

Dear Sir

Orange May 17<sup>th</sup> 1788

I received your favor of the 9<sup>th</sup> inst: several days ago, but have never been able till this moment to comply with the request it makes on the subject of the Mississippi.

Many considerations induce me to believe that there is not at present any dangerous disposition to sacrifice the right of the U. S. to the common use of that navigation. The discussions and inquiries which have taken place on that subject, have had a sensible influence on many opinions which had been formed under very partial and erroneous views of it. I have reason to believe particularly that the project will not again have the patronage of one very influential quarter. I find also that in States whose delegates had the strongest leaning towards that project, there are more weighty characters who warmly disapprove of it. I may add that some circumstances of a nature not to be particularized, are within my knowledge, which have more effect than any thing I have mentioned, in justifying the opinion I have expressed. These remarks will themselves suggest that they are communicated in confidence.

As far as any disposition may remain to form a treaty with Spain unfriendly to the views of the Western people I think it will be evidently diminished by the establishment of the new Constitution.

The great argument used by the advocates for a temporary cession  
of



of the American right was that the Union could not cause the right to be respected by Spain, that it was dishonorable to assert a right and at the same time leave another nation in the full and quiet possession of it, and that to exchange it ~~was~~ was to get something for nothing. The force of this reasoning will vanish with the national impotency of our present situation.

The more intimate and permanent the Union be made, the greater will be the sympathy between the whole and each particular part; and consequently the less likely will the whole be to give up the rights or interests of any particular part. ~~My~~ <sup>My</sup> seem to have been led by the supposed inability of the existing confederation to retain the Western <sup>settlements</sup> ~~part~~ under the general authority, to consider that part of the U.S. as a foreign country, and the other part as at liberty for that reason to pay an exclusive regard to its own particular interests. If the proposed Government will have energy enough to maintain the Union of the Atlantic States, it will be soon perceived, I think, that it will be equally capable at least, to bind together the Western and <sup>Atlantic</sup> ~~Eastern~~ States.

The protection and security which the new Government promises to purchasers of the federal lands, will have several ~~important effects on the~~ <sup>consequences</sup> ~~consequences~~ extremely favorable to the rights and interests of the Western Country. It will accelerate the <sup>formation of new States</sup> ~~population~~ there, and of course increase its weight in the general scale. It will encourage adventurers of character and talents who will not only ~~increase~~ add much to that weight, but will leave behind them friends and connections who will feel a variety of motives to stand up for whatever concerns the Western Country. It will induce many who will ~~remain~~ at home to speculate in that field with a view of selling out afterwards, or of providing for their children. These with all their friends will form a new class of advocates for their Western brethren. To such causes we are to ascribe the peculiar attachment

which Virginia has shown to the navigation of the Mississippi. The same causes will produce the same effect, whenever they may operate. The disposition of the New England people to emigrate into the Western Country has already shown itself under every discouragement of the present crisis. A very considerable quantity of public land has been already contracted for by persons of influence in that Country, who are actually carrying out settlers for <sup>their purchases</sup> ~~it~~. This circumstance has probably contributed to the relaxation of that quarter in the business of a Spanish Treaty. In a very short time if due provision be made for the safety & order of the settlements N.W. of the Ohio the Muskingum will be ~~the frontier of American Settlement~~ as well known, and inspire as much solicitude in N. England, as Kentucky does here.

As the establishment of the new Gov<sup>t</sup> will thus promote the sale of the public lands, it must for the same reason enhance their importance as a fund for paying off the public debt, and render the navigation of the Mississippi still more an object of national concern. Add to this that the new Government, by substantiating the domestic debt, will render the vacant territory a more necessary, as well as more productive fund for discharging it.

On these considerations principally I ground my opinion that the disposition to cede the Mississippi will be much less under the new than it may be under the old system. I am no less persuaded that the form of the new system will present greater obstacles to the measure than exist under the old. The present Congress possess the same powers as to treaties, as will be possessed by the new Government.  $\frac{2}{3}$  of the Senate will also be required, as  $\frac{2}{3}$  of Cong<sup>s</sup> now is. The only difference which relates to the Senate is that  $\frac{2}{3}$  of a majority of that body will suffice; whereas in Cong<sup>s</sup> there must be  $\frac{2}{3}$  of the whole number of votes. This at first view seems to be a material difference; but in practice it will be found if I mistake not, to be much less so. The representation in the Senate will be generally full for this very reason that



majority will make a quorum, and  $\frac{2}{3}$  of that number be competent to a decision. The apprehension of important decisions in a their House will be a spur to the attendance of the members. It will be an additional spur that decisions when made will have real efficacy. In Cong<sup>s</sup>. the case is different in both respects. So great a proportion of <sup>the</sup> whole body must concur in any act, particularly in important acts that the absent States find almost as great a security in their absence as in their presence, against measures which they dislike. And they will know that as the measures of Cong<sup>s</sup>. depend for their efficacy on the State legislatures, it is of little consequence <sup>in general how questions</sup> ~~how they~~ may be decided. From these causes proceeds the difficulty of keeping up ~~an~~ competent representation.

