

1 **FEDERALIST No. 33. The Same Subject Continued**
2 **(Concerning the General Power of Taxation)**

3 **From The Independent Journal. Wednesday, January 2, 1788.**

4 **HAMILTON**

5 **To the People of the State of New York:**

6 **THE residue of the argument against the provisions of the Constitution in respect to taxation is**
7 **ingrafted upon the following clause. The last clause of the eighth section of the first article of the**
8 **plan under consideration authorizes the national legislature "to make all laws which shall be**
9 **NECESSARY and PROPER for carrying into execution THE POWERS by that Constitution**
10 **vested in the government of the United States, or in any department or officer thereof"; and the**
11 **second clause of the sixth article declares, "that the Constitution and the laws of the United States**
12 **made IN PURSUANCE THEREOF, and the treaties made by their authority shall be the**
13 **SUPREME LAW of the land, any thing in the constitution or laws of any State to the contrary**
14 **notwithstanding."**

15 **These two clauses have been the source of much virulent invective and petulant declamation**
16 **against the proposed Constitution. They have been held up to the people in all the exaggerated**
17 **colors of misrepresentation as the pernicious engines by which their local governments were to be**
18 **destroyed and their liberties exterminated; as the hideous monster whose devouring jaws would**
19 **spare neither sex nor age, nor high nor low, nor sacred nor profane; and yet, strange as it may**
20 **appear, after all this clamor, to those who may not have happened to contemplate them in the**
21 **same light, it may be affirmed with perfect confidence that the constitutional operation of the**
22 **intended government would be precisely the same, if these clauses were entirely obliterated, as if**
23 **they were repeated in every article. They are only declaratory of a truth which would have resulted**
24 **by necessary and unavoidable implication from the very act of constituting a federal government,**
25 **and vesting it with certain specified powers. This is so clear a proposition, that moderation itself**
26 **can scarcely listen to the railings which have been so copiously vented against this part of the plan,**
27 **without emotions that disturb its equanimity.**

28 **What is a power, but the ability or faculty of doing a thing? What is the ability to do a thing, but**
29 **the power of employing the MEANS necessary to its execution? What is a LEGISLATIVE power,**
30 **but a power of making LAWS? What are the MEANS to execute a LEGISLATIVE power but**
31 **LAWS? What is the power of laying and collecting taxes, but a LEGISLATIVE POWER, or a**

1 power of MAKING LAWS, to lay and collect taxes? What are the proper means of executing such
2 a power, but NECESSARY and PROPER laws?

3 This simple train of inquiry furnishes us at once with a test by which to judge of the true nature of
4 the clause complained of. It conducts us to this palpable truth, that a power to lay and collect taxes
5 must be a power to pass all laws NECESSARY and PROPER for the execution of that power; and
6 what does the unfortunate and calumniated provision in question do more than declare the same
7 truth, to wit, that the national legislature, to whom the power of laying and collecting taxes had
8 been previously given, might, in the execution of that power, pass all laws NECESSARY and
9 PROPER to carry it into effect? I have applied these observations thus particularly to the power of
10 taxation, because it is the immediate subject under consideration, and because it is the most
11 important of the authorities proposed to be conferred upon the Union. But the same process will
12 lead to the same result, in relation to all other powers declared in the Constitution. And it is
13 EXPRESSLY to execute these powers that the sweeping clause, as it has been affectedly called,
14 authorizes the national legislature to pass all NECESSARY and PROPER laws. If there is any
15 thing exceptionable, it must be sought for in the specific powers upon which this general
16 declaration is predicated. The declaration itself, though it may be chargeable with tautology or
17 redundancy, is at least perfectly harmless.

18 But SUSPICION may ask, Why then was it introduced? The answer is, that it could only have
19 been done for greater caution, and to guard against all cavilling refinements in those who might
20 hereafter feel a disposition to curtail and evade the legitimate authorities of the Union. The
21 Convention probably foresaw, what it has been a principal aim of these papers to inculcate, that
22 the danger which most threatens our political welfare is that the State governments will finally sap
23 the foundations of the Union; and might therefore think it necessary, in so cardinal a point, to
24 leave nothing to construction. Whatever may have been the inducement to it, the wisdom of the
25 precaution is evident from the cry which has been raised against it; as that very cry betrays a
26 disposition to question the great and essential truth which it is manifestly the object of that
27 provision to declare.

28 But it may be again asked, Who is to judge of the NECESSITY and PROPRIETY of the laws to
29 be passed for executing the powers of the Union? I answer, first, that this question arises as well
30 and as fully upon the simple grant of those powers as upon the declaratory clause; and I answer, in
31 the second place, that the national government, like every other, must judge, in the first instance,
32 of the proper exercise of its powers, and its constituents in the last. If the federal government
33 should overpass the just bounds of its authority and make a tyrannical use of its powers, the
34 people, whose creature it is, must appeal to the standard they have formed, and take such measures
35 to redress the injury done to the Constitution as the exigency may suggest and prudence justify.
36 The propriety of a law, in a constitutional light, must always be determined by the nature of the
37 powers upon which it is founded. Suppose, by some forced constructions of its authority (which,

1 indeed, cannot easily be imagined), the Federal legislature should attempt to vary the law of
2 descent in any State, would it not be evident that, in making such an attempt, it had exceeded its
3 jurisdiction, and infringed upon that of the State? Suppose, again, that upon the pretense of an
4 interference with its revenues, it should undertake to abrogate a landtax imposed by the authority
5 of a State; would it not be equally evident that this was an invasion of that concurrent jurisdiction
6 in respect to this species of tax, which its Constitution plainly supposes to exist in the State
7 governments? If there ever should be a doubt on this head, the credit of it will be entirely due to
8 those reasoners who, in the imprudent zeal of their animosity to the plan of the convention, have
9 labored to envelop it in a cloud calculated to obscure the plainest and simplest truths.

