Mark Antony, Boston *Independent Chronicle* 10 January 1788

> "*Here under leave of* BRUTUS, *and the rest,*
> (For Brutus is an honourable man;
> So are they all, all honourable men,)
> *Come I to speak.*" — JULIUS CÆSAR.

Mess'rs. ADAMS and NOURSE, Among the various artifices of those who are opposed to the federal constitution or to any efficient plan of government, none is more natural, and perhaps none more successful, than to excite a jealousy between the inhabitants of the several States. Upon this plan the suggestions of Brutus, whose speculations have appeared in your paper, appear frequently to be founded. I particularly allude, at present, to his third number, in which he objects to the mode of representation proposed in the new constitution, expatiating largely upon an idea, at which the feelings of Freemen must reluct, that the system of slavery in the southern States, is patronized and encouraged by the proposed mode of representation. Such misrepresentations ought surely to be exposed. With many it is needless; but those who have perceived the futility of his observations, will excuse me for the sake of those who have not.

The equal voice of unequal States in Congress, is a well grounded objection of long standing, to the present Confederation. A new system therefore, which should not remedy this defect, would most surely be rejected by the larger States; while the minor States would feel alarmed at the reform, unless they were secured, by a provision in some measure conformable to the spirit of the confederation. In this dilemma, originating from opposite interests, human wisdom, perhaps, could not devise a happier expedient than the new frame of government proposes. A House of Representatives chosen by the States, according to their respective numbers, gives weight to the larger States, in some measure, proportioned to their magnitude; while the small States, are secured from the danger or the apprehension of being overborn by their more powerful confederates, by an equal voice in the Senate.

In this new construction of a House of Representatives, the number, which each State shall send, becomes an interesting question. The general answer is easy, that it ought to be in proportion to the supplies furnished to the public chest. This equitable rule has become a political maxim, which *Brutus* himself enforces when it suits his convenience. The next enquiry is, by what rule taxes shall be proportioned, which when ascertained, is also the rule of representation. The mode prescribed in the confederation, has long been esteemed injudicious and impracticable. It has not hitherto governed the Continental requisition; and if executed and observed, would probably prove unsatisfactory and unjust. Those who are acquainted with State *Valuations*, will concur with the above conclusions, especially when they calculate its operation

among thirteen different powers. Some other rule of apportionment became indispensible. The number of inhabitants in each State, has obtained the preference to any other system: And for the combined advantages of simplicity, certainty, facility and equity, none probably can be found more eligible. Here a difficulty arises, with respect to the slaves in the southern States, nor would the difficulty be lessened probably if they were infranchised. Five of them are computed to be equal to three freemen. Their comparative value cannot be demonstrated; but it is acknowledged that they are not equal to free persons, in an estimation of this nature; and the ratio established, being the result of compromise, the presumption is in favour of its propriety.

This connected system of representation and taxation is thus expressed in the proposed Constitution: "Representatives and direct taxes shall be proportioned among the several States, which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons." Few sentences I believe of equal import, can be produced, so perspicuous and comprehensive. But the critical *Brutus* is offended with its construction, and, after suggesting its ambiguity, proceeds to give us an abridged sense of it in his own superior style. "What a strange and unnecessary accumulation of words (says he) are here used, to conceal from the public eye, what might have been expressed in the following concise manner—*Representatives are to be proportioned among the States respectively, according to the number of freemen and slaves inhabiting them, counting five slaves for three freemen?*" The charge of studied concealment, which *Brutus* so illiberally suggests, is applicable only to himself. It frequently happens that precession is lost in conciseness; but *Brutus* has sacrificed the truth. The careful reader will observe, that the article under consideration proportions representatives and taxes according to numbers. But the pretended abridgment fabricated by *Brutus*, mentions Representatives only. The difference is material. In the constitution, it is a fair and equitable establishment: As represented by *Brutus*, one essential branch is omitted, upon which its consistency depended, and being thus mutilated it has been exposed to his objections. This artifice has in some measure succeeded to his wishes, for some have been misled by his suggestions. But, my countrymen, he deceives and abuses you. For what has *Brutus* attacked? Is it the alteration of the rule of apportioning taxes, from a valuation of property to numbers? No.—His reason dictated, and probably his own experience in public affairs, demonstrated the propriety of the measure. Does he disapprove of the ratio between free persons and other persons, in this great political estimate? Upon this matter he is silent. Does he condemn the proportion of Representatives to taxes? No.—In the same performance, when cavilling against the Senate he observes, "on every principle of equity and propriety, representation in a government, should be in exact proportion to the numbers or aids, afforded by the persons represented"—The same principle applies to States, as to individuals in this respect; and if *Brutus* had been honest, his abilities would have saved him from inconsistency. The number of persons, whatever their condition or degree, being reckoned to any State, to render it chargeable in the public contributions, in the same proportion ought that State to be represented. As the slaves are not personally chargeable with taxes, so they are not concerned in representation. But says *Brutus*, "Why is the number of members in the assembly, to be encreased on their account? Is it because in some of the States, a considerable part of the property of the inhabitants, consists in a number of their fellow men, who are held in bondage, in defiance of every idea of benevolence, justice, and religion, and contrary to all the principles of liberty, which have been publickly avowed, in the late glorious revolution? If this be a just ground of

