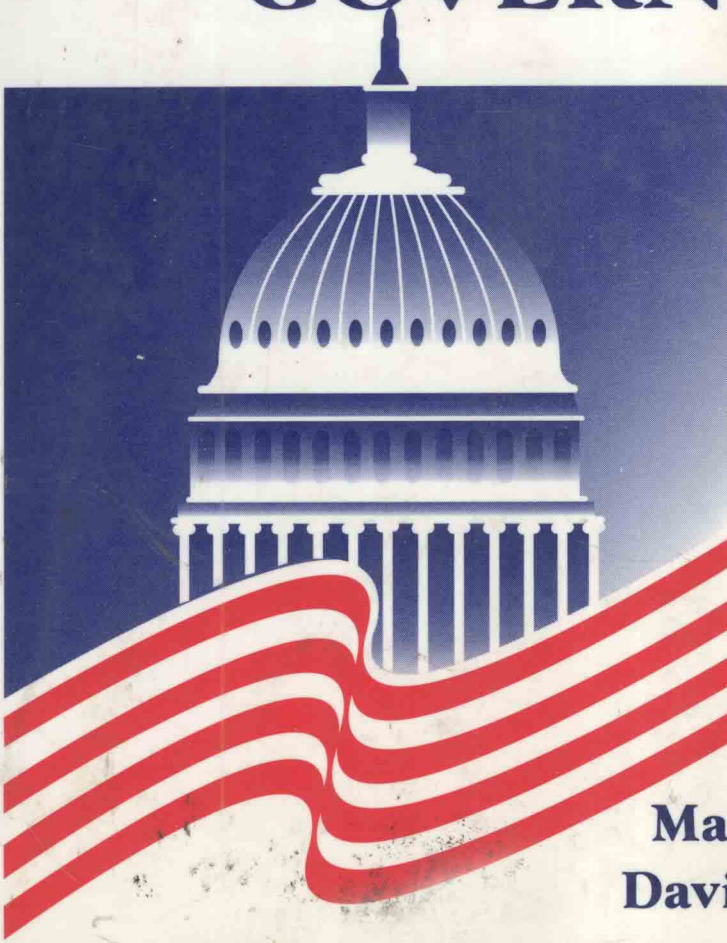


READINGS *in* **AMERICAN** **GOVERNMENT**

Sixth Edition



Mary P. Nichols
David K. Nichols

Readings in American Government

Sixth Edition

Mary P. Nichols
David K. Nichols



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Contents

I	The Founding and the Principles of Government	1
1.	The Declaration of Independence (1776) <i>Thomas Jefferson</i>	7
2.	The Meaning of the Declaration of Independence (1857) <i>Abraham Lincoln</i>	10
3.	Exchange on State Sovereignty and the Problem of Majority Rule (1858) <i>Stephen A. Douglas and Abraham Lincoln</i>	13
4.	The Revolution of Sober Expectations (1975) <i>Martin Diamond</i>	21
5.	The Small Republic Argument (1787) <i>Centinel</i>	25
6.	Selections from the Records of the Federal Convention of 1787	27
7.	The Work of the Constitutional Convention (1787) <i>James Madison</i>	35
8.	Federalist 10 (1787) <i>James Madison</i>	43
9.	Federalist 51 (1788) <i>James Madison</i>	50
10.	The Role of the Rich and the Poor in the Legislature (1787) <i>John Adams</i>	55
11.	On the Character of the Legislator (1778) <i>Alexander Hamilton</i>	58
12.	Federalist 11 (1787) <i>Alexander Hamilton</i>	59
13.	The Military in a Commercial Republic (1787) <i>Alexander Hamilton</i>	62
14.	Equality and Commerce (1840) <i>Alexis de Tocqueville</i>	64
15.	On Citizenship (1824, 1816, 1814) <i>Thomas Jefferson</i>	73
16.	Federalist 39 (1788) <i>James Madison</i>	76
17.	<i>McCulloch v. Maryland</i> (1819)	81

- | | | |
|-----|--|----|
| 18. | The Purposes Served by Local Self-Government (1840) | 89 |
| | <i>Alexis de Tocqueville</i> | |
| 19. | By the People: The Old Values of the
New Citizenship (1994) | 93 |
| | <i>William A. Schambra</i> | |

