

*Dr. William Whiting and
Shays' Rebellion*

BY STEPHEN T. RILEY

IN APRIL, 1787, Dr. William Whiting, Chief Justice of the Court of Common Pleas of Berkshire County, was tried before the Supreme Judicial Court of Massachusetts on charges of seditious libel and seditious remarks and was found guilty. That is one of the facts in the narrative of Shays' Rebellion at which historians have paused, curious, before passing along to better-documented events. Now the intriguing story of the seditious Judge can be told from certain of his manuscripts which were recently acquired by the Massachusetts Historical Society.

If we were to turn the calendar back to the autumn of 1786, we should find Berkshire County the storm center of a revolt that was to sweep across Massachusetts from Concord to the New York line. This revolt, well known to us as Shays' Rebellion, was not a sudden flare-up. It was, rather, the result of many years of steadily worsening economic conditions coupled with a wave of disillusionment that swept over men who had hoped for a better life with the end of the Revolution. The closing of the British West Indies to our ships following the War and the dumping of British manufactures on our markets resulted in a serious stagnation of trade. This circumstance, together with the stringent money policy and the heavy taxes imposed by the State to meet the large public debt, laid a heavy burden on the people, particularly those in the rural areas. Many of

the farmers of the western counties were in an extremely vulnerable position, for they had borrowed heavily in order to open up new farms and stock them. With the curtailment of their markets they found themselves in hard straits. Like most farmers, they were well supplied with the things necessary for a barter economy but lacked the hard money required to pay their taxes and settle their personal indebtedness. Repeated appeals to the General Court through conventions and other assemblies for remedial legislation ended in failure. Thus the debtors had the bitter experience of watching their livestock seized by the sheriff and sold at auction for taxes or found themselves hauled into county courts by their creditors. There they not only had executions levied against them but were forced to pay heavy legal fees as well. Efforts to secure a postponement of civil actions until better times proved unavailing. At last, convinced that they could get redress of their grievances only by direct action, the so-called insurgents took matters into their own hands and in the summer and fall of 1786 proceeded to stop the sittings of courts.¹

While it is true that the great majority of insurgents were debtors, there was also a sprinkling of men from higher stations in life who joined with them or expressed sympathy for their cause. One of the best known men to leave the conservative ranks and give comfort to the insurgents was Dr. William Whiting of Great Barrington.

Dr. Whiting was born in Norwich, Connecticut, on April 8, 1730, the son of Colonel William Whiting and Anna Raymond. He studied medicine under Dr. John Bulkley of Colchester and after his marriage lived for a time in Hartford. About the year 1765, he moved to Great Bar-

¹ For recent discussions of the causes of Shays' Rebellion see Merrill Jensen, *The New Nation: A History of the United States During the Confederation, 1781-1789* (New York, 1950); Marion L. Starkey, *A Little Rebellion* (New York, 1955); and Robert J. Taylor, *Western Massachusetts in the Revolution* (Providence, 1954).

ington and established a practice there, soon becoming one of the leading physicians of Berkshire County. His name was later to appear in 1781 on the charter of the Massachusetts Medical Society as one of its incorporators.²

Dr. Whiting displayed an aptitude for politics and before long was taking an active part in Great Barrington affairs. From local to provincial office was a natural step, and from 1774 through 1776 he represented his area in the General Court and the Provincial Congress. There he became known for his investigations into the methods of making saltpeter and for his contribution to a well-known pamphlet on that subject.³

Commissioned a Justice of the Peace in 1775, Dr. Whiting attempted to carry on his duties in that office but found it hard going. The recommendation of the Continental Congress that Massachusetts govern itself as closely as possible by the old charter was not well received in Berkshire County, for the people there wanted a new constitution based on popular approval. They also disapproved of justices who had been appointed by the Governor—or later the Council—for they felt they should be selected by the people. To emphasize their stand, these Constitutionals closed the courts of law and practically divorced themselves from the rest of the State until the new constitution went into effect in 1781. Dr. Whiting claimed that he was the only justice who dared officiate: "it is well known that through all that Dreary period I constantly officiated, altho with many threats and great hazzard to myself; and thereby preserved the sacred fire of Lawful Government from being totally

² John F. Schroeder, *Memoir of the Life and Character of Mrs. Mary Anna Boardman* (New Haven, 1849), p. 46; Taylor, *Western Massachusetts in the Revolution*, p. 145.

³ *Several Methods of Making Salt-Petre; Recommended to the Inhabitants of the United Colonies, By the Honorable Continental Congress. And Re-published by Order of the General Assembly of the Colony of Massachusetts-Bay. Together with the Resolue of said Assembly, and An Appendix, By Doctor William Whiting* (Watertown, 1775).

Extinguished in the County when almost every other Magistrate had totally forsaken its alter."⁴

Dr. Whiting disapproved of the action of the people in rejecting the proposed Constitution of 1778 and urged them to support a lawful government. His views, which express some concern for the hard lot of the farmer and which foreshadow some of his later writings, appeared in print in an anonymous pamphlet: *An Address to the Inhabitants of the County of Berkshire. Respecting their present opposition to Civil Government* (Hartford [1778]).⁵

By the year 1783, Dr. Whiting had established his position in the little group of conservatives who ran the affairs of the county. This group, dominated by Theodore Sedgwick, the most prominent lawyer of western Massachusetts, managed to secure for itself most of the appointive and elective offices that were available. Dr. Whiting received his share, for he not only served a term in the first General Court under the Constitution but was re-commissioned a Justice of the Peace and of the Quorum and made Chief Justice of the Court of Common Pleas of Berkshire County. Whatever sympathy he had shown for the poor was greatly overshadowed by the vigor with which he advocated the removal of a justice who had sought to aid them.⁶ An interesting question presents itself: Why did Dr. Whiting reverse his position after 1783 and favor the cause of the debtors?

Among the papers on Dr. Whiting lately acquired by the Massachusetts Historical Society, there are two long letters written by him on February 1 and March 19, 1787.⁷ In

⁴ William Whiting to Robert Treat Paine, March 19, 1787. R. T. Paine Mss. (Mass. Hist. Soc.).

⁵ Whiting admitted the authorship of this pamphlet in the above letter.

⁶ Taylor, *Western Massachusetts in the Revolution*, p. 111.

⁷ Whiting's letter of February 1, 1787, is a retained copy and is incomplete. The addressee's name is not given.

these letters he reviews his political conduct from the year 1775 on and attempts to present his actions during Shays' Rebellion in the most favorable light. Cautious use must be made of these documents, however; for although they are substantially the same, they contradict each other in some essential details. When Dr. Whiting wrote the March 19 letter to Robert Treat Paine, the Attorney-General, the Rebellion had been practically put down, and he was under arrest awaiting trial.

Upon the conclusion of the War, Dr. Whiting explained in his letter of February 1, 1787, he had more leisure and was able to resume his former profession of county physician. In his daily rounds he had an excellent opportunity to observe the distressed condition of many of the people. Their constant harrassment by creditors and law officers awakened his sympathy. At the same time he lost his good opinion of lawyers and collecting officers as he observed how wealthy they were becoming at the expense of the poor.

When news reached Dr. Whiting in the early fall of 1786 that some of the people in the eastern counties had resorted to arms and had stopped the meetings of courts, he professed himself greatly troubled. Fearing that Berkshire County would be once again thrown into the lawless state which had prevailed during the Revolution, he conceived the plan of writing a series of articles to be signed with the pseudonym Gracchus. In these articles he would suggest the proper course the people should follow in order to have their grievances redressed peaceably. The first article to appear was entitled "Some brief Remarks on the present State of publick affairs" and was signed Gracchus. According to Dr. Whiting he wrote it during the latter part of the week preceding the crucial meeting of the Court of Common Pleas scheduled to be held at Great Barrington on Tuesday, September 12, 1786.

In this essay, which was later judged a seditious libel, Dr. Whiting expressed his view of the fundamental principles of government, namely "the equal Protection, Prosperity, and Happiness of all its Subjects." He went on to say that "whenever it happens in any Republican Government or Commonwealth that some part of the Citizens have it in their Power by Compulsion to enrich themselves by the same means that impoverishes and depresses some other Orders of People; that Government is either defective in its original Constitution, or else the Laws are unjustly and unequally administered." He warned against the dangerous tendency of interested parties to undermine the foundation of Republicanism in order to introduce an Aristocracy and exhorted the people to safeguard and defend their rights and liberties. A summarizing statement that was to weigh heavily against him followed: "Therefore whenever any incroachments are making either upon the liberties or properties of the people, if redress cannot be had without, it is Virtue in them to disturb the government." Dr. Whiting concluded his paper by attacking the method used by the State to pay the interest and principal of the debt and by denouncing the high fees allowed lawyers and court officials.⁸

Friends of the government were to say that this article was instrumental in arousing the people to stop the courts on September 12. It is very difficult to determine, however, just how much circulation the article received prior to that day. Dr. Whiting claimed that he read it to only three people—including Major John Wiley, a leader of the insurgents—but his accounts are inconsistent. At any rate, it seems very likely that many people knew of this writing and had some inkling of its contents.

⁸ This essay is printed hereafter from the copy in the Robert Treat Paine Mss. (Mass. Hist. Soc.).

On the Monday evening preceding the court meeting, a number of armed men from the surrounding towns seized the Great Barrington Courthouse. The next day, September 12, Major-General John Paterson with the militia marched into town to protect the courts. Much to his consternation, he saw the majority of his troops show unmistakable signs of favoring the assembled insurgents. Matters were at an impasse until the court arrived. It suggested that a count of the militia be made, with those favoring the court standing on one side of the highway and those opposed on the other. Of approximately 1,000 men, about 800 promptly lined up on the side opposing the court. The decision was made. The judges opened and adjourned *sine die*. Elated by their success, the insurgents then decided to bring the judges to their terms. They proceeded to Dr. Whiting's house, where he and the other judges had retired, and demanded that they sign a paper agreeing not to sit "until the Constitution of Government shall be revised or a new one made." Of the four judges, only Jahleel Woodbridge, of Stockbridge, refused to sign.⁹

There were those who felt that Dr. Whiting's concern for the insurgents was not due entirely to humanitarian feelings. It had been apparent for some time that Theodore Sedgwick, the leader of the conservative group, and Whiting were no longer seeing eye to eye. There had been some dissension in the conservative ranks over the appointment of civil officers in 1781. It is possible that Dr. Whiting was envious of Sedgwick's political position. It is known that he questioned the amount of money that Sedgwick was accumulating. As early as 1785, Dr. Whiting had written Sedgwick that he considered his conduct in the Berkshire courts

⁹ Caleb Hyde to Governor Bowdoin, September 13, 1786. Massachusetts Archives, CXC, 263-264. Some writers say that Elijah Dwight was the judge who refused to sign the agreement. See *History of Berkshire County, Massachusetts* (2 vols. in 1. New York, 1885) II, 23.

"insidious."¹⁰ Sedgwick had retorted that Whiting was a traitor to his old friends. The circulation of the Gracchus piece on court day was the last straw.