10 But it is said that the laws of the Union are to be the SUPREME LAW of the land. But what
11 inference can be drawn from this, or what would they amount to, if they were not to be supreme?
12 It is evident they would amount to nothing. A LAW, by the very meaning of the term, includes
13 supremacy. It is a rule which those to whom it is prescribed are bound to observe. This results
14 from every political association. If individuals enter into a state of society, the laws of that society
15 must be the supreme regulator of their conduct. If a number of political societies enter into a
16 larger political society, the laws which the latter may enact, pursuant to the powers intrusted to it
17 by its constitution, must necessarily be supreme over those societies, and the individuals of whom
18 they are composed. It would otherwise be a mere treaty, dependent on the good faith of the
19 parties, and not a government, which is only another word for POLITICAL POWER AND
20 SUPREMACY. But it will not follow from this doctrine that acts of the large society which are
21 NOT PURSUANT to its constitutional powers, but which are invasions of the residuary
22 authorities of the smaller societies, will become the supreme law of the land. These will be merely
23 acts of usurpation, and will deserve to be treated as such. Hence we perceive that the clause which
24 declares the supremacy of the laws of the Union, like the one we have just before considered, only
25 declares a truth, which flows immediately and necessarily from the institution of a federal
26 government. It will not, I presume, have escaped observation, that it EXPRESSLY confines this
27 supremacy to laws made PURSUANT TO THE CONSTITUTION; which I mention merely as
28 an instance of caution in the convention; since that limitation would have been to be understood,
29 though it had not been expressed.

30 Though a law, therefore, laying a tax for the use of the United States would be supreme in its
31 nature, and could not legally be opposed or controlled, yet a law for abrogating or preventing the
32 collection of a tax laid by the authority of the State, (unless upon imports and exports), would not
33 be the supreme law of the land, but a usurpation of power not granted by the Constitution. As far
34 as an improper accumulation of taxes on the same object might tend to render the collection
35 difficult or precarious, this would be a mutual inconvenience, not arising from a superiority or
36 defect of power on either side, but from an injudicious exercise of power by one or the other, in a
37 manner equally disadvantageous to both. It is to be hoped and presumed, however, that mutual

1 interest would dictate a concert in this respect which would avoid any material inconvenience. The
2 inference from the whole is, that the individual States would, under the proposed Constitution,
3 retain an independent and uncontrollable authority to raise revenue to any extent of which they
4 may stand in need, by every kind of taxation, except duties on imports and exports. It will be
5 shown in the next paper that this CONCURRENT JURISDICTION in the article of taxation
6 was the only admissible substitute for an entire subordination, in respect to this branch of power,
7 of the State authority to that of the Union.

8 PUBLIUS

1 FEDERALIST No. 34. The Same Subject Continued
2 (Concerning the General Power of Taxation)

3 From The Independent Journal. Saturday, January 5, 1788.

4 HAMILTON

5 To the People of the State of New York:

6 I FLATTER myself it has been clearly shown in my last number that the particular States, under
7 the proposed Constitution, would have COEQUAL authority with the Union in the article of
8 revenue, except as to duties on imports. As this leaves open to the States far the greatest part of the
9 resources of the community, there can be no color for the assertion that they would not possess
10 means as abundant as could be desired for the supply of their own wants, independent of all
11 external control. That the field is sufficiently wide will more fully appear when we come to advert
12 to the inconsiderable share of the public expenses for which it will fall to the lot of the State
13 governments to provide.

14 To argue upon abstract principles that this co-ordinate authority cannot exist, is to set up
15 supposition and theory against fact and reality. However proper such reasonings might be to show
16 that a thing OUGHT NOT TO EXIST, they are wholly to be rejected when they are made use of
17 to prove that it does not exist contrary to the evidence of the fact itself. It is well known that in the
18 Roman republic the legislative authority, in the last resort, resided for ages in two different
19 political bodies not as branches of the same legislature, but as distinct and independent
20 legislatures, in each of which an opposite interest prevailed: in one the patrician; in the other, the
21 plebian. Many arguments might have been adduced to prove the unfitness of two such seemingly
22 contradictory authorities, each having power to ANNUL or REPEAL the acts of the other. But a
23 man would have been regarded as frantic who should have attempted at Rome to disprove their
24 existence. It will be readily understood that I allude to the COMITIA CENTURIATA and the
25 COMITIA TRIBUTA. The former, in which the people voted by centuries, was so arranged as to
26 give a superiority to the patrician interest; in the latter, in which numbers prevailed, the plebian
27 interest had an entire predominancy. And yet these two legislatures coexisted for ages, and the
28 Roman republic attained to the utmost height of human greatness.

29 In the case particularly under consideration, there is no such contradiction as appears in the
30 example cited; there is no power on either side to annul the acts of the other. And in practice there
31 is little reason to apprehend any inconvenience; because, in a short course of time, the wants of the
32 States will naturally reduce themselves within A VERY NARROW COMPASS; and in the

1 interim, the United States will, in all probability, find it convenient to abstain wholly from those
2 objects to which the particular States would be inclined to resort.