representation, the horses in some of the States, and the oxen in others, ought to be represented: for a great share of property in some of them consists in these animals;" &c. Is the man really misled, or does he only attempt to mislead others, and to avail himself of our strong disapprobation of slavery? The practice of slavery among our confederates ought to be regreted by us, but it is evidently beyond our controul. Do we in fact countenance or give encouragement to it, by consenting to this rule of apportionment, more than we should by concurring with another? Suppose for instance, Representatives and direct taxes were to be apportioned by a valuation, instead of numbers, and thirty thousand pounds property, should give one representative, instead of thirty thousand persons. If Virginia exceeded Massachusetts in the valuation, [by] thirty thousand pounds, as it would bear its additional proportion of the public burdens, it would be entitled to an additional representation. For greater convenience and certainty, the rule of apportionment is changed from a valuation to numbers. Shall not the slaves be reckoned? The objection of the northern States has hitherto been, that they were not to be estimated nearer at par with the free. Virginia, we will suppose, is found to contain thirty thousand persons more than Massachusetts, reckoning slaves in the ratio proposed by the constitution. We all agree it ought to be proportionably chargeable in the federal contributions; shall it not have its proportionate representation? Having granted it in the former instance, with what pretence of equity or propriety can we deny it in the latter? And is slavery any more promoted or affected in one case than in the other? The number of persons, and of slaves, necessarily, among the rest, is fixed upon only as a criterion to determine each State's proportion in the public contributions, to which representation ought to be adequate. The sophistry of *Brutus* wholly arises from this circumstance; for if the proportion was determined by any other criterion, the States holding slaves would probably have as large a representation, as under the mode proposed. If they had not, it would be because their taxes were less, which could only evince, probably, that the criterion was not so certain or equitable as the one under consideration. *Brutus* has mentioned *horses* and *oxen*. If the number of those animals was the rule of apportionment of taxes, upon the principle above established, and which *Brutus* concedes, the representation of the States would in fact be according to the number of horses or oxen, found in them respectively; and it might then be said they were represented or that they increased the representation, in the same sense as *Brutus* suggests it respecting the slaves. In reality they have no concern in the representation, any further than they are used, with other persons, in a certain proportion, to determine the States proportion of taxes, from *which*, representation originating, as the effect from the cause, is therefore determined by the same rule. The representation is given to the State, and the Representatives are to be chosen, *by the electors of the most numerous branch of the State legislature*, according to the second article of the proposed federal constitution. In these elections the slaves have no part: and here we may feel a degree of regret, that in any quarter of the United States, such a proportion of our fellow creatures, should be deprived of a share of political and civil liberty. To this only do the objections of Brutus, and his warm declamations apply: for, whatever may be their intended operation, upon an entire view of the true sense of the article in question, part of which he has artfully suppressed, they evidently do not affect the proposed constitution.

The acts of power, which some of the States see fit to exercise with respect to their internal concerns, may be repugnant to our notions of justice; but shall we therefore refuse to confederate with them? *Brutus* himself surely, could not have this in contemplation. Does *Brutus* wish the slaves emancipated! It is a dictate of humanity, and we need no stimulous to join with him most cordially. But even in this laudible pursuit, we ought to temper the feelings of humanity with

political wisdom. Great numbers of slaves becoming citizens, might be burdensome and dangerous to the Public. These inconveniencies ought to be regarded. *M. Montesquieu*, whom *Brutus* quotes, and whom we all revere, after mentioning the embarrassment of the Roman Senate, in this respect, sometimes limiting, at other times facilitating the infranchisement of slaves, with great modesty observes, "much less can I determine what ought to be the regulations of a good republic, in an affair of this kind; this depends on too many circumstances." Of this he is certain, that "their condition should be more favoured in the civil, than in the political State"— As federalists, and I think as patriots, we ought to agree with him. This subject doubtless engaged the attention of the late respectable Convention. But, in the immensity of their object, it was not their province to establish those minute provisions, which properly belong partly to federal, partly to State Legislation. They probably went as far as policy would warrant, or practicability allow. The friends to liberty and humanity, may look forward with satisfaction to the period, when slavery shall not exist in the United States; while the enlightened patriot will approve of the system, which renders its abolition gradual.

To return to *Brutus*, from whom I have in some measure wandered. I have endeavoured to expose the fallacy and futility of his objections, to a very important article of the proposed Constitution; whether his mistakes were willful or designed, let the impartial determine. Certain it is, that under a pretence of abbreviating the article, he has given a false and imperfect representation of it, and under that representation, has pointed a number of objections, calculated to engage the feelings of the people, but which do not apply to the article as it stands in the Constitution. The zeal of Brutus may have led him into error, and that zeal may be honest: But his apparent ability prevents me from supposing him inconscious of the fallacy of his own observations. He might consider that the number of those who read, is greater than of those who examine; and that the feelings of the people might be so engaged, as to mislead their judgment. If he was influenced by those considerations to urge conscious fallacies upon the public mind, the investigation of truth is not his object; his patriotism is pretension; his zeal suspicious, and as he writes with design, we ought to read with caution.

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