In reply to a blunt query from Sedgwick, Dr. Whiting wrote him angrily on September 13 that he was the author of the Gracchus piece, that the sentiments contained in it were his "Avowed Sentiments," and that he composed it in order to "Sooth and Quiet" the people who were murmuring about stopping the courts.¹¹ Sedgwick replied the following day answering Dr. Whiting's letter and article point by point. He charged Whiting with having written a seditious libel and accused him of seeking popularity with the insurgents in order to win political preferment. He summed up his charges thus: "Whenever a man deviates from the direct line of rectitude it is impossible to foresee the consequences into which he may be plunged. To verify this observation permit the mention of some facts: You was present at the opening and adjourning of the court, you expressly approved of that measure; you did more, you spoke in favour of it, and actually aided in recollecting the form of expression in which that business is transacted. All this is known, and, believe me remembered by the Sheriff, Clerk, and all the Justices who were then present. Yet within less than ten minutes afterwards you denied the whole. This is known to many gentlemen of character, and particularly to Judge Woodbridge and the Hon'ble Mr. Skinner, who have affirm'd the fact in my hearing."¹² Judge Woodbridge, it will be remembered, was the only judge to refuse to sign the paper agreeing not to sit until constitutional changes were made.

¹⁰ William Whiting to Theodore Sedgwick, September 10, 1785. Sedgwick Mss. (Mass. Hist. Soc.).

¹¹ Whiting to Sedgwick, September 13, 1786. R. T. Paine Mss. (Mass. Hist. Soc.).

¹² Sedgwick to Whiting, September 14, 1786. Massachusetts Archives, CLXXXIX, 174-177. Copy.

Although Sedgwick was hostile to Dr. Whiting and opposed to the Rebellion, he enjoyed a reputation for courage and integrity. His charges were hard to disprove. Sedgwick gave Whiting permission to publish his letter, but so far as can be discovered he never did so. Dr. Whiting, on the other hand, spread word that Sedgwick was making £1,000 a year chiefly because of the exorbitant fee table.¹³ From this time on the two men regarded each other as bitter enemies. Sedgwick carefully sent his exchange of letters with Dr. Whiting, together with a copy of the Gracchus article, directly to Governor James Bowdoin.¹⁴ Several of these documents were in the hands of Robert Treat Paine, the Attorney-General, at the time of the trial.

According to the evidence at hand, Dr. Whiting was not a demagogue. He spoke of himself as a man of "Timmid and Tender Spirit" with a great aversion to mobs. Even Sedgwick had said that his abilities would recommend him more to educated men than the opposite extreme. A sensitive man, deeply interested in music and religion, he undoubtedly had a genuine concern for the difficulties his neighbors were experiencing. Yet he was impulsive and, when put under great pressure, vacillating. In the light of Sedgwick's letter, the testimony at the trial, and Dr. Whiting's own writings, it is very evident that he favored the insurgents' action of stopping the courts and that he aided it to some extent.

It should be kept in mind that during the period of Dr. Whiting's political activity the business of constitution-making agitated the minds of many Americans. None of the constitutions established then had in contemporary eyes that semblance of permanency that is now attributed to

¹³ See Robert Treat Paine's notes on the testimony at Whiting's trial. R. T. Paine Mss. (Mass. Hist. Soc.), LII.

¹⁴ Sedgwick to Governor Bowdoin, October 5, 1786. Massachusetts Archives, CXC, 279-280.

them. It is most unlikely that Dr. Whiting wished to see the state constitution overthrown. He did see the necessity of certain changes and wished to bring them about by the use of overt pressure. Unquestionably he considered himself a defender of the agrarian interests, as is shown by his careful selection of the pseudonym Gracchus and his other references to Roman history. He was later to make the bitter comment: "it is my misfortune to Live in a Day when the lines of Patriotism and Rebellion, aproach so near Each other that my Ennemies have been Induced to make their utmost Exertions in order to confound the former With the Latter With Respect to me."¹⁵ As for the ideas expressed in the Gracchus article, he asserted that they were all based on Cato's Letters: "Writings which I have always been taught to consider as authodox political sentiments: and if it be now crimminal to avow such sentiments, it would have been almost cappital Ten years ago to have contradicted or denyed them."¹⁶

In the days following the stopping of the courts, Dr. Whiting continued to support the cause of the insurgents—sometimes too vociferously if the testimony at his trial can be believed. He did retreat, nevertheless, from the exposed position in which he had placed himself in his Gracchus article. In his writings he was now careful to assert that the people should not try to get redress of their grievances by force of arms, but should rely upon the constitutional method of instructing their representatives to the General Court to press for designated reforms. As a delegate from Great Barrington, he advocated this method of procedure at the Hampshire County Convention in November and at its adjourned meeting in January, 1787.

¹⁵ Whiting to Paine, March 19, 1787. R. T. Paine Mss.

¹⁶ *Ibid.* John Trenchard and Thomas Gordon wrote a series of letters under the pseudonym "Cato." The letters were printed in London in 1774. Various editions of this four-volume work were published prior to the American Revolution.

Dr. Whiting's revised views are clearly expressed in a most illuminating manuscript written by him in December, 1786, entitled "Some Remarks on the Conduct of the Inhabitants of the Commonwealth of Massachusetts in Interrupting the Siting of the Judicial Courts in Several Counties in that State. . . ." The substance of these remarks was probably delivered before the Convention in November and the manuscript written in December for publication. Only parts of the manuscript have appeared in print, and these some 62 years after they were written.¹⁷ This manuscript was given to the Massachusetts Historical Society last November.

To summarize the content: Dr. Whiting reviews the distressed condition of the people after the War, the financial policies of the government, and the unhappy workings of the judicial system. He attacks the motives of those opposing the insurgents, reprimands the latter for not looking after their own interests by electing proper representatives, and proposes the above-mentioned constitutional method of getting their grievances redressed. He concludes by offering eight recommendations for the reform of the judicial system. Among these recommendations are the temporary suspension of all judicial proceedings in the several courts except in criminal cases; the repeal of the Riot Act and certain parts of the Indemnifying Act; the abolition of the Courts of Common Pleas; the division of the State into four judicial districts with three judges assigned to each district; a tender law by which debtors could offer goods in satisfaction of executions; and the abolition of imprisonment for debt.

It is worth noting that at no time does Dr. Whiting state that the debtors' troubles were in any way due to the lack of the franchise. On the contrary, he says: "your own

¹⁷ Schroeder, *Memoir of . . . Mrs. Mary Anna Boardman*, pp. 54-60.

Inattention to public affairs for Several years past, has been the principle Door through Which those Evils in Government you now Complain of have Crept in upon you. . . ."¹⁸

By the end of January, 1787, the fortunes of the insurgents were at a low ebb. General Benjamin Lincoln's rout of Shays' forces at Petersham was a finishing blow, and shortly thereafter the rounding up of the people involved in the Rebellion began. Dr. Whiting's name was high on the list, and on February 12 he was arrested under a State warrant. In March he was removed from his judicial post and later in the month brought to trial before the Supreme Judicial Court meeting at Great Barrington. His Gracchus article and every other encouraging word uttered in behalf of the insurgents rose up to plague him. On April 4 he was convicted of writing a seditious libel and making seditious remarks; on the following day he was sentenced to seven months imprisonment and was ordered to pay a fine of £100 and to find sureties for keeping the peace for five years.¹⁹

Before a week had passed, a petition was on its way to Governor Bowdoin asking him to pardon Dr. Whiting or at least remit his prison sentence. The signers, all of them certified to be friends of government, represented his unhappy situation as being "the result of adventitious and partial inadvertencies in his demeanour." They stressed his previous good record and his many important services to the government. They also mentioned his poor health and expressed the belief that he could not survive seven months in prison.²⁰ It is significant that Theodore Sedgwick's name does not appear on the petition with those of

¹⁸ Whiting's "Some Remarks."

¹⁹ Supreme Judicial Court files (Suffolk County Court), 160304.

²⁰ Petition of Elijah Dwight and others to the Governor and Council, April 9, 1787. Massachusetts Archives, CLXXXIX, 371-373 B.

other prominent Berkshire County men. Dr. Whiting himself petitioned for a pardon on May 7.²¹ Although Governor Bowdoin and the Council refused to grant him a general pardon, they did remit his prison sentence.²² On several occasions thereafter Dr. Whiting petitioned for a release from the heavy fine imposed on him but was never able to secure it. To the last he protested his innocence of the charges found against him and credited his misfortunes to the efforts of a number of designing enemies.

Until his death in 1792, Dr. Whiting continued to champion the cause of the common man. To him the intentions of the rich and powerful remained suspect. He opposed the adoption of the Federal Constitution and was a perennial, though usually unsuccessful, candidate of the popular party for political office. While he performed many useful services for Massachusetts, his was a minor role. He will be best remembered as the judge who favored the cause of the insurgents and who wrote with unrestrained feeling about their difficulties during a troubled period.

SOME BRIEF REMARKS ON THE PRESENT STATE OF PUBLIC AFFAIRS.²³

The Designs of all Government is or ought to be the equal Protection, Prosperity, and Happiness of all its Subjects: and whenever it happens in any Republican Government or Commonwealth that some part of the Citizens have it in their Power by Compulsion to enrich themselves by the same means that impoverishes and depresses some other Orders of People; that Government is either defective in its original Constitution, or else the Laws are unjustly and unequally administered. And if such baneful injustice and inequality be not seasonably removed that republican government will inevitably change its form; and no cause whatever will more certainly produce its natural effects, than that such a

²¹ Whiting to the Governor and Council. *Ibid.*, pp. 374-376.

²² *Ibid.*, p. 369.

²³ From a contemporary copy in the R. T. Paine Mss.

cause will run the people into that most odious and detestable kind of slavery call'd Aristocracy. That is, a set of overgrown Plunderers tyrannizing over the rest of the people, whom they have impoverish'd rendered incapable of resistance. And this kind of slavery is as much worse than absolute Monarchy as having a hundred Masters is more to be detested than the being under the controul of one only. And whenever any such baneful injustice and inequality occurs in any republican government it is the indispensable duty of the people to exert themselves, and persevere in their exertions until they get them effectually removed. And whilst the people are making their laudable exertions in the most peaceable and orderly manner that will consist with effecting their important purpose, whoever brands them with the odious names of Mobbers, Rioters, and Disturbers of the peace of Government ought to be considered as being of the number of those who wish to enrich themselves by the plunder of their fellow-citizens; or their contemptible tools vasals and dependants, and as such they ought to be treated. But such people ought to know it is the indispensable duty of the People at large in all free republican governments to watch and guard their Liberties, and to crush the very first appearance of incroachments upon it; and they ought further to know that the common people in all countries and in all ages have been so far from having a disposition to make innovations in and disturb government that on the other hand they have been universally too remiss in watching and guarding their Liberties. And there has not been wanting in almost every Nation of People under Heaven a number of crafty designing ambitious Men who by taking the advantage of the tameness and credulity of the people, and by watching the most favourable opportunities have reduced the bulk of Mankind to a state of the most abject slavery. Therefore whenever any incroachments are making either upon the liberties or properties of the people, if redress cannot be had without, it is Virtue in them to disturb the government. For I dare pronounce without the spirit of prophecy that if the people at large do not pay greater attention to the preserving their Liberties than they have done for several years past, particularly with respect to the Persons they chuse into the Legislature their liberties will be of but a very short duration. I am sensible that there are several matters which the people at this time complain of as grievances which do in fact arise out of the exigency of the present times, and altho' they cannot at present [be] wholly removed yet they may be in some measure palliated. I shall omit any particular observation on these at present, and shall

proceed to some of those real grievances which appear to me to threaten the subversion of our free republican form of government, and to introduce that most detestable state of Aristocracy abovemention'd—among these I think, none can be more alarming than the present mode which has been adopted of paying the interest and principal of our domestic debt. This debt consists of those public securities which has been given to the officers [*sic*] and soldiers in the army, and to such others as furnish'd supplies for the army, assisted in transporting, *etc. etc.* Now, whenever these securities are to be found in the hand of their first proprietors they ought to be paid up in full, both principal and interest, as *they* received them in lieu of specie—but the fact is that these securities have almost universally got into the hands of other people who have purchased some of them at perhaps the rate of five or six shillings on the pound—but I believe much the greater part at two shillings and six pence or three shillings on the pound—And I presume to say that much the greater part of these securities are now in the hands of people who either from principles of toryism or avarice have either wholly oppos'd the exertions which have been made against the claims of Great Britain, or have afforded no more of their assistance than what was extorted from them. And in the name of common Justice I would ask, what can be more unreasonable than that the people under their present distress'd circumstances should be obliged to pay the principal and interest of twenty shillings for ever[y] two shillings and six pence those people have advanced for those securities? Furthermore, how shocking to humanity must be the idea that the poor soldier who has for many years through dangers hardship hunger and nakedness wrought out the salvation of his country must now be compelled to pay his proportion of the interest and principal of twenty shillings for every two shillings and six pence he has received as wages for his arduous and important services. It would certainly have been much better for him to have received no wages at all. Besides, what more ready method can be devised to enrich and aggrandize a number of individuals at the expence of the community at large and thereby put it in their power to introduce that odious state of Aristocracy, to the utter subversion of our present republican constitution, than by permitting them to draw from the people near fifty p. Cent interest or to compel them to pay twenty shillings for every two shillings and six pence they have advanced to the use of the public. It is therefore the plain and obvious duty of the Commonwealth either to trace out either the original proprietors of those securities and pay them up in

full, or reduce them all as near as possible to the sums for which they have been purchased.