3 To form a more precise judgment of the true merits of this question, it will be well to advert to the
4 proportion between the objects that will require a federal provision in respect to revenue, and
5 those which will require a State provision. We shall discover that the former are altogether
6 unlimited, and that the latter are circumscribed within very moderate bounds. In pursuing this
7 inquiry, we must bear in mind that we are not to confine our view to the present period, but to
8 look forward to remote futurity. Constitutions of civil government are not to be framed upon a
9 calculation of existing exigencies, but upon a combination of these with the probable exigencies of
10 ages, according to the natural and tried course of human affairs. Nothing, therefore, can be more
11 fallacious than to infer the extent of any power, proper to be lodged in the national government,
12 from an estimate of its immediate necessities. There ought to be a CAPACITY to provide for
13 future contingencies as they may happen; and as these are illimitable in their nature, it is
14 impossible safely to limit that capacity. It is true, perhaps, that a computation might be made with
15 sufficient accuracy to answer the purpose of the quantity of revenue requisite to discharge the
16 subsisting engagements of the Union, and to maintain those establishments which, for some time
17 to come, would suffice in time of peace. But would it be wise, or would it not rather be the
18 extreme of folly, to stop at this point, and to leave the government intrusted with the care of the
19 national defense in a state of absolute incapacity to provide for the protection of the community
20 against future invasions of the public peace, by foreign war or domestic convulsions? If, on the
21 contrary, we ought to exceed this point, where can we stop, short of an indefinite power of
22 providing for emergencies as they may arise? Though it is easy to assert, in general terms, the
23 possibility of forming a rational judgment of a due provision against probable dangers, yet we may
24 safely challenge those who make the assertion to bring forward their data, and may affirm that
25 they would be found as vague and uncertain as any that could be produced to establish the
26 probable duration of the world. Observations confined to the mere prospects of internal attacks
27 can deserve no weight; though even these will admit of no satisfactory calculation: but if we mean
28 to be a commercial people, it must form a part of our policy to be able one day to defend that
29 commerce. The support of a navy and of naval wars would involve contingencies that must baffle
30 all the efforts of political arithmetic.

31 Admitting that we ought to try the novel and absurd experiment in politics of tying up the hands
32 of government from offensive war founded upon reasons of state, yet certainly we ought not to
33 disable it from guarding the community against the ambition or enmity of other nations. A cloud
34 has been for some time hanging over the European world. If it should break forth into a storm,
35 who can insure us that in its progress a part of its fury would not be spent upon us? No reasonable
36 man would hastily pronounce that we are entirely out of its reach. Or if the combustible materials
37 that now seem to be collecting should be dissipated without coming to maturity, or if a flame

1 should be kindled without extending to us, what security can we have that our tranquillity will
2 long remain undisturbed from some other cause or from some other quarter? Let us recollect that
3 peace or war will not always be left to our option; that however moderate or unambitious we may
4 be, we cannot count upon the moderation, or hope to extinguish the ambition of others. Who
5 could have imagined at the conclusion of the last war that France and Britain, wearied and
6 exhausted as they both were, would so soon have looked with so hostile an aspect upon each other?
7 To judge from the history of mankind, we shall be compelled to conclude that the fiery and
8 destructive passions of war reign in the human breast with much more powerful sway than the
9 mild and beneficent sentiments of peace; and that to model our political systems upon
10 speculations of lasting tranquillity, is to calculate on the weaker springs of the human character.

11 What are the chief sources of expense in every government? What has occasioned that enormous
12 accumulation of debts with which several of the European nations are oppressed? The answers
13 plainly is, wars and rebellions; the support of those institutions which are necessary to guard the
14 body politic against these two most mortal diseases of society. The expenses arising from those
15 institutions which are relative to the mere domestic police of a state, to the support of its
16 legislative, executive, and judicial departments, with their different appendages, and to the
17 encouragement of agriculture and manufactures (which will comprehend almost all the objects of
18 state expenditure), are insignificant in comparison with those which relate to the national defense.

19 In the kingdom of Great Britain, where all the ostentatious apparatus of monarchy is to be
20 provided for, not above a fifteenth part of the annual income of the nation is appropriated to the
21 class of expenses last mentioned; the other fourteen fifteenths are absorbed in the payment of the
22 interest of debts contracted for carrying on the wars in which that country has been engaged, and
23 in the maintenance of fleets and armies. If, on the one hand, it should be observed that the
24 expenses incurred in the prosecution of the ambitious enterprises and vainglorious pursuits of a
25 monarchy are not a proper standard by which to judge of those which might be necessary in a
26 republic, it ought, on the other hand, to be remarked that there should be as great a disproportion
27 between the profusion and extravagance of a wealthy kingdom in its domestic administration, and
28 the frugality and economy which in that particular become the modest simplicity of republican
29 government. If we balance a proper deduction from one side against that which it is supposed
30 ought to be made from the other, the proportion may still be considered as holding good.

31 But let us advert to the large debt which we have ourselves contracted in a single war, and let us
32 only calculate on a common share of the events which disturb the peace of nations, and we shall
33 instantly perceive, without the aid of any elaborate illustration, that there must always be an
34 immense disproportion between the objects of federal and state expenditures. It is true that several
35 of the States, separately, are encumbered with considerable debts, which are an excrescence of the
36 late war. But this cannot happen again, if the proposed system be adopted; and when these debts
37 are discharged, the only call for revenue of any consequence, which the State governments will

1 continue to experience, will be for the mere support of their respective civil list; to which, if we
2 add all contingencies, the total amount in every State ought to fall considerably short of two
3 hundred thousand pounds.