II Political Parties and Elections 103

- | | | |
|-----|--|-----|
| 20. | The Electoral College (1788) | 106 |
| | <i>Alexander Hamilton</i> | |
| 21. | Why Great Men Are Not Chosen Presidents (1888) | 108 |
| | <i>James Bryce</i> | |
| 22. | The Electoral College and the American Idea of
Democracy (1977) | 114 |
| | <i>Martin Diamond</i> | |
| 23. | Political Parties and Presidential Ambition (1978) | 122 |
| | <i>James W. Ceaser</i> | |
| 24. | <i>Buckley v. Valeo</i> (1976) | 138 |
| 25. | <i>Rutan v. Republican Party of Illinois</i> (1990) | 148 |
| 26. | <i>Bush v. Gore</i> (2000) | 163 |
| 27. | Party Politics and the Judiciary: <i>Bush v. Gore</i> and the
Election of 2000 (2001) | 178 |
| | <i>Jeffrey J. Poelvoorde</i> | |

III Congress and the Separation of Powers 189

- | | | |
|-----|---|-----|
| 28. | On Congress (1788) | 192 |
| | <i>Alexander Hamilton and James Madison</i> | |
| 29. | The Need for Cabinet Government in the
United States (1879, 1908, 1889) | 201 |
| | <i>Woodrow Wilson</i> | |
| 30. | To Form a Government (1980) | 218 |
| | <i>Lloyd N. Cutler</i> | |
| 31. | In Defense of Congress (1995) | 225 |
| | <i>William F. Connelly, Jr.</i> | |
| 32. | Congressional Government and Separation of
Powers (2000) | 233 |
| | <i>William F. Connelly, Jr.</i> | |
| 33. | <i>U.S. Term Limits, Inc. v. Thornton</i> (1995) | 239 |
| 34. | War Powers Resolution (1973) | 249 |
| 35. | Report of the Congressional Committees
Investigating the Iran-Contra Affair (1987) | 252 |

IV	The Presidency	261
36.	On the Presidency (1788) <i>Alexander Hamilton</i>	264
37.	The Rise of the Rhetorical Presidency (1981) <i>James W. Ceaser, Glen E. Thurow, Jeffrey K. Tulis, Joseph Bessette</i>	271
38.	Ronald Reagan, The Great Communicator (1987) <i>Jeffrey K. Tulis</i>	280
39.	Campaign Speech on the Presidency (1960) <i>John F. Kennedy</i>	288
40.	The Perpetuation of Our Political Institutions (1838) <i>Abraham Lincoln</i>	294
41.	<i>Youngstown Sheet and Tube Co. v. Sawyer</i> (1952)	302
42.	<i>United States v. Curtiss-Wright Export Corporation</i> (1936)	306
43.	<i>Korematsu v. United States</i> (1944)	314
44.	On the Suspension of the Writ of Habeas Corpus (1863) <i>Abraham Lincoln</i>	327
45.	<i>Clinton v. Jones</i> (1997)	334
46.	Oration in Memory of Abraham Lincoln (1876) <i>Frederick Douglass</i>	340
V	The Judiciary	349
47.	The Role of the Supreme Court (1788) <i>Alexander Hamilton</i>	353
48.	The Problem of Judicial Review (1787) <i>Brutus</i>	358
49.	Against Judicial Review (1815) <i>Thomas Jefferson</i>	362
50.	The Authority of the Supreme Court (1857) <i>Abraham Lincoln</i>	363
51.	<i>Marbury v. Madison</i> (1803)	366
52.	<i>United States v. Nixon</i> (1974)	375
53.	<i>Reynolds v. Sims</i> (1964)	382
54.	<i>United States v. Morrison</i> (2000)	392
55.	Constitutional Interpretation (1985) <i>William J. Brennan, Jr.</i>	399
56.	Testimony Before the Senate Judiciary Committee (1987) <i>Robert H. Bork</i>	407
57.	Exchange on the Binding of Generations (1789–1790) <i>Thomas Jefferson and James Madison</i>	410

58.	Federalist 49 (1788) <i>James Madison</i>	418
59.	<i>California v. Bakke</i> (1978)	420
60.	The Supreme Court, Affirmative Action, and the Judicial Function (1990) <i>L. Peter Schultz</i>	434

