The Constitutional Convention met in Chillicothe, November 1, 1802. Worthington analyzed its membership as consisting of “26 Republicans, 7 Federalists and 2 doubtful”—a very excellent working majority.\(^1\) The delegates were for the most part young men—over half of them were under forty. Burnet, one of the seven Federalists elected, reluctantly admitted years later when he published his Notes that the thirty-five framers were “with but few exceptions, the most intelligent men in their counties.” Ross County was represented by Tiffin, Massie, Worthington, Baldwin, and James Grubb. In a letter to James Ross on January 15, 1802, St. Clair had mentioned the first four, together with James Darlington, as the only enemies he had in the Northwest Territory.\(^2\) It is significant that all five of these men were elected to the Convention and took a leading part in making the constitution a democratic document.

William Goforth of Hamilton County was elected president pro tempore, and William McFarland, secretary pro tempore. Worthington was immediately appointed chairman of the Committee of Five on credentials and a member of the Committee of Three on rules and regulations. These were the only committees formed the first day; the inclusion of Worthington on both of them indicates his importance in the Convention. The Committee on Rules and Regulations was a very important one, for by its action a body of twenty-six rules was drawn up which determined the entire method of procedure in the Convention. Since Worthington had served in the territorial legislature and had also had the opportunity to observe procedure in both houses of the United States Congress, it seems reasonable to assume that he was the chief architect of these rules of order, although the other two members of the committee, Chairman John Reily of Hamilton County and John Milligan of Jefferson, also had served in the territorial assembly.

Edward Tiffin, who had been speaker in all three sessions of the territorial legislature, was elected president on November 2; Thomas Scott, also of Chillicothe, was made secretary. The rules drawn up by

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\(^1\) Worthington’s diary, October 31, 1802.
\(^2\) Smith, St. Clair, II, 357.
the committee were adopted on the third of the month. They put into Tiffin's hands no little power, especially through appointments and recognitions. They provided for majority rule and, to obviate any minority activity, that "two-thirds of the whole number elected" were necessary for a quorum.³

The election of Tiffin signalized the triumph of the state-makers. Although St. Clair had arrived on the first day "1st Consul like" and had intended to organize the Convention, he had been "informed that the members . . . considered themselves capable of self organization." By the third day the outcome was so evident that when he asked leave to address the delegates, his request was granted by a vote of 19 to 14, but he was explicitly recognized as "Arthur St. Clair, Sen., Esq.," a citizen and not the governor.⁴

In his introductory remarks, St. Clair suggested that the new state was to be launched at a time when national catastrophe was threatening. "Party rage," he charged, "is stalking with destructive strides over the whole continent. That baneful spirit destroyed all the ancient republics, and the United States seem to be running the same career that ruined them with a degree of rapidity truly alarming to every reflecting mind. But she is on the waves, and can not now be stopped." He soon came to the main point of his speech, arguing that the Convention was not bound by the Enabling Act, that the people of the Territory needed no such act to form a constitution, and that Congress "had neither the power nor the right" to take such action. "To pretend to authorize it," he declared, "was, on their part, an interference with the internal affairs of the country. . . . The act is not binding on the people, and is in truth a nullity, and, could it be brought before that tribunal where acts of Congress can be tried, would be declared a nullity." He urged the Convention to disregard the Enabling Act as worse than useless, to admit delegates from Wayne County, and to form a constitution for the whole Territory. He believed that senators and representatives elected in conformity with such a constitution would not be rejected by Congress; but if they were rejected, the Territory would still have a government, a government that would "go on equally well, or perhaps better." He pointed out that Vermont had had to wait eight years for admission to the Union and had lost nothing by the delay. But he defied Congress to reject delegates

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elected under the new government. "We have the means in our own hands," he solemnly declared, "to bring Congress to reason, if we should be forced to use them."

In this speech St. Clair denied the right of Congress to legislate for the territories of the United States; he accepted the authority of the Congress which passed the Ordinance of 1787, but repudiated the idea that a later Congress could maintain, modify, or abrogate the provisions of that act. This was strange doctrine coming from a strong Federalist; it was the argument of rage and despair. Yet it was staunchly supported by other eminent Federalists, such as Burnet of Cincinnati, on the grounds that the Ordinance was a contract. St. Clair could see the handwriting on the wall; he could see the end of his position and his power.

Moreover, his advocacy of a constitution for the whole Territory was revolutionary. Such a stand was not in conformity with the Ordinance of 1787; it contradicted the explicit will of Congress as expressed in the Enabling Act, repudiated the wishes of a majority of the Territory's population, and advocated abstention from the Union unless federation could be had on the Territory's own terms. This was the last feeble gesture of an enraged partisan, made ostensibly for the good of the section but actually calculated to check the rising tide of Jeffersonian Republicanism.

John Smith, delegate from Hamilton County and soon to be one of the two senators from Ohio, has given us the best side light on the first three days of the Convention and the triumph over St. Clair. He wrote as follows to President Jefferson on November 9:

Governor St. Clair left this [city] for Cincinnati with a few of his friends yesterday and I have no doubt with some chagrin & disappointment. He took the pains to ride to this place unsolicited under the pretext of organizing the convention—On the day of our meeting he entered our chamber, appointed his secretary and requested the members to hand in to him the certificates of their election & the secretary would have them Registered. The measure was not acceded to—Col. Thomas Worthington with a manly intrepidity & his usual firmness in support of political Justice successfully interfered & we proceeded to the choice of a president and Secretary & to our own organization —The second day following his friends from Marietta took their seats & he again appeared and begged leave, not as a public officer, but as a private Citizen to make a few observations—Under this impression leave was granted—The moment he sat down it was determined to take no notice of it—and [a] resolution [was] passed declaring our intention to terminate this government & that he should be requested to prorogue the assembly after which he withdrew and issued his proclamation and ordered the printer to publish his speech.