4 In framing a government for posterity as well as ourselves, we ought, in those provisions which are
5 designed to be permanent, to calculate, not on temporary, but on permanent causes of expense. If
6 this principle be a just one our attention would be directed to a provision in favor of the State
7 governments for an annual sum of about two hundred thousand pounds; while the exigencies of
8 the Union could be susceptible of no limits, even in imagination. In this view of the subject, by
9 what logic can it be maintained that the local governments ought to command, in perpetuity, an
10 EXCLUSIVE source of revenue for any sum beyond the extent of two hundred thousand pounds?
11 To extend its power further, in EXCLUSION of the authority of the Union, would be to take the
12 resources of the community out of those hands which stood in need of them for the public welfare,
13 in order to put them into other hands which could have no just or proper occasion for them.

14 Suppose, then, the convention had been inclined to proceed upon the principle of a repartition of
15 the objects of revenue, between the Union and its members, in PROPORTION to their
16 comparative necessities; what particular fund could have been selected for the use of the States,
17 that would not either have been too much or too little too little for their present, too much for
18 their future wants? As to the line of separation between external and internal taxes, this would
19 leave to the States, at a rough computation, the command of two thirds of the resources of the
20 community to defray from a tenth to a twentieth part of its expenses; and to the Union, one third
21 of the resources of the community, to defray from nine tenths to nineteen twentieths of its
22 expenses. If we desert this boundary and content ourselves with leaving to the States an exclusive
23 power of taxing houses and lands, there would still be a great disproportion between the MEANS
24 and the END; the possession of one third of the resources of the community to supply, at most,
25 one tenth of its wants. If any fund could have been selected and appropriated, equal to and not
26 greater than the object, it would have been inadequate to the discharge of the existing debts of the
27 particular States, and would have left them dependent on the Union for a provision for this
28 purpose.

29 The preceding train of observation will justify the position which has been elsewhere laid down,
30 that "A CONCURRENT JURISDICTION in the article of taxation was the only admissible
31 substitute for an entire subordination, in respect to this branch of power, of State authority to that
32 of the Union." Any separation of the objects of revenue that could have been fallen upon, would
33 have amounted to a sacrifice of the great INTERESTS of the Union to the POWER of the
34 individual States. The convention thought the concurrent jurisdiction preferable to that
35 subordination; and it is evident that it has at least the merit of reconciling an indefinite
36 constitutional power of taxation in the Federal government with an adequate and independent

1 power in the States to provide for their own necessities. There remain a few other lights, in which
2 this important subject of taxation will claim a further consideration.

3 PUBLIUS

1 FEDERALIST No. 35. The Same Subject Continued
2 (Concerning the General Power of Taxation)

3 For the Independent Journal. Saturday, January 5, 1788

4 HAMILTON

5 To the People of the State of New York:

6 BEFORE we proceed to examine any other objections to an indefinite power of taxation in the
7 Union, I shall make one general remark; which is, that if the jurisdiction of the national
8 government, in the article of revenue, should be restricted to particular objects, it would naturally
9 occasion an undue proportion of the public burdens to fall upon those objects. Two evils would
10 spring from this source: the oppression of particular branches of industry; and an unequal
11 distribution of the taxes, as well among the several States as among the citizens of the same State.

12 Suppose, as has been contended for, the federal power of taxation were to be confined to duties on
13 imports, it is evident that the government, for want of being able to command other resources,
14 would frequently be tempted to extend these duties to an injurious excess. There are persons who
15 imagine that they can never be carried to too great a length; since the higher they are, the more it
16 is alleged they will tend to discourage an extravagant consumption, to produce a favorable balance
17 of trade, and to promote domestic manufactures. But all extremes are pernicious in various ways.
18 Exorbitant duties on imported articles would beget a general spirit of smuggling; which is always
19 prejudicial to the fair trader, and eventually to the revenue itself: they tend to render other classes
20 of the community tributary, in an improper degree, to the manufacturing classes, to whom they
21 give a premature monopoly of the markets; they sometimes force industry out of its more natural
22 channels into others in which it flows with less advantage; and in the last place, they oppress the
23 merchant, who is often obliged to pay them himself without any retribution from the consumer.
24 When the demand is equal to the quantity of goods at market, the consumer generally pays the
25 duty; but when the markets happen to be overstocked, a great proportion falls upon the merchant,
26 and sometimes not only exhausts his profits, but breaks in upon his capital. I am apt to think that
27 a division of the duty, between the seller and the buyer, more often happens than is commonly
28 imagined. It is not always possible to raise the price of a commodity in exact proportion to every
29 additional imposition laid upon it. The merchant, especially in a country of small commercial
30 capital, is often under a necessity of keeping prices down in order to a more expeditious sale.