Another grievance complain'd of by the people at large is the fees and allowances made to the Officers of the respective Courts of Justice, where suits only or principally brought against dishonest refractory debtors, as the law seems to suppose by making it necessary for the plaintiff to declare in his Writ that the defendant unjustly neglects and refuses to pay him—in that case the present allowances would not be too high as they might then be considered as a kind of pecuniary punishment for such dishonesty. But under our present circumstances being almost wholly destitute of a circulating medium pressed down with heavy taxes and almost universally indebted to each other, it is a fact that the fees and allowances which are taxed upon the poor Debtors in Judgments recorded against them for Debts they never denied nor refused paying whenever they should have it in their power does operate as a most grievous oppression upon the people of the poor sort. The fees which are taxed against the poor Debtor for the Plaintiffs declaration for every Common Court Writ is, in my opinion five times more than it ought to be—that is, the allowance ought to be but one shilling whereas it is now six. And I dare say that upon a computation it will be found that the people of this County of Berkshire have in the course of five years paid to the attorneys the sum of five thousand dollars, only for inserting declarations in Common Court Writs; besides the Clerks fees for the Blanks and signing. And whoever considers this single instance will be convinced that the good people of this County are not wont to rise into Mobs and Tumults upon small oppressions. It ought also to be insisted upon that the fees for entering Actions which is now 8/8 be reduced to 4/4—the fees to Jurors and Witnesses which is now 3/p each Action for Jurors, and 3/p Day for attendance to witnesses ought to be reduced one half; for it is certainly much less injurious and much more humane the Court Jurors and Witnesses should take up with a small reward than that poor Debtors, whose poverty and not dishonesty subjects to lawsuits should be oppressed with a heavy bill of Cost and perhaps ruined thereby. As to allowance to Plaintiffs or their Attorneys for travel attendance etc. it is my candid opinion that during the present distressing times no fees whatever ought to be taxed in a Bill of Cost against the Debtor on their Account. And according to these Regulations a Bill of Cost upon Default will stand thus—supposing the defendant to live within four miles of the Court—

| | | |
|-------------------------------------|-------------------|----------|
| | Writ | £ 0. 1.4 |
| The fees of single Justice ought to | Sheriffs Fees— | 2.— |
| be reduced in the same proportion— | Entering Fees | 4.4 |
| | Entering Judgment | 1 |
| | | <hr/> |
| | | £0. 8.8 |

To be continued.—

Gracchus

Copy

[WILLIAM WHITING TO THEODORE SEDGWICK]²⁴

Great Barrington Sept 13. 1786.

Altho the Manner in Which I was accosted by you the last Evening was so Impertinent and Imperious as to Deserve rather Contempt then an answer yet I am Willing the World Should know that I have Wrote a paper Entitled Some brief Remarks on the present State of Public affairs and signed Gracchus: and altho that paper was Wrote in haste and wants correcting and amending, which I shall Do at my Leasure With considerable additions, yet the Sentiments therein Contained are my Avowed Sentiments, and be it further known that the occasion of Writing it, and that in haste, was this (viz) Having Expressed Sentiments of that kind before persons who were in Confidence with the Leaders of those people who were for stoping the Courts I was Informed by them that in case it should be known to the people that those were the Sentiments of Some of the Court, it would Sooth and Quiet their uneasiness to that Degree that they would Engage that the Court would be permitted to set in peace. With this View and with Very Little time to Reflect I wrote the said paper and Suffered it to be copied, and I still believe it would have had the Effect proposed had it not been for the Violent Measures adopted by Government. As to the Interest my Reputation has in the affair I care not how my Reputation stands With those people who are in opposition to the Sentiments contained in that paper. And since you seeme to think my Reputation Deeply Interested in the affair I will observe by way of Caution that it will be prudent in you to take care how you Treat those kind of Sentiments or my Reputation on that account. I have the honor to be Sir

Yours &c
Wm. Whiting

Honble Theodore Sedgwick Esqr.

²⁴ From the original in the R. T. Paine Mss.

[THEODORE SEDGWICK TO WILLIAM WHITING]²⁵

Stockbridge Sept 14th 1786.

I hope Sir an answer to your Letter will not be thought either impertinent or imperious—and I am confident that no attempt of yours will excite the feeling of contempt towards its author. As I will never undertake to justify an action which cool and dispassionate reflection dictates to have been improper, even to you I declare, that considering the company before whom I requested of you to be inform'd whether you was the author of a seditious libel which had been reported to have been written by you, I did not pay that delicate attention to the manner, which longer and more attentive deliberation would have produced. But at the same time that candour, by which I hope ever to regulate my conduct, induces the above declaration, be pleased to know that I am not conscious that the terms in which my request was made, nor in the motive which actuated my conduct on that occasion, which was a regard to the honor of that government which has raised you to a station of eminence, to which you owed and have in fact sworn allegiance, I acted in the smallest degree unbecoming the character of a gentleman and a man of honor.

As you have been pleased to warn me of the danger of treating with disrespect your reputation or sentiments, I take the liberty to inform you that you ought long since to have known that such threats would be lost on me; and that I should reject with scorn and contempt that security or existence which depended on the precarious tenure of your pleasure, or that of any other man who, regardless of the first of duties, that which he owes to the happiness and prosperity of his country would condescend meanly to sacrifice it to a momentary popularity arising from the frenzy of the times, and acquired by meanly courting the vices or passions and prejudices of a miserably misguided and misinform'd people.

Believe me Doctr. Whiting (for I have known you long and intimately and under almost every form and character which human nature is capable of assuming) that in the business you have now undertaken you greatly mistake your talents, for you are much better qualified to recommend yourself to the approbation of men of abilities and education than to those of an opposite character.

Whatever opinion I may hold with regard to the sentiments express'd in your manuscript, they are infinitely less reprehensible than the

²⁵ From a contemporary copy in the Massachusetts Archives, CLXXXIX, 174-177.

manner and circumstances under which they were disseminated. A man must put a very strong reliance on the gross conceptions and limited understandings of those "good people" to whom your address was presented to suppose it would have a tendency to sooth and quiet the turbulence of their already heated passions. The man who assumes the character of a reformer should be marked by unequivocal purity of morals, and removed beyond the reach of even a suspicion of duplicity of conduct or misrepresentation of facts. Could you imagine it would tend to "sooth and quiet" those "good people" expressly to justify their insurrection? To arraign the character of men at present in legislation, that thence you might stand a chance to succeed them? Did it tend to this object to suggest designs, which you know did not exist, in the representatives of the people to subvert our republican government, and to substitute an aristocracy in lieu thereof? You know the circumstances character and property of the men who compose our legislature; and thence must know, that such views cannot possibly exist. And you further know, that such measures as are at present pursuing have invariably and without a single exception tended to the destruction of the liberties of the people, and to introduce some one of the many species of tyranny which have destroyed the liberties and happiness of mankind. Was it to sooth and quiet the people that you endeavoured to insinuate to them that the poor and honest debtor, who did not deny but was willing to pay his debt, was charged in a bill of cost with the expense of Jurors and Witnesses? Was this your object in arraigning the principles of the late tax in direct opposition and contradiction to what you said to me on sunday evening? Was you actuated by those pure and honest motives when you insinuated that that tax had appreciated the securities? which you must know is not the case. Do you not know, that since the tax was granted those securities have in fact depreciated, and that they may now be purchased at an easier rate than at any antecedent period? There are but four methods which government can assume with regard to a debt which it is under every obligation of honor, conscience and gratitude to discharge. 1st. To declare herself bankrupt, and not to attempt a discharge of her obligations. Whatever number are in favour of such infamous conduct, none has yet been found wicked enough to propose the measure. 2dly. A governmental act reducing the securities to their going value. This it is true would annihilate the debt; but it is equally true that it would damn our national character to eternal and deserved infamy. Arguments

unanswerable and conclusive you know are not wanting to demonstrate the truth of this assertion; but I forbear to recapitulate them, because they must be obvious to your discernment, and because when on Sunday evening I made use of them you gave your explicit assent. 3. A third method is a redemption of those securities by actual payment in specie; this mode under our present circumstances, I am sensible would be impolitic, perhaps it might be considered as oppressive. 4. The only remaining method is, that which has been adopted by government, taxing those securities in kind, which method has not in the nature of things, a tendency either to depreciate or appreciate those securities. They have in fact of late depreciated, and still continue to depreciate; and this you must have [known] at the time, when judging only from your address a person would have supposed nothing less than that the tax had effected an appreciation of them to their nominal value; And could your design in this too be to "sooth and quiet the good people"? Let me ask you further whether the motives you mention could produce a declaration that the persons principally concern'd in purchasing in the funds, "were those who either from principles of toryism or avarice have wholly opposed the exertions which have been made against the claims of Great Britain, or have afforded no more of their assistance than what was extorted from them"? It is well known to every person the least conversant in public affairs that this assertion is void of the least foundation in truth.

Would it not be as extraordinary and singular, as absurd and ridiculous, to attempt to reconcile a people to a government against which they had actually formed an insurrection, by representing that insurrection as just and necessary? by artfully insinuating jealousies and urging a watchful attention to preserve their liberties conspired against by the servants of the public? Yet these are the principles you avow, and this is the object (if your declaration is to be credited) proposed to be acquired thereby. You say you expressed the sentiments contained in your manuscript before persons who were in confidence with the leaders of the people. Is it possible that the extreme indelicacy of confidential communications with the man who was your intimate and bosom friend and counsellor on this occasion was not obvious to your feelings? This you ought to have known not by a process of argument, but by the impulse of ingenuous sentiments. Again, you seem to hint at some excuse from the haste with which you wrote: Permit me to tell you that your neighbours inform me that your consultations with these con-

fidential leaders of the people preceded ten days the sitting of the Court. Whenever a man deviates from the direct line of rectitude it is impossible to foresee the consequences into which he may be plunged. To verify this observation permit the mention of some facts; you was present at the opening and adjourning of the court, you expressly approved of that measure; you did more, you spoke in favour of it, and actually aided in recollecting the form of expression in which that business is transacted. All this is known, and, believe me, remembered by the Sheriff, Clerk, and all the Justices who were then present. Yet within less than ten minutes afterwards you denied the whole. This is known to many gentlemen of character, and particularly to Judge Woodbridge and the Hon'ble Mr. Skinner, who have affirm'd the fact in my hearing. Are these the arts by which you expect to acquire such an interest in the affections of a people as to enable you to execute your threats on a man, whom it is no vanity in me to declare you know to be a firm friend to the rights of those very people whom you wish to make the instruments of your revenge, whose liberties it has been his constant and ardent desire to establish and perpetuate, and which if secured against the effects of their own infatuation might afford a reasonable and pleasing prospect of long duration?— I do not doubt you have chosen your side, and I as little doubt your adherence to it so long as it has an appearance of support from the majority of a people, now urged on by address to pursue measures, which in my conscience I believe, if persisted in, will terminate in irretrievable ruin. But before you chose this part, if you had no regard to the happiness of the people, it will become you to reflect on your own conduct, and the comment of the laws of your country thereon. I should not have given myself the pain to write nor you the trouble to read this letter had I not conceived it became me to shew that I still live in my conduct conscious of rectitude, and independent of any influence from your threats: you have therefore my leave to publish the contents, provided the whole is fairly published.