VI Politics and Economics 441

61.	Capitalism and Freedom (1962) <i>Milton Friedman</i>	445
62.	The New Goals of Politics (1932, 1935, 1941) <i>Franklin Delano Roosevelt</i>	455
63.	Ideology and Supply-Side Economics (1981) <i>Irving Kristol</i>	462
64.	Soft Despotism (1840) <i>Alexis de Tocqueville</i>	471
65.	Against Manufacturing (1787) <i>Thomas Jefferson</i>	477
66.	Report on Manufactures (1791) <i>Alexander Hamilton</i>	478
67.	<i>Lucas v. South Carolina Coastal Council</i> (1992)	488
68.	The Political Lessons of Economic Life (1977) <i>Catherine Zuckert</i>	496

VII Foreign Policy and the American Regime 509

69.	The Moral Basis of International Action (1961) <i>Joseph Cropsey</i>	512
70.	The Mainsprings of American Foreign Policy (1950) <i>Hans J. Morgenthau</i>	525
71.	On Neutrality Toward France (1793–1794) <i>Alexander Hamilton</i>	533
72.	First Inaugural Address (1809) <i>James Madison</i>	541
73.	Fourth Liberty Loan Speech (1918) <i>Woodrow Wilson</i>	542
74.	American Foreign Policy and the Victory of Liberal Democracy (2001) <i>James F. Pontuso</i>	547

VIII Liberty and Equality 557

75. Self-Government and the Mass Media: A Practical
Man's Guide (1974) 561
George Anastaplo
76. *Miller v. California* (1973) 570
77. *Roe v. Wade* (1973) 576
78. *Planned Parenthood of Southeastern Pa. v. Casey* (1992) 581
79. *Rosenberger v. University of Va.* (1995) 596
80. *Brown v. Board of Education* (1954) 608
81. *Plessy v. Ferguson* (1896) 611
82. A Note on the New Equality (1977) 614
Eugene J. McCarthy
83. Harrison Bergeron (1961) 618
Kurt Vonnegut, Jr.
84. The Natural Aristocracy (1813) 624
Thomas Jefferson
85. Why So Many Ambitious Men and So Little Lofty
Ambition Are to Be Found in the United States (1840) 628
Alexis de Tocqueville

Appendix

- The Constitution of the United States of America 631

Chapter I

The Founding and the Principles of Government

The Declaration of Independence states the principles of equality and freedom which provide the basis for an American public philosophy. American politics has revolved around interpretation and applications of those principles. Abraham Lincoln provides a classic statement of the meaning of the Declaration when he argues against the institution of slavery. The equality of rights proclaimed by the Declaration, he argues, was meant to function as a goal or standard for Americans to revere and to seek to approximate in their politics.

The equal rights that legitimate governments protect, according to the Declaration, include the rights to life, liberty, and the pursuit of happiness. Men are equal in their possession of freedom. But when equality is interpreted to mean an equal right to rule, or democratic government, a conflict between equality and freedom might result. The Lincoln-Douglas exchange reveals the danger in deriving an unqualified majority rule from the principle of equality. Douglas, supporting state sovereignty on the question of slavery, argues that slavery should be permitted in a state if a majority of its people desire it. In contrast to Douglas, Lincoln maintains that no majority can legislate slavery because that institution deprives men of their inalienable rights. There are some things that are not open to majority decision. It is necessary to limit majority rule by the ends of government stated in the Declaration.

Martin Diamond argues that the Declaration actually leaves open the possibility that other forms of government besides democracy may be legitimate. The principle of equality in the Declaration, according to

Diamond, demands only that governments protect the inalienable rights of men and that they be based on the consent of the governed. Majority rule is only one way to achieve the legitimate end of government. While the Declaration established both the legitimate end and foundation of government, it is the Constitution, Diamond argues, that institutes a democracy, although one that tries to check majority rule in order to safeguard the end of government—security of rights.

The Founders, then, tried to establish a government that would combine the ends given in the Declaration with majority rule. Alternate means to these ends, the Virginia and the New Jersey Plans, were presented at the Constitutional Convention. The Virginia Plan assumes that only a strong national government would protect liberty, while the New Jersey Plan reflects a concern that a strong national government operating over a large territory would eventually destroy liberty and prevent the people from governing themselves. This small republic argument is stated by the Anti-Federalist Centinel: a republic is possible only in a small territory, since only a despotism could hold a large country together. Madison, one of the authors of the Virginia Plan, gives his answer to the partisans of the small republic in his account to Jefferson of what happened at the Convention. He says that those who oppose a strong national government fearing that its distance from the people would lead to tyranny forget that majorities too can be tyrannical. They trust majorities, says Madison, because they assume that the local population is homogeneous in character, with no conflicts of interest among the parts.