31 The maxim that the consumer is the payer, is so much oftener true than the reverse of the
32 proposition, that it is far more equitable that the duties on imports should go into a common
33 stock, than that they should redound to the exclusive benefit of the importing States. But it is not

1 so generally true as to render it equitable, that those duties should form the only national fund.
2 When they are paid by the merchant they operate as an additional tax upon the importing State,
3 whose citizens pay their proportion of them in the character of consumers. In this view they are
4 productive of inequality among the States; which inequality would be increased with the increased
5 extent of the duties. The confinement of the national revenues to this species of imposts would be
6 attended with inequality, from a different cause, between the manufacturing and the non-
7 manufacturing States. The States which can go farthest towards the supply of their own wants, by
8 their own manufactures, will not, according to their numbers or wealth, consume so great a
9 proportion of imported articles as those States which are not in the same favorable situation. They
10 would not, therefore, in this mode alone contribute to the public treasury in a ratio to their
11 abilities. To make them do this it is necessary that recourse be had to excises, the proper objects of
12 which are particular kinds of manufactures. New York is more deeply interested in these
13 considerations than such of her citizens as contend for limiting the power of the Union to external
14 taxation may be aware of. New York is an importing State, and is not likely speedily to be, to any
15 great extent, a manufacturing State. She would, of course, suffer in a double light from restraining
16 the jurisdiction of the Union to commercial imposts.

17 So far as these observations tend to inculcate a danger of the import duties being extended to an
18 injurious extreme it may be observed, conformably to a remark made in another part of these
19 papers, that the interest of the revenue itself would be a sufficient guard against such an extreme. I
20 readily admit that this would be the case, as long as other resources were open; but if the avenues
21 to them were closed, HOPE, stimulated by necessity, would beget experiments, fortified by
22 rigorous precautions and additional penalties, which, for a time, would have the intended effect,
23 till there had been leisure to contrive expedients to elude these new precautions. The first success
24 would be apt to inspire false opinions, which it might require a long course of subsequent
25 experience to correct. Necessity, especially in politics, often occasions false hopes, false reasonings,
26 and a system of measures correspondingly erroneous. But even if this supposed excess should not
27 be a consequence of the limitation of the federal power of taxation, the inequalities spoken of
28 would still ensue, though not in the same degree, from the other causes that have been noticed.
29 Let us now return to the examination of objections.

30 One which, if we may judge from the frequency of its repetition, seems most to be relied on, is,
31 that the House of Representatives is not sufficiently numerous for the reception of all the different
32 classes of citizens, in order to combine the interests and feelings of every part of the community,
33 and to produce a due sympathy between the representative body and its constituents. This
34 argument presents itself under a very specious and seducing form; and is well calculated to lay hold
35 of the prejudices of those to whom it is addressed. But when we come to dissect it with attention,
36 it will appear to be made up of nothing but fair-sounding words. The object it seems to aim at is,
37 in the first place, impracticable, and in the sense in which it is contended for, is unnecessary. I

1 reserve for another place the discussion of the question which relates to the sufficiency of the
2 representative body in respect to numbers, and shall content myself with examining here the
3 particular use which has been made of a contrary supposition, in reference to the immediate
4 subject of our inquiries.

5 The idea of an actual representation of all classes of the people, by persons of each class, is
6 altogether visionary. Unless it were expressly provided in the Constitution, that each different
7 occupation should send one or more members, the thing would never take place in practice.
8 Mechanics and manufacturers will always be inclined, with few exceptions, to give their votes to
9 merchants, in preference to persons of their own professions or trades. Those discerning citizens
10 are well aware that the mechanic and manufacturing arts furnish the materials of mercantile
11 enterprise and industry. Many of them, indeed, are immediately connected with the operations of
12 commerce. They know that the merchant is their natural patron and friend; and they are aware,
13 that however great the confidence they may justly feel in their own good sense, their interests can
14 be more effectually promoted by the merchant than by themselves. They are sensible that their
15 habits in life have not been such as to give them those acquired endowments, without which, in a
16 deliberative assembly, the greatest natural abilities are for the most part useless; and that the
17 influence and weight, and superior acquirements of the merchants render them more equal to a
18 contest with any spirit which might happen to infuse itself into the public councils, unfriendly to
19 the manufacturing and trading interests. These considerations, and many others that might be
20 mentioned prove, and experience confirms it, that artisans and manufacturers will commonly be
21 disposed to bestow their votes upon merchants and those whom they recommend. We must
22 therefore consider merchants as the natural representatives of all these classes of the community.

23 With regard to the learned professions, little need be observed; they truly form no distinct interest
24 in society, and according to their situation and talents, will be indiscriminately the objects of the
25 confidence and choice of each other, and of other parts of the community.

26 Nothing remains but the landed interest; and this, in a political view, and particularly in relation
27 to taxes, I take to be perfectly united, from the wealthiest landlord down to the poorest tenant. No
28 tax can be laid on land which will not affect the proprietor of millions of acres as well as the
29 proprietor of a single acre. Every landholder will therefore have a common interest to keep the
30 taxes on land as low as possible; and common interest may always be reckoned upon as the surest
31 bond of sympathy. But if we even could suppose a distinction of interest between the opulent
32 landholder and the middling farmer, what reason is there to conclude, that the first would stand a
33 better chance of being deputed to the national legislature than the last? If we take fact as our
34 guide, and look into our own senate and assembly, we shall find that moderate proprietors of land
35 prevail in both; nor is this less the case in the senate, which consists of a smaller number, than in
36 the assembly, which is composed of a greater number. Where the qualifications of the electors are
37 the same, whether they have to choose a small or a large number, their votes will fall upon those in

1 whom they have most confidence; whether these happen to be men of large fortunes, or of
2 moderate property, or of no property at all.