Signed,

Theodore Sedgwick

The Hon W. Whiting Esq.

(Copy)

SOME REMARKS ON THE CONDUCT OF THE INHABITANTS OF THE COMMONWEALTH OF MASSACHUSETTS IN INTERRUPTING THE SITING OF THE JUDICIAL COURTS IN SEVERAL COUNTIES IN THAT STATE: TO WHICH IS ADDED AN APPENDIX EXTRACTED FROM THE ANTIENT ROMAS HISTORY.²⁶

In vain thy Reason finer Webs would Dray,
Entangle Justice in her Net of Law.
And Right too Rigid harden into Rong.
Still for the Strong too Weak, the weak too Strong.

Mr. Pope

At a time Like this When on the one hand the tide of Political operations has for Several years been Rapidly Runing in a Channel, that should it Continue the same Course for as many years Longer, it is greatly to be feared it Would Reduce the Midling and Lower Orders of the people (That most useful and Laborous Part of the Community, on Whom the other orders Chiefly Depend for their Support) to a State of Poverty Depression and Slavery, and out of their Ruins, build up and Inrich Some other orders, of much Less Importance to the Community and thereby Introduce and Establish an hateful arristocracy: And on the other hand that Desperate Remmedy has been applied of Suspending the Judicial operations of Government in a number of Counties in the State; it behoves Every Good Citizen to Exert his utmost Abilities in Endeavors to Rescue and Secure the People from that Ruin Which Seems to threaten them, and to Restore a Due operation of Law and Justice Without Which Neither our Persons nor properties can Long Remain in Safety— Therefore, being Deeply Impressed with a sence of the Critical Situation the Inhabitants of this State are now in, and being anxiously Solicitous to have their present Disputes brought to an amicable and peaceful Termination, I Will Endeavor to point out the principle Causes of our present political Disorders, and Will afterwards attempt to prescribe a Remmedy.

As I have never had the Lest hand in Instigating the people to those Violent Mesures they have adopted for the Redress of Grievances (Whatever Callumny and Falswhood have Suggested to the Contrary) So I Do not undertake to Justify those proceedings, But I will Venture to say that the future Liberty peace and Safety of the Inhabitants of this

²⁶ From the original in the William Whiting Mss. (Mass. Hist. Soc.). William Whiting's spelling and punctuation have been carefully followed in transcribing his writings, but some changes have been made in his capitalization. He began every line with a capital letter and there seems to be little point in trying to follow him in such peculiarities.

Commonwealth is in much less Danger from the present Insurrections of the people than they are from Those Violent measures which are urged on by a set of Interested ambitious and Designing men, of Surpressing those Insurrections by force of arms and thereby Delluging the Commonwealth in blood and Carnage.

It is generally allowed, Even by those who are for using the most Rigorous methods to Surpress the present Insurrections, that there are Real Grievances Subsisting among the people, Which ought to be Redressed: but, say they, the mode Which they have adopted in order to procure that Redress, is Treasonable and ought to be punished.

For my part I most heartily Wish that the People had Awaked much Earlier from their political Slumbers, and instead of those Violent measures, they had adopted that more peaceable mode which seems now to be persuing (viz) of Unaformly Instructing their Representatives Touching those Grievances they Labour under—

But it ought to be Considered that the Lower orders of the People, who Sustain the principle Weight of those Grievances, are Very Ignorant of the proper modes of Getting them Redressed, and as to those who are the best Quallified to Direct the people in this Respect, it will be generally found that they have an Interest in haveing those Grievances Continued Rather than Removed and the poorer Sort of People have therefore patiently Submitted to their burthens untill they found them Insuportable; and at the same time observing that a principle part of them arose from the heavy bills of Cost which were Constantly Taxed against them by the Several Courts of Justice, together with the Rapacity of Lawyers and the brutality of Some Collecting officers; at a time When it was Impossible for them to procure money Sufficient to Satisfy those Demands; and at the same time haveing no prospect of Redress, and Seeing nothing but Ruin and Distruction before them: From these motives they were precipetated to put a Violent Stop to the Seting of the Courts, They considering them as the Immediate Source of their greatest Burthens, But if any Regard is to be paid to that antient Maxim (viz) Necessity knows no Law, The people for these Violences Deserve to be beaten with but few Stripes.

Great pains has been Taken (by those orders of men Who find their Lucrative and ambitious pursuits Impeded by the stoping of the Courts) In order to Stigmatize and Blacken the Charracters of all Such as have Countenanced that measure: not only with a View to Render them odious and Contemptable in the Eyes of the other States, but that

they might Rouze the Indignation of the Legislature and Supreme Majestrates of this State and Induce them to Crush the Insurgents with fire and Sword, halters and Gibbets: for haveing already sucked away from the poor people, all their political mass of Blood (viz) their money, one would think they were thursted for the purple Gore Which runs in their Veins; But I am fully of the opinion that Should our Supreme Majestrates, Together with the Leading members of the Legislature, Travel through the Remote parts of the Counties of Worcester Hamshire And Berkshire, and on the one hand See with their own Eyes the Extreme poverty and Distress Great numbers of the poorer Sort of people are Reduced to, and on the other hand observe to What a pitch of affluence and oppulence a Certain Set of men have arisen in the Course of a few Years, and that principally Drawn from the Very Vitals of the poor people; They would Immediately Exert their utmost power In Relieving the Distresses of the poor people by a thorough Reformation in our Judicial administration, as well as in Removeing several other matters of Grievance; for whatever is said by Interested and Designing men, of the Lawless and Seditious Disposision of the people, and that they only wish to avoid Paying their Just Debts, and to Commit Crimes With Impunity yet I Dare pledge myself for the Bulk of the Inhabitants of the said three Counties, that whenever the Grounds of their Complaints are Removed, as far as they may be Consistant with Reason prudence and Good Government, they will Return to their Duty as peaceable and Loyal Subjects of a free Republikin Commonwealth.

It has Been Slanderosly Represented by a Set of Designing men, that the People who have been concerned in stoping the Seting of the Courts Consists only of a Profligate Licentious Banditi, Who wish to Destroy all Law and Government, that they may Live as they List and Do only that Which is Right in their own Eyes; and this is Done, not only (as has been observed) to Rouze the Indignation of the Supreme Powers of this State against them, but also to Render them odious and Contemptible to the people of the Neighboring States So as to Induce them to Lend their assistance in Crushing the Insurgents; but were we to See the two Parties (viz) those Who are for Supporting Courts of Law under the present Situation of our Public affairs, and those who are for haveing them Suspended untill a thorough Redress of Grievances can be obtained; Drawn out into Two Seperate Corps in Battle aray (Which God Grant may never happen) We Should See, on the one hand, and in the first Ranks all the poor and most Laborious part of

the people, Who having began the World With Little or nothing, were Necessitated to Contract Debts; and have now for Several years been almost Constantly Harrassed by Sherriffs With Small Executions and Large Bills of Cost, amounting annually to perhaps Double the Sum of their Taxes, and they have Constantly found that With their utmost Industry, after paying Court fees, Lawyers fees and Sherriffs fees, and a Small matter to their Creditors for another year forbearance, Who found they could Get no more of a Cat then her Skin, and but a Small Share of that Neither. The Small Pittance which Remained for the Support of themselves and families was but barely Sufficient to keep Soul and Body together, and their future prospects were an assurance that the same Tragedy would be acted over again the next year.

In aid and Support of these we Should See a much Larger Number Consisting of almost all the Midling, and a Great Number of the first Rate farmers, together with a Large Body of Reputable Mechanicks, all of them men heartily Desirous of maintaining peace order and Good Government: men Who have never, as yet, been harrassed With Executions themselves nor Stand in the Least feer of Crimmlinal prosecutions but were Induced to act the part they are now Engaged in from What they at least Concieved to be motives of humanity and benevolence: for they have Constantly Seen, for Several years, their poor Neighbours Striped of Whatever Little property they were possessed, and that principally Disposed of to pay Costs whilst their Debts Still Remained unpaid! They have seen the Rapacity of attorneys and the brutality of Some Collectors: They have Seen Boys Issue forth from the Writing Shops of attorneys With only their Cloaths to their Backs, and With no more Law knowledge then Just to Enable them to Draw a Common Writ, to form a Commonplea, and to make a few Simple motions in Court, Acquire larger Fortunes in the Space of five years then they and their Predecessors, With their utmost Industry frugality and œconomy, have been able to acquire in five Successive Generations. From all this they have been Induced to Believe that there must be Some material Defect in the mode of our Judicial administration, and that it is much Better that the Courts of Law Should be Suspended untill those Defects Shall be Remedied then that the poorer Sort of the people Should be utterly Ruined.

As to the unprincipled the Licentious, the Lawless the Profligate and the abandoned, they Will probably be Engaged on the other Side, at So much per Day in order to assist in the Support of Government.

If we now Turn ourselves and take a View of the other corps, We Shall find them (besides the Last mentioned) composed principally of Lawyers Sherriffs Commutationers Impost and Excise Collectors and their Respective Cretures Servants and Dependents. Brokers Jobbers Jockeys Little Shopkeepers huxters and pettifogers, Bums Duns Catchpoles and goalers, Together With a Group of time servers who hope to obtain for themselves Commissions of profit and Honor as a Reward for their Great Loialty: all men Who Either Infact Do, orelse Wish to Live by the Labour of others. And now, Should this Last mentioned Corps, In their Great Zeal for Legal protection, attempt to Destroy the other party; I Leave it to the people at Large to say, Which of the two they can Concientiously Bid God Speed.

It appears Very Evident that a principal Source from Whence the present Distresses of the people arises, [is] in Consequence of their being So Gennerally Indebted, together With the Great Scarcity of money, and the Very Expensive mode of Collecting of Debts and Carrying on of Lawsuits in this Commonwealth.

It is Doubtless a morral Evil for a man to Neglect or Refuse to pay a Just Debt When it is in his Power to do it, and in that Case the Laws ought to Compell him to it; But it ought to be Considered that the people are now Just at the Conclusion of a Distressing and Expensive War; at the begining of Which numbers of the Inhabitants of the Counties of Worcester, Hamshire and Berkshire had Lately settled on New and uncultivated farm, by means whereof they had been Necessitated to Contract Debts, Which very well accounts for the Inhabitants of those three Counties being more gennerally opposed to the Seting of Courts of Law at this time then what they are in the more Eastern Counties, whose Circumstances in that Respect are Different tho they have not more Loialty. Great numbers of the Inhabitants have Served in the army Dureing the whole course of the War, for Little or no Wages, and those that Stayed at home Were oblided, through the whole Course of the War, to advance all the money and produce they could Possibly Spare, to Support it, So that at Its Conclusion the people were Necessarily more indebted then at its Commencement: and now Courts of Law and Merchant Stores being again opened and heavy Taxes Continued; almost Every farthing of money Has long Since been Drawn from among the poorer sort of people, and Great numbers of them have been constantly Striped of Whatever Little Stocks they possessed, and those often Sold at public auxion for a meer Trifle, and they Left Destitute

of the means of Cultivating their Little hard farms, and of Milk to Nourish their Little ones; and in addition to all this they have had to Reflect that this is Principally gone to pay Costs, and that their Debts and Taxes still Remain unpaid.

