the powers specified ought necessarily to be vested where the Constitution had placed them; and that, as all the powers granted sprang from the people, and were to be exercised by persons frequently chosen, mediately or immediately, by the people; and that, as we had as great a share in the government, in proportion to our importance, as any other state had,--the assertion that our representation would he merely virtual, similar to what we possessed under the British government, was altogether unfounded; that there was no danger of the powers granted being abused while the people remained uncorrupt; and that corruption was more effectually guarded against, in the manner this government was constituted, than in any other that had ever been formed. From the number of electors who have a right to vote for a member of the House of Representatives, little danger can be apprehended of corruption or undue influence. If a small district sent a member, there would be frequent opportunities for cabal and intrigue: but if the sphere of election is enlarged, then opportunities must necessarily diminish. The little demagogue of a petty parish or county will find his importance annihilated, and his intrigues useless, When several counties join in an election; he probably would not be known, certainly not regarded, out of his own circle; while the man whose abilities and virtues had extended a fair reputation beyond the limits of his county, would, nine times out of ten, be the person who would be the choice of the people.

There will be no necessity, as the honorable gentleman has Strangely supposed, for all the freeholders in the state to meet at Charleston to choose five members for the House of Representatives; for the state may be divided into five election districts, and the freeholders in each election district may choose one representative. These freeholders need not all meet at the same place in the district; they may ballot in their particular parishes and counties on the same day, and the ballots may be thence carried into a central part of the district, and opened at the same time; and whoever shall appear to have a majority of the votes of the freeholders of the whole district will be one of the five representatives for this state. But if any state should attempt to fix a very inconvenient time for the election, and name (agreeably to the ideas of the honorable gentleman) only one place in the state, or even one place in one of the five election districts,for the freeholders to assemble to vote, and the people should dislike this arrangement, they can petition the general government to redress this inconvenience, and to fix times and places of election of representatives in the state in a more convenient manner; for, as this house has a right to fix the times and places of election, in each parish and county, for the members of the House of Representatives of this state, so the general government has a similar right to fix the times and places of election, in each state, for the members of the general House of Representatives. Nor is there any real danger to be apprehended from the exercise of this power, as it cannot be supposed that any state wilt consent to fix the election at inconvenient seasons and places in any other state, lest she herself should hereafter experience the same inconvenience; but it is absolutely necessary that Congress should have this

superintending power, lest, by the intrigues of a ruling faction in a state, the members of the House of Representatives should not really represent the people of the state, and lest the same faction, through partial state views, should altogether refuse to send representatives of the people to the general government. The general government has not the same authority with regard to the members of the Senate. It would have been improper to have intrusted them with it; for such a power would, in some measure, have authorized them to fix the times and places when and where the state legislatures should convene, and would tend to destroy that necessary cheek which the general and state governments will have on each other. The honorable gentleman, as if he was determined to object to every part of the Constitution, though he does not approve of electing representatives immediately by the people, or at least cannot conceive hawk is to be effected, yet objects to the constitution of the Senate, because the senators are to be elected b the state legislatures, and not immediately by the people. When the Constitution says the people shall elect, the gentleman cries out, "It is chimerical!--the election will be merely virtual." When the Constitution determines that the state legislatures are to elect, he exclaims, "The people's rights are invaded!--the election should be immediately by them, and not by their representatives." How, then, can we satisfy him, as he is determined to censure, in this Constitution, that mode of election which he so highly approves in the old Confederation? The reason why our present state Constitution, made in 1778, changed the mode of electing senators from the mode prescribed by our first constitution, passed in 1776, was because, by the first, the senators were elected by this house, and therefore, being their mere creatures, they could not be supposed to have that freedom of will as to form a proper check on its proceedings; whereas, in the general Constitution, the House of Representatives will be elected immediately by the people, and represent them and their personal rights individually; the Senate will be elected by the state legislatures, and represent the states in their political capacity; and thus each branch will form a proper and independent check on the other, and the legislative powers will be advantageously balanced.

With regard to the objection that had been made to the mode of electing the President of the United States, General Pinckney asked what other mode would have been so proper. If he was to be elected by the House of Representatives and the Senate, as one of them have the power of impeaching and the other of trying him, he would be altogether their creature, and would not have independence enough to exercise with firmness the revisionary power and other authorities with which he is invested by the Constitution. This want of independence might influence his conduct, in some degree, if he was to be elected by one branch of the legislature alone; but as he is to be elected by the people, through the medium of electors chosen particularly for that purpose, and he is in some measure to be a check on the Senate and House of Representatives, the election, in my opinion, could not have been placed so well if it had been made in any other mode.

In all elections of a chief magistrate, foreign influence is to be guarded against. Here it is very carefully so; and it is almost impossible for any foreign power to influence thirteen different sets of electors, distributed throughout the states, from New Hampshire to Georgia. By this mode, also, and for the same reason, the dangers of intrigue and corruption are avoided, and a variety of other inconveniences, which must have arisen if the electors from the different states