3 It is said to be necessary, that all classes of citizens should have some of their own number in the
4 representative body, in order that their feelings and interests may be the better understood and
5 attended to. But we have seen that this will never happen under any arrangement that leaves the
6 votes of the people free. Where this is the case, the representative body, with too few exceptions to
7 have any influence on the spirit of the government, will be composed of landholders, merchants,
8 and men of the learned professions. But where is the danger that the interests and feelings of the
9 different classes of citizens will not be understood or attended to by these three descriptions of
10 men? Will not the landholder know and feel whatever will promote or insure the interest of landed
11 property? And will he not, from his own interest in that species of property, be sufficiently prone
12 to resist every attempt to prejudice or encumber it? Will not the merchant understand and be
13 disposed to cultivate, as far as may be proper, the interests of the mechanic and manufacturing
14 arts, to which his commerce is so nearly allied? Will not the man of the learned profession, who
15 will feel a neutrality to the rivalships between the different branches of industry, be likely to prove
16 an impartial arbiter between them, ready to promote either, so far as it shall appear to him
17 conducive to the general interests of the society?

18 If we take into the account the momentary humors or dispositions which may happen to prevail in
19 particular parts of the society, and to which a wise administration will never be inattentive, is the
20 man whose situation leads to extensive inquiry and information less likely to be a competent judge
21 of their nature, extent, and foundation than one whose observation does not travel beyond the
22 circle of his neighbors and acquaintances? Is it not natural that a man who is a candidate for the
23 favor of the people, and who is dependent on the suffrages of his fellow-citizens for the
24 continuance of his public honors, should take care to inform himself of their dispositions and
25 inclinations, and should be willing to allow them their proper degree of influence upon his
26 conduct? This dependence, and the necessity of being bound himself, and his posterity, by the
27 laws to which he gives his assent, are the true, and they are the strong chords of sympathy between
28 the representative and the constituent.

29 There is no part of the administration of government that requires extensive information and a
30 thorough knowledge of the principles of political economy, so much as the business of taxation.
31 The man who understands those principles best will be least likely to resort to oppressive
32 expedients, or sacrifice any particular class of citizens to the procurement of revenue. It might be
33 demonstrated that the most productive system of finance will always be the least burdensome.
34 There can be no doubt that in order to a judicious exercise of the power of taxation, it is necessary
35 that the person in whose hands it should be acquainted with the general genius, habits, and modes
36 of thinking of the people at large, and with the resources of the country. And this is all that can be
37 reasonably meant by a knowledge of the interests and feelings of the people. In any other sense the

1 proposition has either no meaning, or an absurd one. And in that sense let every considerate
2 citizen judge for himself where the requisite qualification is most likely to be found.

3 PUBLIUS

1 **FEDERALIST No. 36. The Same Subject Continued**
2 **(Concerning the General Power of Taxation)**

3 **From the New York Packet. Tuesday, January 8, 1788.**

4 **HAMILTON**

5 **To the People of the State of New York:**

6 **WE HAVE** seen that the result of the observations, to which the foregoing number has been
7 principally devoted, is, that from the natural operation of the different interests and views of the
8 various classes of the community, whether the representation of the people be more or less
9 numerous, it will consist almost entirely of proprietors of land, of merchants, and of members of
10 the learned professions, who will truly represent all those different interests and views. If it should
11 be objected that we have seen other descriptions of men in the local legislatures, I answer that it is
12 admitted there are exceptions to the rule, but not in sufficient number to influence the general
13 complexion or character of the government. There are strong minds in every walk of life that will
14 rise superior to the disadvantages of situation, and will command the tribute due to their merit,
15 not only from the classes to which they particularly belong, but from the society in general. The
16 door ought to be equally open to all; and I trust, for the credit of human nature, that we shall see
17 examples of such vigorous plants flourishing in the soil of federal as well as of State legislation; but
18 occasional instances of this sort will not render the reasoning founded upon the general course of
19 things, less conclusive.

20 The subject might be placed in several other lights that would all lead to the same result; and in
21 particular it might be asked, What greater affinity or relation of interest can be conceived between
22 the carpenter and blacksmith, and the linen manufacturer or stocking weaver, than between the
23 merchant and either of them? It is notorious that there are often as great rivalships between
24 different branches of the mechanic or manufacturing arts as there are between any of the
25 departments of labor and industry; so that, unless the representative body were to be far more
26 numerous than would be consistent with any idea of regularity or wisdom in its deliberations, it is
27 impossible that what seems to be the spirit of the objection we have been considering should ever
28 be realized in practice. But I forbear to dwell any longer on a matter which has hitherto worn too
29 loose a garb to admit even of an accurate inspection of its real shape or tendency.

30 There is another objection of a somewhat more precise nature that claims our attention. It has
31 been asserted that a power of internal taxation in the national legislature could never be exercised
32 with advantage, as well from the want of a sufficient knowledge of local circumstances, as from an
33 interference between the revenue laws of the Union and of the particular States. The supposition

1 of a want of proper knowledge seems to be entirely destitute of foundation. If any question is
2 depending in a State legislature respecting one of the counties, which demands a knowledge of
3 local details, how is it acquired? No doubt from the information of the members of the county.
4 Cannot the like knowledge be obtained in the national legislature from the representatives of each
5 State? And is it not to be presumed that the men who will generally be sent there will be possessed
6 of the necessary degree of intelligence to be able to communicate that information? Is the
7 knowledge of local circumstances, as applied to taxation, a minute topographical acquaintance
8 with all the mountains, rivers, streams, highways, and bypaths in each State; or is it a general
9 acquaintance with its situation and resources, with the state of its agriculture, commerce,
10 manufactures, with the nature of its products and consumptions, with the different degrees and
11 kinds of its wealth, property, and industry?