In calculating the probability of an event depending on the opinion of a body of men, it is necessary to take into view the degree of mutability in the component members of the body. It is obvious that every change of members produces a new chance of the event. If we try the danger to the Mississippi under the old and under the new system by comparing them in relation to this principle, the friends of the Mississippi cannot hesitate to embrace the latter. If the first choice should produce a Senate opposed to the sacrifice of that object, it can not be sacrificed for two years, ~~and~~ the danger from a new election of the whole number, can happen but once in six years, and as the same members are re-eligible from time to time, the danger from a change may possibly not happen during the lives of the members. On the other hand the members of Congress may be changed at pleasure, they hold their places at most from year to year, and the entire body necessarily undergoes a revolution once in three years. How many chances does such a body present in a period of six years for the turning up of any particular ~~of any particular~~ opinion

To complete the comparison between the two bodies another difference is to be noted. In the Senate the States ~~will~~ be represented each by two members who are to vote per capita. In Congress the representation consists of an uncertain number, ~~any two of~~ generally three or five, any two of whom can give the vote of the State  
From



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From this peculiarity in the Constitution, <sup>of Congress,</sup> two observations result. 1. If any two out of the three, five or more members happen to concur in any particular opinion and happen to attend together without their colleagues or with not more than one of them, their opinion becomes the vote of the State. It is easy to see how this must multiply the chances of any particular measure in Congress. Where the measure may depend on a few wavering or divided States, this circumstance is of material importance. On the very subject of the ~~Mississippi~~ I have seen the opinion of a State in Congress depending altogether on the casual attendance of these or those members of the same deputation, and sometimes varying more than once in the course of a few days. Even in the Virginia deputation the vote of the State might have been given in opposition to the sense of a majority of the delegates in appointment. 2. Although 9 States which are  $\frac{2}{3}$  of the whole must concur in Treaties made by Congress, yet it may happen that of the members present ~~more than~~ less than  $\frac{2}{3}$ , the proportion absolutely necessary in the Senate, may give an affirmative decision. If each delegation contain 5 members present, 27 can carry the point, who amount to  $\frac{3}{5}$  only of the whole number. If the delegations contain each 3 members only, the point may be carried by not more than  $\frac{2}{3}$ .

But the circumstance most material to be remarked in a comparative examination of the two Systems, is the security which the new one affords by making the concurrence of the President necessary to the validity of Treaties. This is an advantage which may be pronounced conclusive. At present the will of a single body can make a Treaty. If the new Government be established <sup>no treaty can be made without the</sup> ~~the~~ joint consent of two distinct and independent wills. The President also being elected in a different mode, ~~and not having the same constituents~~ and under a different influence from that of the ~~State~~ <sup>Senate</sup>, will be the more apt and the more free to have a will of his own. As a single magistrate too responsible for the counts



counts of his administration, his pride will the more naturally revolt against a measure which might bring on him the reproach not only of partiality, but of a dishonorable surrender of a national right. His duration and re-eligibility are other circumstances which diminish the danger to the Mississippi. If ~~the~~ the first election should produce either a Senate or a President opposed to the scheme of giving up the river, it must be safe for a considerable time, the danger can only return at considerable intervals, and there will always be at least a double chance of averting it.

I consider the House of Reps. as another obstacle afforded by the new Constitution. It is true that this branch is not of necessity to be consulted in the forming of Treaties. But as its approbation and co-operation may often be necessary in carrying treaties into full effect; and as the support of the Government and of the plans of the President & Senate in general must be drawn from the power which they hold, the sentiments of this body cannot fail to have very great weight, even when the body itself may have no constitutional authority. There are two circumstances in the structure of the House of Reps. which strengthen the argument in this case. The one is that its members will be taken more diffusively from each State than the members of Congress have generally been. The latter being appointed by the State legislatures, and considered as representatives of the States in their political capacities, have been appointed with little or no regard to local situation, and have of course been taken in most of the States from the commercial and maritime situations which have generally presented the best choice of characters. The House of Reps. on the other hand must consist by a large majority of inland & western members. This is a difference of some moment in my opinion, on the subject under consideration. The other circumstance is that the people of America being proportionally represented in this branch, that part of America which is supposed to be most attached to the Mississippi, will have a greater share in the representation than they have in Congress, when the number of States only prevails. So that under the new system every Treaty

Treaty must be made by 1. the authority of the Senate in which the States are to vote equally. 2. that of the President who represents the people & the States in a compound & ratios. And 3. under the influence of the H. of Reps. who represent the people alone.