had been directed to assemble at one place, or if either branch of the legislature (in case the majority of electors did not fix upon the same person) might have chosen a President who had not been previously put in nomination by the people. I have before spoken of the policy and justice of vesting the majority of Congress with the power of making commercial regulations, and the necessity there is, in all well-constituted republics, that the majority should control the minority; and I should have had a very strong objection if it had contained the restrictive clause the honorable gentleman appears so anxious for, "that Congress should not have it in their power to prevent the ships of any nation from entering our ports." I cannot think it would have been prudent or fitting to have given the ships of all foreign nations a constitutional right to enter our ports whenever they pleased, and this, too, notwithstanding we might be at war with them; or they may have passed laws denying us the privileges they grant to all other commercial nations; or circumstances not now foreseen might render it necessary for us to prohibit them. Such a clause would have injured the Eastern States, would have been eventually detrimental to ourselves, and would have in fact amounted to a declaration that we were resolved never to have a navy. To such a clause the general declared he never would have consented, and desired the gentleman to produce an instance of any independent power who did not give exclusive advantages to their own shipping. He then took notice that Chancellor Matthews had fully answered what had been alleged concerning the exorbitant freights we should be obliged to pay, and had clearly shown that no danger was to be apprehended on that subject; and that the Eastern States could soon furnish us, and all the Southern States, with a sufficient number of ships to carry off our produce. With regard to the general government imposing internal taxes upon us, he contended that it was absolutely necessary they should have such a power: requisitions had been in vain tried every year since the ratification of the old Confederation, and not a single state had paid the quota required of her. The general government could not abuse this power, and favor one state and oppress another, as each state was to be taxed only in proportion to its representation; and as to excises, when it is considered how many more excisable articles are manufactured to the northward than there are to the southward, and the ease and convenience of raising a revenue by indirect taxation, and the necessity there is to obtain money for the payment of our debts, for our common defence, and for the general welfare, he thought every man would see the propriety, and even the necessity, of this clause. For his part, he knew of no sum that he would not sooner have consented to have paid, if he had had it, rather than have adopted Lord North's conciliatory plan, which seems, by the argument of the gentleman, to be in some respect preferable to the proposed Constitution; but in asserting this, the gentleman certainly cannot be serious. As to the payment of members of the legislature out of the federal treasury, General Pinckney contended it was right, and particularly beneficial to us, who were so distant from the seat of the federal government, as we at present paid our members not only while they were actually in Congress, but for all the time they were going there and returning home, which was an expense the Middle States felt but in a slight degree; but now that all the members are to be paid out of the public treasury, our remote situation will not be particularly expensive to us. The ease of the payment of the Massachusetts judges under the royal government can by no ingenuity be made applicable to the payment of the members of the federal legislature. With regard to Mr. Lowndes's question, "What harm had paper money done?" General Pinckney answered, that he wondered that gentleman should ask such a question, as he had told the

house that he had lost fifteen thousand guineas by depreciation; but he would tell the gentleman what further injuries it had done--it had corrupted the morals of the people; it had diverted them from the paths of honest industry to the ways of ruinous speculation; it had destroyed both public and private credit, and had brought total ruin on numberless widows and orphans.

As to the judiciary department, General Pinckney observed, that trial by jury was so deservedly esteemed by the people of America, that it is impossible for their representatives to omit introducing it whenever it can with propriety be done. In appeals from courts of chancery, it surely would be improper. In a dispute between a citizen of Carolina and a citizen of Georgia, if a jury was to try the case, from which state are they to be drawn? If from both or either, would the citizens of Carolina and Georgia choose to be summoned to attend on juries eight hundred miles from their home? and if the jury is to be drawn from the state in which Congress shall sit, would these citizens wish that a cause relative to negro property should be tried by the Quakers of Pennsylvania, or by the freeholders of those states that have not that species of property amongst them? Surely not. Yet it is necessary, when a citizen of one state cannot obtain an impartial trial in another, that, for the sake of justice, he should have a right to appeal to the supreme judiciary of the United States to obtain redress; and as this right of appeal does not extend to citizens of the same state, (unless they claim under grants of different states,) but only to the causes and persons particularly mentioned in the Constitution, and Congress have power to make such regulations and impose such restrictions relative to appeals as they think proper, it can hardly be supposed that they will exercise it in a manner injurious to their constituents.

Trials by jury are expressly secured in all criminal cases, and not excluded in any civil cases whatsoever. But experience had demonstrated that it was impossible to adhere to them in all civil cases: for instance, on the first establishment of the admiralty jurisdiction, Congress passed an ordinance requiring all causes of capture to be decided by juries: this was contrary to the practice of all nations, and we knew it; but still an attachment to a trial by jury induced the experiment. What was the consequence? The property of our friends was, at times, condemned indiscriminately with the property of our enemies, and the property of our citizens of one state by the juries of another. Some of our citizens have severely felt these inconveniences. Citizens of other states and other powers experienced similar misfortunes from this mode of trial. It was, therefore, by universal consent and approbation, laid aside in cases of capture. As the ordinance which regulated these trials was passed by Congress, they had the power of altering it, and they exercised that power; but had that ordinance been part of the Confederation, it could not then have been repealed in the then situation of America; and had a clause of a similar tendency been inserted in this Constitution, it could only be altered by a convention of the different states. This shows at once how improper it would have been to have descended to minutioe in this particular; and he trusted it was unnecessary, because the laws which are to regulate trials must be made by the representatives of the people chosen as this house are, and as amenable as they are for every part of their conduct. The honorable gentleman says, compacts should be binding, and that the Confederation was a compact. It was so; but it was a compact that had been repeatedly broken by every state in the Union; and all the writers on

the laws of nations agree that, when the parties to a treaty violate it, it is no longer binding. This was the case with the old Confederation; it was virtually dissolved, and it became necessary to form a new constitution, to render us secure at home, respectable abroad, and to give us that station among the nations of the world, to which, as free and independent people, we are justly entitled.

Jonathan Elliot, ed., *The Debates in the Several State Conventions, on the Adoption of the Federal Constitution,* Vol. 4, Philadelphia: J.B. Lippincott and Company, pp. 300-308.