12 Nations in general, even under governments of the more popular kind, usually commit the
13 administration of their finances to single men or to boards composed of a few individuals, who
14 digest and prepare, in the first instance, the plans of taxation, which are afterwards passed into
15 laws by the authority of the sovereign or legislature.

16 Inquisitive and enlightened statesmen are deemed everywhere best qualified to make a judicious
17 selection of the objects proper for revenue; which is a clear indication, as far as the sense of
18 mankind can have weight in the question, of the species of knowledge of local circumstances
19 requisite to the purposes of taxation.

20 The taxes intended to be comprised under the general denomination of internal taxes may be
21 subdivided into those of the DIRECT and those of the INDIRECT kind. Though the objection
22 be made to both, yet the reasoning upon it seems to be confined to the former branch. And
23 indeed, as to the latter, by which must be understood duties and excises on articles of
24 consumption, one is at a loss to conceive what can be the nature of the difficulties apprehended.
25 The knowledge relating to them must evidently be of a kind that will either be suggested by the
26 nature of the article itself, or can easily be procured from any well-informed man, especially of the
27 mercantile class. The circumstances that may distinguish its situation in one State from its
28 situation in another must be few, simple, and easy to be comprehended. The principal thing to be
29 attended to, would be to avoid those articles which had been previously appropriated to the use of
30 a particular State; and there could be no difficulty in ascertaining the revenue system of each. This
31 could always be known from the respective codes of laws, as well as from the information of the
32 members from the several States.

33 The objection, when applied to real property or to houses and lands, appears to have, at first sight,
34 more foundation, but even in this view it will not bear a close examination. Land taxes are
35 commonly laid in one of two modes, either by ACTUAL valuations, permanent or periodical, or
36 by OCCASIONAL assessments, at the discretion, or according to the best judgment, of certain

1 officers whose duty it is to make them. In either case, the EXECUTION of the business, which
2 alone requires the knowledge of local details, must be devolved upon discreet persons in the
3 character of commissioners or assessors, elected by the people or appointed by the government for
4 the purpose. All that the law can do must be to name the persons or to prescribe the manner of
5 their election or appointment, to fix their numbers and qualifications and to draw the general
6 outlines of their powers and duties. And what is there in all this that cannot as well be performed
7 by the national legislature as by a State legislature? The attention of either can only reach to
8 general principles; local details, as already observed, must be referred to those who are to execute
9 the plan.

10 But there is a simple point of view in which this matter may be placed that must be altogether
11 satisfactory. The national legislature can make use of the SYSTEM OF EACH STATE WITHIN
12 THAT STATE. The method of laying and collecting this species of taxes in each State can, in all
13 its parts, be adopted and employed by the federal government.

14 Let it be recollected that the proportion of these taxes is not to be left to the discretion of the
15 national legislature, but is to be determined by the numbers of each State, as described in the
16 second section of the first article. An actual census or enumeration of the people must furnish the
17 rule, a circumstance which effectually shuts the door to partiality or oppression. The abuse of this
18 power of taxation seems to have been provided against with guarded circumspection. In addition
19 to the precaution just mentioned, there is a provision that "all duties, imposts, and excises shall be
20 UNIFORM throughout the United States."

21 It has been very properly observed by different speakers and writers on the side of the
22 Constitution, that if the exercise of the power of internal taxation by the Union should be
23 discovered on experiment to be really inconvenient, the federal government may then forbear the
24 use of it, and have recourse to requisitions in its stead. By way of answer to this, it has been
25 triumphantly asked, Why not in the first instance omit that ambiguous power, and rely upon the
26 latter resource? Two solid answers may be given. The first is, that the exercise of that power, if
27 convenient, will be preferable, because it will be more effectual; and it is impossible to prove in
28 theory, or otherwise than by the experiment, that it cannot be advantageously exercised. The
29 contrary, indeed, appears most probable. The second answer is, that the existence of such a power
30 in the Constitution will have a strong influence in giving efficacy to requisitions. When the States
31 know that the Union can apply itself without their agency, it will be a powerful motive for
32 exertion on their part.

33 As to the interference of the revenue laws of the Union, and of its members, we have already seen
34 that there can be no clashing or repugnancy of authority. The laws cannot, therefore, in a legal
35 sense, interfere with each other; and it is far from impossible to avoid an interference even in the
36 policy of their different systems. An effectual expedient for this purpose will be, mutually, to

1 abstain from those objects which either side may have first had recourse to. As neither can
2 CONTROL the other, each will have an obvious and sensible interest in this reciprocal
3 forbearance. And where there is an IMMEDIATE common interest, we may safely count upon its
4 operation. When the particular debts of the States are done away, and their expenses come to be
5 limited within their natural compass, the possibility almost of interference will vanish. A small
6 land tax will answer the purpose of the States, and will be their most simple and most fit resource.

7 Many spectres have been raised out of this power of internal taxation, to excite the apprehensions
8 of the people: double sets of revenue officers, a duplication of their burdens by double taxations,
9 and the frightful forms of odious and oppressive poll-taxes, have been played off with all the
10 ingenious dexterity of political legerdemain.