Indeed, for Madison, the way to prevent majority tyranny is to establish a large republic with a flourishing commerce. Since commerce over a large territory produces many different interests, especially those based on different kinds of property, no one interest could form a majority of the whole. Majorities would be composed of a large number of smaller groups which would have to moderate their demands in order to form majorities. A tyrannical majority would therefore be less likely. Separation of powers, checks and balances, and bicameralism are institutional arrangements that work together with the extended sphere of the large republic to protect liberty. As in the formation of majorities by coalition, interest will counteract interest, in a system that necessitates compromise and mutual accommodation.

John Adams, like Madison, sought to prevent despotism and preserve liberty by the working of self-interest. And in this regard, bicameralism is a crucial part of Adam's theory of government. For Adams,

however, the Senate was to represent the wealthy class of citizens, and the House to represent the poor; and since the concurrence of both was necessary to pass laws, neither class could oppress the other. Adams is perhaps too optimistic about the ability of such simple means to achieve the desired end of accommodating rich and poor to each other, and he fails to see, as did Madison, that the people of a large commercial republic would form groups not so much on the basis of the amount of property as on the kind of property they own. Indeed, Madison thought that the large commercial republic would overcome divisions between rich and poor—precisely what Adams sought to institutionalize. Because Madison understood that the two houses of Congress would not represent different classes, he sought to ensure their dissimilarity by institutional means.

Hamilton too is well aware of the benefits of economic self-interest, but attempts to elevate its operation in government above the mean or petty. At the Constitutional Convention he proposed life tenure for Senators in order to give the office sufficient power and prestige to interest the best citizens. He doubted that a shorter term “would induce the sacrifices of private affairs, which an acceptance of public trust would require, so as to ensure the services of the best citizens.” He had written earlier that the best legislator would consider it “not more the duty, than the privilege of his office, to do good to mankind; from this commanding eminence, he would look down on any mean or interested pursuit.” Intrigue for personal aggrandizement, Hamilton thought, would be inconsistent with the legislator’s “dignity of pride” and “delicacy of honor.”

Hamilton gives a higher tone to the notion of a commercial republic, as he did to the self-interest of a legislator. In *Federalist* 11, he shows how union will bring commercial prosperity. United, America could establish a navy to protect her ships, set the terms for foreign trade, “make herself the admiration and envy of the world”; divided into separate states she would suffer “poverty and disgrace.” The economic strength derived from union is a condition for political strength, but should the states remain separate, Europe could confine them to merely “passive commerce” and thereby be able to “prescribe the conditions of [their] political existence.” The country’s ability to command respect depends on its strength. Our neutrality will be respected, Hamilton writes, only when it is defended by an adequate power; a country “despicable in its weakness” forfeits even the privilege of being neutral. While Madison favors union because it provides the large size necessary to moderate the

conflict of the parts, Hamilton favors union because it overcomes the debilitating and petty conflict of the parts.

Hamilton's argument for a standing army suggests that in a commercial republic men are preoccupied by their private affairs, pursuing their own economic gain. It is for this reason we cannot rely on a militia, whose members would not wish to leave their occupations and families in peacetime. But why would such private men take delight, as Hamilton does, in America as the "admiration and envy of the world"? Would such men be the material out of which Hamilton could forge America's strength? Must not there be something more than commercialism to make Hamilton's splendid commercial republic? Tocqueville explains how men in times of equality have a passion for physical well-being, or a desire to satisfy even the least wants of the body. Men continually seek greater wealth and fear economic ruin. As Tocqueville describes him, the American is not someone who would look down on anything from "a commanding eminence." Although Hamilton thought that properly promoted commercial activity would be "the wings" enabling America to "soar to dangerous greatness," Tocqueville thought that commercial activity in times of equality produces only mediocrity.