As I have already observed, Just Debts ought to be paid when it is in the power of the Debtor to Do it, and it will not be a much Greater Injury to him then it would be to the Creditor to have the payment postponed; and it appears to me much more Elligible that the Collecting of Debts Should be Suspended for a time then that the Lower orders of the people Should be Reduced to absolute poverty and Slavery and thereby sap the foundation of our Republikin Government and put it into the power of ambitious men to Introduce an hateful and Detestable arristocracy.

It appears to me, that whoever has observed With what a Rapid progress a Certain order of men among us (Who have Engrossed to themselves the Whole business of Collecting the Debts of others) have acquired Property and Influence for Six or Seven years past, must be Convinced that Should they Continue the Same Career of Success, for as many years to come and Impoverish and Depress the Lower orders of the people in the Same proportion, They, together with their adherenence Dupes Vassels and Dependents will be able to Govern the State as they please, and to Establish an aristocracy or any other form of Despotism they Shall think fit: Nay one would be apt to think from their present Conduct that they Immagin the Lower orders of the people Already brought to so low an Ebb that it is in their power utterly to Crush them; Why Else, When they know the Distressed Situation they are Reduced to, Do they, Without any proposals (as I know of) for Relieving their Distresses, or Redressing their Grievances, Cry out So Vehemently for fire and Sword, Gibbets and halters, to Crush Insurrection and punnish Rebellion. Why Do they, on the one hand, fill the public papers with Lampoon, Satire and Ridicule pointed at all those Who are opposing them in their ambitious and Lucrative persuits, Branding them With all the opprobrious and odious Epithets their fruitful Immaginations can Suggest; and Why Do they on the other hand Deter the printers from publishing any Defence of the Conduct of those they Call Insurgents, but that they might by all this Raise the Indignation of the people in the other States to that Degree as to Induce them to assist in utterly Crushing and Destroying all those that oppose them in this State and thereby Enable them to Introduce and Establish their favorite aristocracy.

But above all, Why Do they ascribe to a minor part of the Inhabitants of this Commonwealth, The applation of The Government Whereas the Commonwealth has Solemnly Declared in the fifth article of their bill of Rights that all Power is originally Vested in the people and is Derived from them; and that all majestrates and officers, of whatever Denomination are no other then their Substitutes and agents, and are at all times accountable to them.

As an Instance of their present attempts to Strip the people at Large of their Share in the Government, and to Invest a Select Number with all the powers thereof, and thereby Establish an aristocracy I Shall Take the Liberty to Remark on Some passages in a Notable Speach Delivered by the Honble Rufus King Esquire Barrister at Law and member of Congress, before our Honble House of Representatives; a Speech Delivered with That Degree of warmth (At least the passages now Referred to) that the Gentleman himself thought it needed some apollogy. The Honble Gentleman, after Deploeing the Evil State our Government is in attempts to comfort the House, by Telling them that there Was a League subsisting between the States of America to oppose Every force that Should arise against Either of them and that the United States Would not be Inactive on Such an occation.

Here the Gentlemen must Refer to the Third article in the Confederation of the United States, Which Stands thus (viz) The Said States hereby Severally Enter into a firm League of friendship With Each other for their Common Defence. The Security of their Liberties and their mutual and Genneral Willfare, Binding themselves to assist Each other against all force offered to, or attacks made upon them or Either of them on account of Religion, Sovereignty Trade or any other pretence Whatever.

Here the Honble Gentleman Really Displays the True Spirit and genius of a Modern Lawyer, the Escence of Whose profession is to Warp and Twist the meaning of all those Laws Statutes and ordinances they have occation to Recur to, So as to make them Exactly Coincide With their present purposes, However opposite that may be to the True Intent and meaning of the Legislator: Whether or not the Gentleman has Treated the said article in the Confederation after this Sort, I Leave the people to Judge.

And I Will now appeal to Every Judicious Disinterested American Whether, at the time they Rattified the articles of Confederation, they had any Idea of Investing the United States in Congress With any

other Power (by the Said article) then that they Should protect and Defend Each and Every Single State against all Invasions from forreign Powers, and from all attacks Which may be made upon any one of them by any other State, and Will that Gentleman, upon more mature Deliberation, persist in Saying that The United States in Congress are Invested With power that whenever any Disputes shall arise among the Inhabitants of any one of the States about Supposed Grievances; or any struggles Shall Take place on account of the form of their Constitution or mode of Administration, That Congress then Have a right to Interpose With an armed force Consisting of a Majority of all the other States, in order to Crush and Destroy one party, as Trators and Rebels, tho they Consist of a Great Majority; and build up and Establish the other party, whom they best Like, tho they are but a minority, yet they had assumed To themselves the appellation of the Government: and thus Establish in any and Every one of the United States Whatever mode of Government they please; for all this is Fully Implied in the Gentlemans asertion.

But I am Sorry the Gentleman Should be Induced from the Great heat he was in, To Misrepresent the League He apparently Refers to. His words are, there is a League Subsisting between the States of America to oppose any force that Shall arise up against Either of them: whereas the words in the League are, all force offered to, or attacks made upon Either of them, and here, by using the Words Rise up, Instead of the Words in the League, which are, force offered to, or attacks made upon, the Gentleman Seems artfully to Design to Twist the League so as to draw in the force of the United States in order to Crush those who have arisen up in order to obtain a Redress of What they suppose to be Grievances in this State. The Gentleman Some time after undertakes to point out a method to cure the Evil With Which Government was Infected (viz) Let numbers be Computed, if Government had only a minority yet Let it be Remembered that they had a Majority of Every other State in the union To Join them.

This proposition and Declaration uttered by a young member of Congress, Contains something in it so Glaringly Insulting to a free Republikin Commonwealth that I can Scarcely Read it without feeling a Degree of the Same kind of warmth Which the Gentleman Confesses he felt when he uttered it. I know that in the Slavish States of Europe where the People are Compelled to bow Down to that Doubleheaded monster of Ecclesiastical and Civil Tyranny: Their haughty Clergy have

arrogated to themselves the appellation of the Church; and their Tyrants and their favorite Minions, that of the Government. But for my part I always supposed that in a free Republick Commonwealth like this, The Government Resided in the hands of the people, and that the Majestrates and officers to whom they from time to time Dellegated the Exercise of those powers, Were no other then Their Cretures and Servants and were at all times accountable to them; I would therefore Wish to know what the Gentleman means by Governments having only a minority. When the Americans Took up Arms against Great Brittain, it was With a Design Either to obtain from them the free Exercise of those Liberties and privileges Which they had a natural Right to Enjoy; or Else to Renounce all Subjection to and Dependence upon them forever, and Establish themselves into a number of free and Independent Republicks: and after the Collonies had Declared themselves Independent of Great Brittain and had Determined to Enter Into a Close allience With Each other; they did in the Very first article of their Confederation, after Stiling themselves the United States of America, Solemnly Declare Each Single State to be free Sovereing and Independent. And in the Seventh article of the Bill of Rights of this State it is Solemnly Declared that the people alone have an Incontestable unaleanable and Indefeasible Right to Institute Government, or to Reform alter, or totally Change the Same when their protection, Safety prosperity and happiness Require it. But if what this Honorable Gentleman asserts be true (viz) that when Ever any Contests Shall arise Among the Inhabitants of any one State, Respecting their form of Government, or mode of administration, Congress have a Right to Interpose With an armed force, and to Settle those Disputes as they please, Even in favor of a minority, then those Solemn Declarations are false and Nugative; and the boasted Liberties of the Inhabitants of Every State are totally Insecure, and the People are Liable Every hour to have [them?] Ravished from them: for Disputes and Struggles, in Some Degree or other, There Ever was and Ever Will be in all free Governments; Tho I hope they will not often Rise So high as they have here at present, and I Doubt not But they would Soon Subside here, were it not for the Violent method, Which are adopted to Quell them.

Consider this O ye free born Americans Who have Risked your Lives and Spent your fortunes in freeing yourselves and your brethren from the Tyrannical Claims of Great Brittain; Take heed how you are Duped in to be the Wretched Instruments of Inslaving your brethren in

the other States; for Depend upon it that When once this Game is played in any one of the States, of Subjecting the Major part to the Minor, it will Soon Run through Every other State, and your Liberties, dear bought as they are, will be Gone forever; for Depend upon it that when once you have Lent your assistance in Subjugating the Inhabitants of any other State, they will be Very Ready to Reward you by Lending their assistance in Doing the Same Piece of kindness for you.

As the Honorable Gentleman has asserted (and that Directly Contrary to the Second article of the Confederation, which Solemnly Declares Each and Every State to be free Sovereign and Independent) That when any Little Squabbles Shall arise In any one of the States about their Government, Congress have a Right to Interpose With the force of the other States, and to Establish the administration in What hands they please, which is utterly Subversive of their freedom Sovereignty and Independence: And as he further asserts that the Government of this Commonwealth is Vested in the hands of a Certain Minor part of the people, and that in Direct opposition to the Seventh article of our bill of Rights Which Declares that Government is Instituted Solely for the Benefit of the people and not for the profit, honor or private Interest of any one man, family or Class of men: I would Enquire of the Gentleman Who those men are whom he is pleased to Dignify With the appellation of the GOVERNMENT, and I presume his answer Will be The Legislature, the Supreme Executive, and the Judicial officers of the State, and now Let us put the case; Suppose this Government of his Should Take it into their heads, to do as has Long Since been Done in the States of Holland (viz) Declare their offices perpetual, fill up all Vacancies by their own authorety, Send out no Writs for new Elections, nor admit any new members but of their own appointment, and thus Deprive the people at once of the Least Degree of any Share in Conducting the Affairs of Government: In Such a Case as this, Where are the people to have Recourse for Redress; Alas No where, the people are Left without Resourse the Honble Rufus King Esqr. has fixed their Doom, let Numbers be Computed, if Government have only a minority, yet Let it be Remembered that they have a majority of Every other State In the union to join them.

I Will now take my Leave of this Gentleman by observing that he must have Suffered the Great heat he was in to put him off his Guard, and make him forget his politicks. Congress have been Complaining for Several years (and it has been the opinion of a number of people; and I

Confess it to have been my opinion) that they were not Vested with a Sufficient Degree of power to Do all the Good to the union Which they might Do were their power Enlarged; but if they Do in fact possess the powers this Gentleman ascribes to them, I know not how the United States Can Invest them with more.

For I presume they may find in Every State a Number of men Who will Very Readily assume to themselves the appellation of the Government provided they Can be assured of having a majority of Every other State to Join and Support them in it; and in Return for that Support will Very Readily Comply with all the Requisitions of Congress.