11 As to the first point, there are two cases in which there can be no room for double sets of officers:
12 one, where the right of imposing the tax is exclusively vested in the Union, which applies to the
13 duties on imports; the other, where the object has not fallen under any State regulation or
14 provision, which may be applicable to a variety of objects. In other cases, the probability is that the
15 United States will either wholly abstain from the objects preoccupied for local purposes, or will
16 make use of the State officers and State regulations for collecting the additional imposition. This
17 will best answer the views of revenue, because it will save expense in the collection, and will best
18 avoid any occasion of disgust to the State governments and to the people. At all events, here is a
19 practicable expedient for avoiding such an inconvenience; and nothing more can be required than
20 to show that evils predicted to not necessarily result from the plan.

21 As to any argument derived from a supposed system of influence, it is a sufficient answer to say
22 that it ought not to be presumed; but the supposition is susceptible of a more precise answer. If
23 such a spirit should infest the councils of the Union, the most certain road to the accomplishment
24 of its aim would be to employ the State officers as much as possible, and to attach them to the
25 Union by an accumulation of their emoluments. This would serve to turn the tide of State
26 influence into the channels of the national government, instead of making federal influence flow
27 in an opposite and adverse current. But all suppositions of this kind are invidious, and ought to be
28 banished from the consideration of the great question before the people. They can answer no other
29 end than to cast a mist over the truth.

30 As to the suggestion of double taxation, the answer is plain. The wants of the Union are to be
31 supplied in one way or another; if to be done by the authority of the federal government, it will
32 not be to be done by that of the State government. The quantity of taxes to be paid by the
33 community must be the same in either case; with this advantage, if the provision is to be made by
34 the Union that the capital resource of commercial imposts, which is the most convenient branch
35 of revenue, can be prudently improved to a much greater extent under federal than under State
36 regulation, and of course will render it less necessary to recur to more inconvenient methods; and

1 with this further advantage, that as far as there may be any real difficulty in the exercise of the
2 power of internal taxation, it will impose a disposition to greater care in the choice and
3 arrangement of the means; and must naturally tend to make it a fixed point of policy in the
4 national administration to go as far as may be practicable in making the luxury of the rich
5 tributary to the public treasury, in order to diminish the necessity of those impositions which
6 might create dissatisfaction in the poorer and most numerous classes of the society. Happy it is
7 when the interest which the government has in the preservation of its own power, coincides with a
8 proper distribution of the public burdens, and tends to guard the least wealthy part of the
9 community from oppression!

10 As to poll taxes, I, without scruple, confess my disapprobation of them; and though they have
11 prevailed from an early period in those States(1) which have uniformly been the most tenacious of
12 their rights, I should lament to see them introduced into practice under the national government.
13 But does it follow because there is a power to lay them that they will actually be laid? Every State
14 in the Union has power to impose taxes of this kind; and yet in several of them they are unknown
15 in practice. Are the State governments to be stigmatized as tyrannies, because they possess this
16 power? If they are not, with what propriety can the like power justify such a charge against the
17 national government, or even be urged as an obstacle to its adoption? As little friendly as I am to
18 the species of imposition, I still feel a thorough conviction that the power of having recourse to it
19 ought to exist in the federal government. There are certain emergencies of nations, in which
20 expedients, that in the ordinary state of things ought to be forborne, become essential to the
21 public weal. And the government, from the possibility of such emergencies, ought ever to have the
22 option of making use of them. The real scarcity of objects in this country, which may be
23 considered as productive sources of revenue, is a reason peculiar to itself, for not abridging the
24 discretion of the national councils in this respect. There may exist certain critical and tempestuous
25 conjunctures of the State, in which a poll tax may become an inestimable resource. And as I know
26 nothing to exempt this portion of the globe from the common calamities that have befallen other
27 parts of it, I acknowledge my aversion to every project that is calculated to disarm the government
28 of a single weapon, which in any possible contingency might be usefully employed for the general
29 defense and security.

30 (I have now gone through the examination of such of the powers proposed to be vested in the
31 United States, which may be considered as having an immediate relation to the energy of the
32 government; and have endeavored to answer the principal objections which have been made to
33 them. I have passed over in silence those minor authorities, which are either too inconsiderable to
34 have been thought worthy of the hostilities of the opponents of the Constitution, or of too
35 manifest propriety to admit of controversy. The mass of judiciary power, however, might have
36 claimed an investigation under this head, had it not been for the consideration that its

1 organization and its extent may be more advantageously considered in connection. This has
2 determined me to refer it to the branch of our inquiries upon which we shall next enter.)(E1)

3 (I have now gone through the examination of those powers proposed to be conferred upon the
4 federal government which relate more peculiarly to its energy, and to its efficiency for answering
5 the great and primary objects of union. There are others which, though omitted here, will, in
6 order to render the view of the subject more complete, be taken notice of under the next head of
7 our inquiries. I flatter myself the progress already made will have sufficed to satisfy the candid and
8 judicious part of the community that some of the objections which have been most strenuously
9 urged against the Constitution, and which were most formidable in their first appearance, are not
10 only destitute of substance, but if they had operated in the formation of the plan, would have
11 rendered it incompetent to the great ends of public happiness and national prosperity. I equally
12 flatter myself that a further and more critical investigation of the system will serve to recommend
13 it still more to every sincere and disinterested advocate for good government and will leave no
14 doubt with men of this character of the propriety and expediency of adopting it. Happy will it be
15 for ourselves, and more honorable for human nature, if we have wisdom and virtue enough to set
16 so glorious an example to mankind!)(E1)

17 PUBLIUS

18 1. The New England States.

19 E1. Two versions of this paragraph appear in different editions.