Furthermore, although the commercial man Tocqueville describes would be a good member of the groups of which Madison hoped majorities would be formed, he might not be a good citizen of a republican or self-governing community. The Anti-Federalists, somewhat more than the Federalists, were concerned with the good character of the citizenry. When the Centinel asks how the happiness of the community can come from "jarring adverse interests," he is not asking about the efficacy of coalition majorities and checks and balances, but about the quality of life in a republic where such expedients set the tone of life. The alternative he suggests is not the aristocratic society described by Tocqueville, where only a few can attain a lofty greatness, nor Hamilton's complex, industrious society infused with pride. Rather, Centinel longs for a simple society of citizens whose liberties are preserved by their own participation in a government close to them and simple enough for them to understand. Checks and balances are not needed to prevent majority tyranny, for the people are virtuous and there are no great disparities in wealth.

The Anti-Federalists and Hamilton both have reservations against the low character of the commercial republic. Hamilton attempted to elevate the commercial spirit to great heights, and endow Americans with strength of character and breadth of vision. The Anti-Federalists,

in contrast, emphasized simple or unchecked democracy, virtue in the citizens, and public spiritedness as the best means to preserve republican liberty. These reservations against the commercial republic have continued to this day in various forms, for each represent legitimate, if conflicting, aspirations. Indeed, the American regime itself is constituted by a tension or dialogue between the commercial republic and the reservations against it.

Jefferson shares with the Anti-Federalists a concern with republican liberty. He desired to divide the country into wards or “small republics” where every citizen transacted in person the public business. Because each man participated in political affairs, he would be ready to fight for his liberties and serve in the militia of his ward.

One does not have to go as far as organizing the country into wards, however, to obtain some of the benefits that the Anti-Federalists saw attached to small republics. American federalism itself institutionalizes local self-government and thus necessitates the involvement of the people in governing themselves. Federalism is a way of combining some of the advantages of a small republic with those of a national commercial republic. Federalist 39 and *McCulloch v. Maryland* present the argument for a strong national government that nevertheless maintains a sphere for independent state action.

Tocqueville shows why the community and local government that the Anti-Federalists desired is all the more important where the principle of equality prevails. Equal social conditions, Tocqueville argues, isolate or alienate men, whereas local governments serve to bring men together into communities, converting self-interested individuals into citizens who consider the interests of others as well as their own.

William A. Schambra argues that we need to create a contemporary vision for government and society based upon the idea of a “new citizenship.” The goal of this new citizenship according to Schambra is “the reconstruction of civil society, the return of America to the self-governing republic described by Alexis de Tocqueville and envisioned by the Founding Fathers.” This “new citizenship” stands in contrast to the idea of national community created by progressive thinkers such as Herbert Croly and Walter Lippman, and championed by politicians from Theodore Roosevelt to Lyndon Johnson, Jimmy Carter, and Bill Clinton. This Progressive idea sought to attain at the national level the kind of community Anti-Federalists desired, with its public spirited sacrifice and egalitarianism. By combining the Anti-Federalist view of community with the nationalism of the Federalists, the progressives

sought an easy resolution of these two strands of American political thought. But Schambra points out that the idea of national community is not only based on unreasonable expectations of human nature, but also undermines the local governments and civic associations, where public spiritedness is actually nurtured. It is not enough, Schambra concludes, for conservatives to preach against the evils of an ever-expanding national government based upon the national community ideal, they must also develop a positive message of citizenship that shows that they too “care enough about the whole.”

1

Thomas Jefferson

The Declaration of Independence (1776)

When in the Course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume among the powers of the earth, the separate and equal station to which the Laws of Nature and of Nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation. We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness. That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed, That whenever any Form of Government becomes destructive to these ends it is the Right of the People to alter or to abolish it, and to institute new Government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their Safety and Happiness. Prudence, indeed, will dictate that Governments long established should not be changed for light and transient causes; and accordingly all experience hath shewn, that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. But when a long train of abuses and usurpations, pursuing invariably the same Object evinces a design to reduce them under absolute Despotism, it is their right, it is their duty, to throw off such Government, and to provide new Guards for their future security. Such has been the patient sufferance of these

The text reprinted here is from *The Papers of Thomas Jefferson*, edited by Julian P. Boyd (Princeton: Princeton University Press, 1950–). This is the text of the parchment copy of the Declaration (now in the National Archives) which was signed on August 2, 1776. It is generally accepted as the most authentic of various copies.