After all perhaps the comparative merits of the two systems in relation to the point in view depend less on what they may probably omit to do, than on their ability to effect what it is proper they should do. The Western strength is unable at present to command the use of the Mississippi. Within a certain period it will be able. Neither the new nor the old system will be able by any acts or Treaties whatever, very long to protract this period. What ought to be desired therefore by the Western people is not so much that no treaty ~~should~~ should be made, as that some treaty should be made which will procure them an immediate and peaceable use of the river. The Present Congress if ever so well disposed is wholly and notoriously incompetent to this task. Their successors, if the new Government take place, will be able to hold a language which no nation having possessions in America will think it prudent to disregard; and which will be able to have a due effect on Spain in particular.

Besides these considerations which relate to a particular object, there are others which I should suppose ought to recommend the proposed Constitution to the Western Citizens.

Obtaining

They have a common interest in the advantages promised by a good general Government, as well as in avoiding the mischiefs of that anarchy which now hovers over us.

If not the number, at least the character of emigrants to that Country, as well from Europe as the ~~older~~ older States, will depend on the degree of security provided there for private rights and public order.

The new Govt. and that alone will be able to take the requisite measures



measures for getting into our hands the western ports which will ~~under~~ not cease to instigate the savages, as long as they remain in British hands. It is said also that the Southern Indians are encouraged and armed by the Spaniards for like incursions on that side. A respectable Government would have equal effect in putting an end to that evil. There are considerations which must I should think have great weight with men of reflection.

It seems probable that even if the Mississippi were open, it would be used as a channel for exportation only or chiefly, and that the returns will be imported more chiefly & conveniently through the Atlantic States. On this supposition the western inhabitants, like those of the non-importing States on the Atlantic, will be taxed by other States as long as the present system continues. This must necessarily be the case prior to the opening of the Mississippi. The effect of this oppression on N. Jersey, Connecticut & Delaware are well known.

The idea of an exportation down the Mississippi, and an importation through the channels I have mentioned, has always appeared to me to be warranted by the probable interest and arrangements of the Western people and to furnish a strong inducement to the Atlantic States to contend for the navigation of that river. The imports of every Country must be pretty nearly limited by the amount of the its exports. Without the use of the Mississippi the Western Country will export little or nothing. The Atlantic <sup>Country</sup> ~~arts~~ of course have little or no profit from supplying them with imports, at least after the money carried further by emigrants shall be exhausted. Open the Mississippi, and the amount of imports will yield a profit to the Atlantic merchants ~~of which~~ which must be contemplated with great avidity.

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I have no particular materials or calculations for determining the revenue that may be drawn from the general imports. It does not appear



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to me to be necessary to go much into details on the subject. As far as it  
may necessary. the Custom-House returns of beer<sup>e</sup> may give a proper data.  
We know in general that the annual amount may be rated at about  
four millions sterling and upwards. There perhaps on this which is less than  
is raised in any other country except Holland, will ~~yield nearly~~ be a most pro-  
-ious resource. We know too that there are several particular articles on which  
enumerated duties may be superadded. From an estimate I saw in N-York.  
the rum imported there amounted to one million of gallons. As a part of N. Jer-  
-sey & of Connecticut are supplied from that port. N-York may perhaps im-  
-port  $\frac{1}{2}$  of the whole quantity consumed in the U. States. According to this calculation  
one shilling per gallon w<sup>d</sup>. yield a million of dollars. Other articles might be  
selected.

I have the pleasure to find that Mr. Brown will befriend  
the Constitution as far as his influence will extend. Mr. Griffin tells me so.  
I am sorry that the returns from Kentucky will render an exertion of it  
necessary. It is much to be feared that the members may come fettered not  
only with prejudices but with instructions. - I beg you to excuse the marks  
of hurry with which I have written. The hope of finding a conveyance from  
the Church at which Mr. Waddell preaches. ~~has~~ limited me to a share of time  
which did not admit of correction. Inclosed are a few papers rec<sup>d</sup>. a few  
days ago. from Mr. Griffin.

With sincere esteem I am Dr Sir

Your Obed<sup>t</sup>. Serv<sup>t</sup>

P. Madison Jr.

Geo. Nicholas Esq.