It has not been my Intention In the Least Degree to Strain or misrepresent the Doctrines advanced by that honorable Gentleman and if I have Done it I am Willing to be Corrected: Neither Do I believe that their is any Design in our present Genneral Court to Depress the Lower orders of the people, and to Introduce an aristocracy. But I am fully persuaded from my own observations, That Should the Burthens Which for Several years have been Encreasing upon the poorer Sort of the people in Consequence of their heavy Taxes, the Great Scarcity of money, and the Very Expensive mode of Collecting of Debts in this State, be Continued which has already become Insupportable, and is Now pressing Down the midling orders of the people, Whilst at the Same time Some other orders are Rapidly Growing Rich by the Spoils of those: I say Should this Course Continue, it must Inevitably Reduc the midling and lower orders of the people to that Degree of Pover[t]y and Depression as utterly to Loose their Weight in the Scale of Government; and as Some others Will Grow Emensely Rich by their Poverty, The principles of Republikinism will be Totally Destroyed, and an aristocracy Succeed of Course. It is absolutely Necessary for a Republikin Government, As much as possible to preserve an Equality of Property among the people, Without Destroying the motives to Industry frugality and Economy, for it may be Laid Down as a maxim that people will always acquire power and Influence in proportion to the property they possess. The antient Republicks of Greece, the most Famed for Wisdom Virtue Liberty and happiness, (of any people we Read of in history) Were So Sensible of this that they Inacted a Law That When Ever any Citizen Should acquire Wealth above a Certain amount, therein mentioned, he Should be Immediately bannished the Commonwealth, however Virtuous and Patriotic he might appear to be: and by this, Together With their persevering Virtue and Integrity, they pre-

served their Liberties for a Long time, untill the all Conquering Romans over powered the known World and them With the Rest: and I Doubt not we Shall preserve our freedom for a great While yet to Come, notwithstanding the present Tumults and Disorders which Seemes to Strike So many News paper Writers with Terror and Indignation. There is a Very great annalogy between a Political Body and a Natural Body, and it ought to be Considered that we are now but in the Seventh year of our age as a Commonwealth; an age When Children are Very Subject to feverish fits, to Caprice Petulence and Wrangling With each other, but these Symptons Seldom Indanger the Life of the patient, or greatly Disturb the peace of the Family, They are Gennerally Cured by Light Medicinis and moderate Correction: They Very Seldom Require Blood Leting, and I hope our Political Phisicians Will be Very Cautious how they Shed the Blood of the Commonwealth in order to Remmedy their present feverish paroxism. Children of that age are particularly Subject to breed Vermin Which prey upon their Bowels, Defraud them of their Nourishment, and often produce fevers and Convulsions; and these require pretty Sharp medicinis to purge them off; but if taken in Season before they have Weakened the Body by Drawing away So much of its Nourishment as to Swell themselves into a Monstrous Bulk, they may be purged off Without much Danger to the Constitution of the patient.

I Will now address myself to that part of the Community Who Consider themselves agrived and are earnestly Strugling for Redress, and as I have Treated those Who are in opposition to you Gentlemen, in a manner which Doubtless they will Call Very free; you Will Permit me to Treat you With the Same Degree of freedom. An honest Phision Will always Deal Plainly and honestly With his Patients, and Will Neither flatter nor Deceive them.

I am fully persuaded Gentlemen, that the people who are Dissatisfied with the Late proceedings of Government and the mode of Judicial administration Consists of a Considerable majority of the Inhabitants of the State; and Whenever I speak of the Governments being Vested in the hands of the people and of their having a Right to Controal New moddle or alter the administration thereof, I would always be understood to mean a Major part of the Inhabitants of the Commonwealth, and it is the order of Nature that in all Volentary Societies united together by Social Compact, The major part Shall Controal the minor: You ought therefore to be Sensible that your own Inattention to public

affairs for Several years past, has been the principle Door through Which those Evils in Government you now Complain of have Crept in upon you; for had you Vigilently and Carefully from time to time, Exercised those Governmental powers Which the Constitution has placed in your hands; particularly in attending to the Charracters of those you Elected Into the Legislature and in Judiciously Instructing them how to Conduct when Assembled; You might probably have prevented any occasion for adopting the present Violent measures which are pursuing in this State for the Redress of Grievances, Which measures, you must be Sensible, tend Greatly to Weaken and Inervate the Commonwealth, and if Long Continued, will endanger it utter Distruction, and the best you Can Say of it is that of Two Great Evils you have Chose the Least, and you Can't but be Sensible that it gives your Ennemies an opportunity to Render you odious and Contemptable in the eyes of many of the people of the other States, who know not the Grounds of your Complaints; and the only plea of justification I can Conceive of, Which Will have any Weight with the Candid and Impartial part of the World is that the Burthens upon great numbers of the people were become So pressing that Without Immediate Relief they must be utterly Ruined; and that the tide of Political operations were Rapidly Runing in Such a Channel that had you Solicited Redress only in the usual Slow and Dilatory way, you were in the utmost Danger of Loosing your Liberties forever, and that you never wished to Interupt the Judicial operations in any Crimminal matters, or in Civil Causes where both parties Choose to have their Disputes Decided in that way; but these matters were So blended in our Courts, with those you considered as highly grievous that it was not in your power to Suspend the one Without Interupting the other, and that you Determin to Continue the present measures no longer then untill Such alterations Shall be made in the administration of Government as Shall Render the Same Tolerable: and that you Determin for the future to pay Such Constant attention to Watching and Guarding your Liberties and properties as to prevent the Necessity of any more adopting Such Violent measures, agreable to that antient maxim (viz) to prevent is better then to Cure.

But it is Said by those that Now Stile themselves the Government, that you have done Extremely Wrong in adopting those Violent measures you are now persuing; but as you Consist of a Major part of the Inhabitants of a Free Sovereing Independent Commonwealth, None

but God Almighty has a Right to Call you to an account for That Wrong. It is a maxim in Monarchial Governments that the King Can Do no Wrong; for the Same Reason and With much greater propriety, may it be Said, that the people of a free Republikin Government Can Do no Wrong.

That Some of your Substitutes and agents have Done Wrong might be Easily Demonstrated, and in that Case your bill of Rights, Expressly, makes them accountable to you, and as no particular mode is pointed out for Calling them to an account, you have a Right to adopt Such measures for that purpose as you Shall think best, for the fifth article in your bill of Rights Declares as follows (viz) All power Residing originally in the people and being Divided from them, The Several Majestrates and officers of Government Vested With authority, Whether Legislative Executive or Judicial are their Substitutes and Agents, and are at all times accountable to them.

And now Gentlemen, how boldly are your Substitutes and agents attempting to Reverse the operation of this Right, by Endeavoring to Treat you as Rebbels and Traytors for attempting to Exercise it, and by Soliciting the other States for their assistance in punnishing you as Such.

The only Question of Importance in this Case is Whether you do Infact Consist of a majority of the Inhabitants of the State or not; but it is upon this Very Supposition that you are a majority, that the Honble Mr. King goes when he proposes to Draw in the force of the other States to Crush you.

And now, Whether you or they are Counteracting the Constitution of this Commonwealth, and thereby Saping the foundation of Government Let the World Judge. I Will now (as was proposed) attempt to point out a Remmedy for our Political Disorders: and here I would observe that the method adopted by the Worcester County Convention of Endeavoring to Collect the Sentiments of the Whole State touching the Grievances Complained of, So that the people at large might act unaformly in persuing a mode of Redress, Deserves the highest Degree of approbation and if duly attended to by the Differrent parts of the State, Will Doubtless be of Great utility in bringing our present Troubles to a Speedy and happy Conclusion: but as the Worcester Convention propose to have all the other parts of the State Join with them in Petitioning the Genneral Court for the Redress of Grievances; I would observe that there is an absolute Improprity in the whole, or a major

part of the Inhabitants of a free Commonwealth addressing their Legislature by prayer and Petition, Who are Infact no other then their Substitutes and Servants; For as Every Town has a Right to Instruct Their Respective Representatives in what manner they please, and as it is the Indispensible Duty of such Representatives to Govern themselves according to Such Instructions; So as a Natural and Certain Consequence of this the Whole, or a major part of the Towns in the State have it in their power, by Instructing their Representatives, to Direct the Genneral Court in What manner they please, Not unconstitutional nor highly unreasonable; and when Ever Such Representatives Shall act Contrary to Such Instructions, the Smallest part of their punnishment ought to be that of being Discarded from all public Trust forever after. Here Gentlemen is the only mode pointed out to you, by a Careful attention to Which a major part of the Commonwealth have it in their power to Conduct the Government at all times as they please, and as I before observed, the minor part must always Submit to the Major. As to the Instructions Which I Shall Recommend to be given to your Representatives Respectively, I Shall Confine myself principally to Such alterations as appears to me ought to be made in our Judicial administrations, as it is Sufficiently Evident from the Conduct of the people towards the Judicial Courts, that they Consider them as their Greatest Grievance, for I presume Gentlemen that you Would not Like to have it Represented to the World that because our Genneral Court Sits in the Town of Boston, or because they have Conducted With Impropiety Respecting our public Securities or in the application of public monies, or because the offices of probate of Wills and Registry of Deeds are not Regulated So advantageously as they might be therefore you have put a Stop to all Judicial proceedings in the State, when Every person knows that the Justices of the Several Courts have not the Least Controal over any of those matters, nor any other Interest in them then what Every other member of the Commonwealth has.

Therefore first let your Representatives be Instructed to pass an act Suspending all the Judicial proceedings in the Several Courts Except in Crimminal Causes, untill their further orders. Secondly Let the Genneral Court be removed at Least Ten miles out of the Town of Boston. Thirdly Let the Late Riot act together with that part of the Indemnifying act Which Requires the people to make Submission and Take a Certain oath of Aleigence Within a Limmited time, be Repealed, for as

they were Enacted upon the Spurr of the present ocation, they only tend to Spurr on the people to Greater Violences, and all acts and Laws which Either ought not or Cannot be Duly Executed ough to be Immediately Repealed as they Greatly tend to Impair the Strength of Government by weakening the force of the best Laws.

Fourthly Let the Courts of Commonpleas as they now Stand, be abolished throughout the State, and Let all personal actions be Comenced before the Justices of the peace, and Let them be Directed to Recommend to the parties, upon their appearance, to put the Cause to Reference, and in case the parties Cannot agree upon Referee, Let the Justice appoint one, the plaintiff a Second and the Defendent the third; but if either of them Shall Refuse to go to a Reference, Let the Justice proceed to Try the Cause, and if the party Who may appeal from the Justices Judgment had Refused to Refer the Cause let him Recover no Cost against the other party, at the Court to Which he Shall appeal, however the Cause may terminate. And in all Judgments Rendered by Justices and not appealed Where the Dammage Shall amount to more then four pounds, no Execution Shall Issue untill after the next Seting of the Supreme Court in the Same County. And in all appeals from the Justices Courts, if the Judgment be not Reversed by a Tryal at the Supreme Court, that Judgment Shall be final and no Review be allowed; but if the former judgment Shall be Reversed, Either party Shall have a Right to Review. Let Each Justice be furnished with Printed Blank forms both of the Rule of Reference and the award, on one paper prescribed by the Legislature; and in all Cases of Reference as aforesaid, Let the Justice fill up Sign and Seal the Rule and Deliver it to the plaintiff, and let the Referrees, after fully hearing the parties, fill up Sign and Seal the award, and after Reading the Same in the hearing of the parties, Shall Carefully Seal up the Same and Shall Deliver it to the Clerk of the Court in the Same County previous to the next Seting of the Supreme Court therein, to be Lodged in the files of said Court; and where no Corruption or Gross Errors or Mistakes Shall be made to appear in the Conduct of Such Referrees, Judgment Shall be made up, and Execution Issued by the Clerk of Said Court in the Same manner as if Said Referrees had been appointed by them. And As abolishing the Courts of Commonpleas will accumulate more business in the Supreme Court then one Set of Judges Can possibly Dispatch; Let the State be Divided into four Circuits (viz) the Counties of Suffolk Essex and Middlesex the first Circuit, The Counties of Plymouth Bristol Barnstable

Dukes and Nantucket the Second Circuit, The Counties of Hamshire Worcester and Berkshire the third Circuit and the Counties of York Cumberland and Lincoln the fourth Circuit; Let there be three Judges appointed in Each Circuit, Two of whom Shall be a Quorum, and Let there be one Special Justice appointed in each Circuit to be called in in Case of absence Sickness &c. Let these Judges have Cognizance of all appeals from single Justices or any other Subbordinate Courts Within their Respective Circuits, and in all Real or mixed actions Let the processes issue from the offices of their Clerks, one of Which Shall be kept in Each County, Let them also have Cognizance of all other Civil and Crimmlinal Causes which Shall arise Within their Respective Circuits.