Colonies; and such is now the necessity which constrains them to alter their former Systems of Government. The history of the present King of Great Britain is a history of repeated injuries and usurpations, all having in direct object the establishment of an absolute Tyranny over these States. To prove this, let Facts be submitted to a candid world. He has refused his Assent to Laws, the most wholesome and necessary for the public good. He has forbidden his Governors to pass Laws of immediate and pressing importance, unless suspended in their operation till his Assent should be obtained; and when so suspended, he has utterly neglected to attend to them. He has refused to pass other Laws for the accommodation of large districts of people, unless those people would relinquish the right of Representation in the Legislature, a right inestimable to them and formidable to tyrants only. He has called together legislative bodies at places unusual, uncomfortable, and distant from the depository of their public Records, for the sole purpose of fatiguing them into compliance with his measures. He has dissolved Representative Houses repeatedly, for opposing with manly firmness his invasions on the rights of the people. He has refused for a long time, after dissolutions, to cause others to be elected; whereby the Legislative powers, incapable of Annihilation, have returned to the People at large for their exercise; the State remaining in the mean time exposed to all the dangers of invasion from without, and convulsions within. He has endeavoured to prevent the population of these States; for that purpose obstructing the Laws for Naturalization of Foreigners; refusing to pass others to encourage their migrations hither, and raising the conditions of new Appropriations of Lands. He has obstructed the Administration of Justice, by refusing his Assent to Laws for establishing Judiciary powers. He has made Judges dependent on his Will alone, for the tenure of their offices, and the amount and payment of their salaries. He has erected a multitude of New Offices, and sent hither swarms of Officers to harrass our people, and eat out their substance. He has kept among us, in times of peace, standing Armies without the Consent of our legislatures. He has affected to render the Military independent of and superior to the Civil power. He has combined with others to subject us to a jurisdiction foreign to our constitution, and unacknowledged by our laws; giving his Assent to their Acts of pretended Legislation: For Quartering large bodies of armed troops among us: For protecting them, by a mock Trial, from punishment for any Murders which they should commit on the Inhabitants of these States: For cutting off our Trade with all parts of the world: For imposing Taxes on us without our Consent:

For depriving us in many cases of the benefits of Trial by Jury: For transporting us beyond Seas to be tried for pretended offences: For abolishing the free System of English Laws in a neighbouring Province, establishing therein an Arbitrary government, and enlarging its Boundaries so as to render it at once an example and fit instrument for introducing the same absolute rule into these Colonies: For taking away our Charters, abolishing our most valuable Laws, and altering fundamentally the Forms of our Governments: For suspending our own Legislatures, and declaring themselves invested with power to legislate for us in all cases whatsoever. He has abdicated Government here, by declaring us out of his Protection and waging War against us. He has plundered our seas, ravaged our Coasts, burnt our towns, and destroyed the Lives of our people. He is at this time transporting large Armies of foreign Mercenaries to compleat the works of death, desolation and tyranny, already begun with circumstances of Cruelty & perfidy scarcely paralleled in the most barbarous ages, and totally unworthy the Head of a civilized nation. He has constrained our fellow Citizens taken Captive on the high Seas to bear Arms against their Country, to become the executioners of their friends and Brethren, or to fall themselves by their Hands. He has excited domestic insurrections amongst us, and has endeavoured to bring on the inhabitants of our frontiers, the merciless Indian Savages, whose known rule of warfare, is an undistinguished destruction of all ages, sexes and conditions. In every stage of these Oppressions We have Petitioned for Redress in the most humble terms: Our repeated Petitions have been answered only by repeated injury. A Prince, whose character is thus marked by every act which may define a Tyrant, is unfit to be the ruler of a free people. Nor have We been wanting in attentions to our British brethren. We have warned them from time to time of attempts by their legislature to extend an unwarrantable jurisdiction over us. We have reminded them of the circumstances of our emigration and settlement here. We have appealed to their native justice and magnanimity, and we have conjured them by the ties of our common kindred to disavow these usurpations, which, would inevitably interrupt our connections and correspondence. They too have been deaf to the voice of Justice and of consanguinity. We must, therefore, acquiesce in the necessity, which denounces our Separation, and hold them, as we hold the rest of mankind, Enemies in War, in Peace Friends.

We, therefore, the Representatives of the United States of America, in General Congress, Assembled, appealing to the Supreme Judge of the world for the rectitude of our intentions, do, in the Name, and