And as the time and fatigue of these Judges Will be much Less then what is Spent and undergone by our present Supreme Judges, So their Sallaries may be much Smaller therefore let the Sallaries of the present Judges be Divided among the twelve New Judges, together With Some Small Fees to Defray their Traviling Expenses, Will be a Sufficient Support for them: and Let these Judges attend the Genneral Court once in Every year in order to peruse the Laws Which have been Enacted the preceeding year, and to Recommend Such Alterations and amendments as from their own observations and experience Together With opportunities they Will have of knowing the opinions of the people throughout the State, they Shall think necessary.

Let all Difficult Questions In Law which Shall occur in any of the Circuits be Continued over and Determined by all the Judges at their annual meetings that So an unaformity may be preserved In the Judicial proceedings throughout the State.

Let these Courts be held Twice Every year In every County throughout the State, and Let their Executions Run from one Court to the other.

By Such a Regulation as this, the people Will Save to themselves the Emence Expence they have heretofore been put by means of the Courts of Commonpleas, and may, at the Same time, have Justice Done them as promptly and Equitably as they have heretofore had.

Fifthly Let all fees be cut off from plaintiffs and their attorneys for Travil and attendance, but When it Shall appear that the plaintiffs Demand Did not originate from any previous Commercial Intercourse between the parties, and their Shall appear any Degree of Atrociousness in the Conduct of the Defendent, the Jury Shall be Directed to Consider

the plaintiffs Trouble and Expence in assessing the Damgages: Let the Jurors and Witnesses fees be Reduced to one half their present allowance for it is much Less Injurious that the Court Jurors and Witnesses Should be allowed but Small fees then that poor unfortunate Suitors Should be Ruined with bills of cost. Sixthly Whereas by the Sixth article in the Sixth Chapter of our Constitution, all the Laws which had been admitted into, and practised upon in any of our Courts previous to the Revolution (Which Includes Great part of the Laws of England) Should Still be Continued in force untill Repealed by the Legislature, let it be Enacted that those Laws Shall no Longer have any force in this State, Except Such of them or parts of them as Shall hereafter be adopted into our Code of Laws by the Legislature; For they tend greatly to Imbarris our Judicial tryals, take up Too much of the time of our Courts, Give the Lawyers a pretence to Demand Exorbitant fees and Render our Judicial Divisions a mare Lottery; and there is Certainly an absurdity in Lavishing So much blood a Treasure in Shaking off the Government of Great Brittain, and then Immediately adopting their Constitution Laws and Custums to Govern ourselves by, for our Constitution is but a meer Copy of that of Great Brittain.

Seventhly Let an act be passed making the following articles a tender, at the apraisal of men, for all Debts Due Within this Commonwealth (viz) Horn Cattle Sheep and Swine, poark and beaf, hides tallow and Shewleather, Wool and flex, all Kinds of Grain, butter Cheese and hogs Lard, putash Barr Iron fish and oil, Together With Such other articles of produce in the differrent parts of the State as are Gennerally Esteemed Cash articles; and Let them not only, as heretofore, be a tender upon Executions (Which is only Daming up the flood untill by the Constant Solicitude of Creditors the act is Repealed and then, Like a mighty Inundation, Lawsuits break forth upon Debtors Throwing the whole State into uproar and Confusion) but Let them be a tender for all Debts as well before a Suit is Commenced as on Execution, and if any Creditor Shall Refuse Such articles When tendered let him be forever after Barred of So much of his Demand as the Tendered articles Were appraised at.

Eighthly Let that abominable pagan practise of Depriving people of their Liberty and Confining them in Goals for Debt (and Those often Incured by Sickness or Some other Inevitable misfortune) be for Ever Exploded this Christian Commonwealth. I know there are a number of unfeeling Creditors among us Who Will Grin at this proposal, Just as

an Algerine Would at a proposal for Dischargeing all the Christian Slaves they have in chains among them: but Let them Consider that it is of Savage pagan original, and was never permitted among the Jews when God almighty was their Immediate King and Lawgiver. It was Introduced Into England by the Romans after they had Conquered the Island, When both were pagans; and from them handed Down to us. How Shockingly Inconsistant and absurd must it appear to any person, who Will for a moment Divest himself of those biases and prejudices he has Contracted from Long habet; That a people Who are So Vehement in their Exclamations in praise of Liberty; Whose maxim is that a mans Liberty ought to be Dearer to him then his Life; Who have risked their Very Existence and Shed Rivers of their blood in Defending their Liberties against Great Brittain, Should, by their Laws, Subject Every Citizen in the State, who owes five pound, or five Shillings, and Cannot pay it, to be Toarn from his family Deprived of his Liberty and Locked up in a Noisum Prison, there to Remain Suffocating in Stench Dureing the pleasure of the Creditor unless Some friend Takes pity on him and by obligating to the Creditor for Double the Sum Due, Gives him the bennefit of a little fresh air. Thus far with Respect to the Justice and humanity of these Laws, and now With Respect to their policy I Would ask what bennefit they have ever been, or are Ever like to be, Either to the public or to Creditors; and from the utmost attention I have been able to Give to the matter, I cannot find that they Ever Did or Ever Will bennefit Either: As to the Public, it Constantly Deprives them of the usefulness of a number of Citizens Who, were they at home Employed about their ordinary business would be benneficial to the Community at Large. As to the Creditors, the Resentment of the Debtors is Commonly So Raised against them for Confining them, that in Case their Estates Do not amount to a much Larger Sum then what they are Indebted, Their Greatest Solicitude is to Dispose of it as fast as possible to their other Creditors, or any way So that those who Confined them may not be bettered by it, and they avail themselves of the Bennefit of the poor prisoners oath, and this they Gennerally Effect, and the Creditors Gennerally, not only Loose their Debts but have in addition to that a Large bill of cost to pay. To Conclude Gentlemen, as I have before hinted, the hostile opposision you have been making to Government has been Totally wrong, and it is both your duty and Interest Immediately to Desist, and persue only those Legal and peaceable measures for obtaining the Redress of your Grievances Which the

Constitution has put into your hands by Petitions and Remonstrances to the Genneral Court, and by unaformly Instructing your Representatives and also by carefully attending to your Elections for the future: which are the only means that God and Nature has given you Whereby to preserve your own peace Liberty and Safety. I know there are several other matters of Grievance Which are not mentioned in the above proposed Instructions to your Representatives, Which ought and Doubtless Will Soon be Redressed if you Wisely and prudently Improve those preveleges which God and our happy Constitution has put into your hands; But to Load your Representatives with anymore Instructions as one time then what is Contained in the above would probably So Imbarris them that Insted of facilitating the Redress of Grievances it would greatly Retard that Important Event. A patient who by neglecting and misusing his Constitution for Several years, thereby Contracts a morbid habit of body must not Expect to be Cured by one single Dose; it Will often take as much time to Eradicate the Desease and to Restore the patient to prestine Health and Vigor as had been Spent in Contracting the Mallady and I greatly fear that Should the Whole Dose of thirteen pills Which are prescribed in the Worcester petition be Cramed into our Genneral [Court] at once, they being of Different Quallities and various operations they would Rather tend to fix our political Distemper then work us a Cure. But let them be Exhibited in Smaller Doses and at proper intervails So that their Stomachs may have time to Digest them and they Will probably have a Very Salutary Effect.

December 1786.

APPENDIX

It is the Duty as well as peculiar privilege of us Who live in these Latter Days, to profit by the Experience of former ages. I therefore beg Leave to Lay before the Convention the following Extract from the antient Roman History;²⁷ and to this I am Induced from the Great annalogy there is between the Commonwealth of Rome When those transactions took place, and the present State of the Americans. The following occurrences took place in Rome about Two hundred and

²⁷ For an account of this incident see Theodor Mommsen, *The History of Rome*. Translated by . . . William Purdie Dickson (4 vols. London, New York, 1901) I, pp. 347-349.

fifty years after its first Settlement, and Ten years after having banished their Kings and formed themselves Into a Commonwealth. Which almost Exactly Corresponds With the time Since the first Settlements began in America and Likewise their Renowncing the authority of the British King.

It is also Remarkable that the Transactions Related in the following Narrative Took place at the Conclusion of a Sore war Which their Bannished King (having Stirred up their other Ennemies and Joined With them) had for a number of years Carried on against the Romans. Dureing the Course of Which war The Senate and Patritions (a Set of men Very much Resembling our Lawyers and attorneys) had Ingrossed almost all the Power and wealth in the Nation. For Whilst the Lower orders of the people left their Little farms uncultivated and Went into the War to Defend the Commonwealth (and that Without pay as ours have Done) The Senate and Patritions Ingrossed all the advantages to themselves and Left the poor plebeans nothing but Servitude Goals and Stripes as appears by the following Narrative (viz)

The Soldiers haveing Returned from the field in triumph, had Some Reason to Expect a Remission of their Debts, and to Enjoy that Safety for themselves which they had procured for others. However Contrary to their hopes the Courts of Law were opened against them, and the prosecutions of Creditors Revived With more then usual Severity. This soon Excited fresh murmors, and the Senate, Who were Sensible of them, in order to be prepared, Chose Apius Claudius, a man of austere manners, a Strict observer of the Laws, and of unshaken Intripidity, for one of the Consuls the year Ensuing; but, at the Same time, to temper his Severity, they Gave him for a Colleague Servilius a man of an Humane and Gentle Disoposition, and as much beloved by the populace as Apius was hateful to them. When the Complaints of the people therefore Came to be Deliberated upon, these two majestrates, as it may be Supposed, were Entirely of opposite opinions, Servilius Commiserating the Distresses of the poor, was for abolishing all Debts, or at Least for Deminishing the Interest upon them. Apius on the other hand, with his usual Severity, Insisted that the laws of his Country Should be inviolably observed, and that Lightening the Loan upon those that owed money Was but throwing it upon those to Whom it was Due. That it would be Encourageing the Extravagant and the Idle at the Expençe of the industrious and the frugal; and that Every new Compliance from the Senate would but Encrease the Insolent Demands of the people. The populace

being apprized of the different opinions of their Consuls Concerning their Complaints, Loaded Servilius with Every mark of Gratitude, whilst They Every where persued Apius With threats and Imprecations. They began to assemble afresh, to hold Secret Cabals by night, and to meditate Some new Revolution, When an unlooked Spectacle of Distress Rouzed all their Passions and at once faned their kindled Resentment Into a flame.

A Roman Soldier who seemed in age, Came to take Refuge in the midst of the people, Loaded With Chains, yet Showing in his air the marks of better Days: he was covered with Rags; his face was pale and Wasted with famine; his beard was long and neglected and his hair in Wild Disorder, Rendered his appearance much more ghastly. He was known however to be a Gallant man, who had often been Valliant in the field, he shewed the Scars Which he had Received in battle, and the marks of Recent Stripes, Which Still Continued bleeding. The Compassion of the multitude was Excited at this Spectacle, but much more when he told them his Story. Having bor'n arms in the Last war his Little patrimony was not only Neglected but the Enemy had plundered his Substance, and set his house on fire. In this Situation he was forced for Subsistance to Contract Debts, and then obliged to Sell his Inheritance to discharge them; but a part Still Remaining unpaid, his unfeeling Creditor had Draged him to prison, where he was not only Loaded with chains, but Torn with the Whips of the Executioner, who was ordered to Torment him. This account and his wounds which were Still fresh produced an Instantaneous uproar among the people. They flew to take Vengeance not only on the Cruel Creditor but on the General body of their oppressors. Apius had the fortune to Escape by flight. Servilius Laying a Side the marks of Consular Dignity threw himself into the midst of the tumult, Entreated, flattered, Commanded them to patience; Engaged to have their wrongs Redressed by the Senate; promised that he himself would warmly Support their Causes; and in the meantime to Convince them of his good Intentions, made proclamation that no Citizen Should be arrested for Debt untill the Senate Should issue further Directions.

The Remonstrances of Servilius Served for this time, in Some measure to appease their murmors; and the Senate was going to begin their Deliberations, When word was brought that an army of Volcians were marching Directly towards Rome. This was an Event Which the people had wished with the most ardent Expectation; and they now

Resolved to let the nobles see how little the power of the Rich avails when unsupported by the Strength of the multitude. Accordingly when the Levies Came to be made, They unanimously Refused to Inlist, while those Who had been imprisoned for Debt, Showing their chains asked with an insulting Smile, if those were the weapons With Which they were to face their Ennemies.

Rhorne in this State of annarchy Within and of threatened invasion from Without, was upon the Brink of Ruin, When Servilius who as Consul, was to Command the Army, once more Renewed his Entreaties With the people, not to forsake him in this Exigence, to Sooth them Still more he Issued a new Edict that no Citizen Should be Imprisoned During the War, and asured them that, upon their Return, they Should have plenary Redress. By these promises, as well as the affection the people had for his person, he once more prevailed. The people Came in Crouds to Enrole themselves under his Command; he Led them to meet the Ennemy, and gained a Compleat Victory. But of all those who shewed their Courage in the Engagement, the Debtors and former Malcontents were the most Conspicuous. Servilius, to Recompence their bravery, gave them the plunder of the Ennemies Camp, Without Reserving, as was usual, any part of it for the Treasury; and this no doubt was the Cause of Induceing the Sinate upon his Return, to Refuse him the honor of a Tryumph.

No Sooner were the Terrors of the Ennemy Removed but the former Cruelties were renewed. Apius Still fierce and uncomplying, again authorized the Creditors to Renew their Severity and the Debtors were Draged to Prison and Insulted as before. Invain Did they Implore the assistance of Servilius, Who Gentle and Wavering had Deputed too much of his Power to Apius. Invain Did they Claim the promises made them by the Senate: for that Body, Deaf to their Cries, saw Debtors persued Even into the forum by their merciless Creditors, and prevented only by the multitude from being draged to Prison. The aproach of an Ennemy Still more numerous then that Which had been Lately Conquered, Retarded the acrimony of their Vengeance. The Sabines The Equi and the Volcians, as if Willing to Second the Views of the people, again made a fierce Eruption, While the people Refused to Inlist untill their Grievances were Removed.

Things being in this Dangerous Situation, the Senate were obliged to have Recourse to the usual method of Redress by Creating a Dictator. Apius who had advised the measure, hoped that he would have been

Chosen; but the Senate, Sensible that So much power in the hands of one So Violent in the use of that he already had, would be Dangerous, Chose Marius Valerius, an antient Senator one merciful, mild and much Loved by the people, and Decended from their Great Deliverer whose name he Bore. Valerius Who Secretly inclined to the plebian party, Chose Quintus, The brother of their Great Idol Servilius, for his master of the Horse, and assembling the people assured them that if they would follow him freely, their Grievances Should not only be Redressed, but their Fortunes advanced by the Spoils of the Ennemy. He in the mean time freed them from any Immediate Prosecutions from their Creditors, and Commanded them to follow him To the field. There was something So absolute in the office of a Dictator, and it was So much Considered by the people, that they not only Dreaded its Resentment, but Seemed to think its promises binding; They therefore Enroled themselves at his order, and marching against the Ennemy, Quickly Reduced them to Subjection, Such Land, as had been Taken from them being Divided among the Soldiers.

Upon his Return, The Dictator Requested the Senate to perform what he had So Solemnly pledged his word to obtain; But Apius Still obstinate, Refused to Comply, Reproaching him With a mean Condesention to the multitude, and bringing over a majority of the Senate to his opinion. Valerius therefore finding himself unable to Contend With So powerful a Body, Laid Down his office, alledging that it Was time for an old man of Seventy, to think Rather of Ease then opposition.

The people were now Inflamed to a Dangerous Degree; they Entered into private Consultations, and formed a plan of separating themselves from masters whose promises were as contemptable as their Tyranny Dreadful. The most Violent measures are to the multitude always the most pleasing, and Some had Even the boldness to talk of killing Such as were obnoxious. The Senate and the Consuls Well knowing the Effects of their fury when they Should be Disbanded Resolved Still to keep them in the field, under pretence that the Ennemy were yet unsubdued, and prepareing for new Invations. In this Exigence the Soldiers were at a Loss how to act; the millitary oath which they had taken upon Listing, forbad their laying Down their arms, or forsaking their Standards; and yet their Recent Injuries forbad their taking the field. They Steered between both Extremes; they Resolved to Quit a City which gave them no protection, and to form a new Establishment without its Limits. They therefore Removed their Ensigs, Changed

their Commander, and under the Command of a plebian they Retired to a mountain on the Banks of the River Ario, about three miles from Rome.

The news of this Desertion filled the City with tumult and confusion; Those who Wished well to the army, made all the attempts they could to Scale the Walls to join it, for the gates were shut by the Senates order. The fathers who had Sons among the mutineers, Reproached their Degeneracy; Wives Lamented the absence of their husbands and all apprehended a Civil war. The Senate was not Less agitated then the Rest. Some were for violent measures and Repeling force by force others were of opinion that Gentle arts were to be used; and that even a Victory over such Enemies would be worse then a Defeat. Atlength therefore it was Resolved to Send a messenger to Entreat the army to Return home and Declare their grievances, promising at the Same time an oblivian of all that had passed. This message was Treated by the army with Disdain; So that the Senate were oblinded to begin afresh to Consult upon the proper Steps to be taken, and whether force or Condecention was the wisest Course to persue. Accordingly, after Chosing new Consuls, tho not without Difficulty, as none at first would offer for the office, They Entered upon the Deliberation with an Earnestness Equail to the Importance of the Cause. Menenius Agrippa one of the Wisest and best of the Senators was of opinion that the people were to be Indulged; because the Roman Dominions could neither be Extend nor preserved Without them. The Late Dictator Valerius Seconded his opinion With a warmth unusual to one of his advanced age. He upbraided the Senate With their Duplicity, and urged the necessity of the peoples shareing those advantages Which the Rich were Determined to Engross. Apius on the other hand Still adhereing to his principles, Declaimed with great Violence against making the smallest Concessions to the multitude. He observed that if they granted to the people when Ennemies What they had Refused them when friends, it would be an argument of their fears and not their justice; that the young patritions and their Clients Were able to Defend the City, Even tho its ungreatful Inhabittants Should Desert it; that the multitude never know where to Stop in their Demands and that Every Concession would be productive of fresh Claims and louder Importunities. The Body of the Senate to whom principlly the people were Debtors, only wanted the Speciousness of Such arguments to cover their avarice, those of the younger Sort also who were flattered by the orator, applauded his speach with Indecent Zeal. The Consuls therefore who notwithstanding this show of a

Debate, Saw the necessity there was of complying with the people in order to prevent such Violent measures as the Senate were Runing into, for that Day broke up the assembly, at the Same time Intimating to the younger part of the Senate, that if they Did not behave with more moderation for the future, a Law Should be prefered, preventing all under a certain age from being admited into the Senate. This threat Did not want its Effect at their next meeting; where notwithstanding the stedfast opposition of Apius, and the Terrible blow that was about to be given to the fortunes of many of the members, it was Resolved to Enter into a Treaty With the people, and to make them such offers as Should Induce them to Return. Ten Commissioners were accordingly Deputed, at the head of Which were Largius and Valerius Who had been Dictators; and Menenius Agrippa Equally beloved by the Senate and the people. The Dignity and popularity of these ambasenders procured them a Very Respectable Reception among the Soldiers, and a long conference began between them. Largius & Valerius Employed [one word illegible] oratory on the one hand; while Sicinius and Lucius Junius who were the spokesmen of the Soldiery agravated their Distresses With all that masculine Elloquence Which nature Inspires. The Conferrence continued for a Long time When Meninius Agrippa, who had been originally a plebian, a Shrewd man, and one who knew what kind of Elloquence would please the people addressed them with the following Cellebrated fable (viz)

In times of old when every part of the body could think for itself, and Each had a separate will of its own, they all with Common Consent Resolved to Revolt against the Belley. They knew no Reason they said, Why they Should Toil from morning till night in its Service, While the Belley in the mean time, Lay at its Ease in the midst of them all, and Indolently grew fat upon their Labours; accordingly they agreed to Support it no more. the feet Vowed they would carry it no longer; The hands Vowed they Would feed it no Longer; and the teeth avered they would not chew a morsel of meat tho it should be placed between them. Thus Resolved, they for Some time Shewed their Spirit and Kept their Resolution; but Soon they found that Instead of mortifying the Belley By these means they only undid themselves, they Languished for a while, and perceived When too Late, That it was owing to the Belley that they had Strength to work or Courage to mutiny.

This fable the application of which is obvious had an Instantaneous Effect upon the people. They Instantaneously cried out that Agrippa

Should Lead them Back to Rome, and were making preparations to follow him, when Lucius Junius Withheld them, alledging that tho they were greatfully to acknowledge the kind offirs of the Senate, yet they had no Safeguard for the future against their Resentment and that it was Necessary for the Security of the people to have Certain officers Created annually from among themselves, who should have power to Give Such of them as Should be Injured, Redress, and plead the Cause of the Community.

The people who are Ever in opinion With the Last Speaker, highly applauded this proposal, Which yet the Commissioners had not power to comply With; They therefore sent to Rome to take the Instructions of the Senate; Who worried with Divisions among themselves, and harassed with complaints from Without, were Resolved to have peace at Whatever Price it Should be purchased, accordingly and with one Voice They Consented to the Creation of the officers which were Called the tribunes of the people, Apius alone with Vehemence protesting against the measure.

The tribunes of the people were at first five in number, tho afterward, their body was Increased to five more. They were always annually Ellected by the people, and Gennerally from their own body. They had Power of annulling. They had Power of anuling all Such acts of the Senate as they Considered to Distress upon the people and to Show their readiness to protect the meanest, their Doors Stood open night and day, to Receive Complaints. They at first had their seats placed before the Doors of the Senate House, and being called in they were to Examine Every Decree, annulling it by the word Vito—I forbid it; or confirming it by signing the Letter T which gave it Validity. Their persons were to be Sacred, and tho they were not Distinguished by any of the Ensigns of office which attended the other Majestrates, yet their power was greatly Superior, haveing a Negative Vote upon all the acts of the Senate; This new office being thus Instituted and the Senate passing an Edict abollishing all Debts, and thus all things being adjusted on both sides, the people, after having Sacrifised to the Gods, Returned in Triumph to Rome.

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