Smith, St. Clair, II, 592-97.
Burnet, Notes, 362, 388; Downes, Frontier Ohio, 232-36.
Letter in the Jefferson Papers, 21948.
As soon as St. Clair had finished speaking and taken his departure, a resolution was passed declaring it “expedient . . . to form a constitution and state government.” The roll call was 32 to 1, Ephraim Cutler of Washington County casting the only dissenting vote.  

It would appear fitting at this point to give a brief account of the final disposal of St. Clair as a factor in the history of the statehood controversy. When President Jefferson, Albert Gallatin, and others at Washington were informed of St. Clair’s speech, which, it was urged, constituted the last necessary proof of the Governor’s duplicity and party disloyalty, the Administration decided to act despite the fact that statehood would soon terminate St. Clair’s tenure of office automatically. Gallatin, at the urging of Worthington and other friends of the Administration, recommended to the President that St. Clair be removed. He called the address to the convention “so indecent, & outrageous that it . . . is . . . incumbent on the Executive to notice it. He [St. Clair] calls the Act of Congress a nullity—He misrepresents all its parts. . . . He advises them to make a constitution for the Whole territory in defiance of the law."  

As a result, St. Clair was removed by Jefferson on November 22—insultingly removed, for the notice of his dismissal by Secretary of State Madison was enclosed for delivery in a letter to his enemy, Charles Willing Byrd, Secretary of the Territory. The letter to Byrd included a copy of the notice sent St. Clair and stated that by virtue of this action the functions of the office of governor now devolved on him. 

When St. Clair received Madison’s letter, he wrote a withering reply, denouncing the administration for its pettiness in notifying him of his removal indirectly through his rebellious subordinate and critic, Secretary Byrd. He pursued the theme of his original speech by characterizing the action of Congress in passing the Enabling Act as a “violent, hasty, and unprecedented intrusion . . . into the internal concerns of the Northwestern Territory . . . indecorous and inconsistent with its public duty.” Five thousand people in Wayne County, he charged, had been deprived of self-government by a dictatorial division of the Territory which could have been no more tyrannical “had it

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9 Gallatin to Jefferson, November 20, 1802, in Territorial Papers, III, 259.  
10 Madison to Byrd, November 22, 1802, in Territorial Papers, III, 259; the text of dismissal is on page 260.
happened in Germany”; the nation seemed to have fallen under the control of hands which had degraded it, and too many of her people were “abjectly subservient to that domination.”

On December 16, St. Clair appeared in Chillicothe and denounced Worthington, Symmes, and Tiffin as his destroyers. Tiffin was both amused and embarrassed by the “poor old Man”—he was now sixty-eight—and asked his friends not to bother pleading his case. On the twenty-third, it became generally known in Chillicothe that St. Clair had been “deposed”; and on the twenty-fifth, the Scioto Gazette carried both Madison’s letter and St. Clair’s reply.

On that same Christmas, St. Clair left the Ohio country forever, cursing the day he had ever set foot in it, and returned to his home, the Hermitage, at Ligonier, Pennsylvania, where he spent the last difficult years of his life. He was never able to get Congress to reimburse him fully for money advanced for the welfare of his troops during the Revolution or for the extraordinary expenses to which he had been put while holding the extremely responsible positions of superintendent of Indian affairs and governor of the Northwest Territory. He gradually lost the remnants of his property, and finally in 1818 at the age of eighty-four he died in a log cabin near Ligonier.

Ohio's first constitution, drawn up and adopted in the short time of twenty-nine days, embodied the principles of triumphant western Republicanism. Its chief features were taken from the constitution of Tennessee, the most recently written and most democratic state constitution. Even more democratic, the Ohio constitution provided for a powerful legislature, the lower house to be elected annually, the upper biennially, with one-half retiring each year; the chief executive was to be a vetoless figurehead; the judiciary, like the executive, was deliberately made subordinate to the legislature; suffrage was liberal to a degree, being based on a small tax and exercised by ballot; the militia was to elect its own officers with the exception of majors and quartermaster generals, who were to be elected by the legislature, and the adjutant general, who was to be appointed by the governor; justices of the peace, constables, county sheriffs, and coroners were to

11 Letter, December 21, 1802, in Smith, St. Clair, II, 599-601.
12 Tiffin to Worthington, December 24, 1802, in the Rice Collection.
13 John Smith to Worthington, December 25, 1802, in WMOSL; Smith, St. Clair, I, 250-56.
be elected by the people, and the state and county judges were to be chosen by the legislature for seven-year terms.\textsuperscript{14} Worthington's contributions to this instrument compare favorably with those of any other delegate. Since he and Tiffin were the leaders of the dominant party, they had a unique advantage, which they utilized. Tiffin's position as presiding officer gave him especial power; Worthington was the floor and committee leader.

Briefly stated, Worthington's activity in committee work was as follows: He served on the committee to report a preamble and Article I; the committee to prepare Article II, on the "Supreme executive authority"; the committee on the judiciary, Article III; the committee on Article V, regarding the "manner in which militia officers shall be chosen or appointed"; the committee to "report an article comprehending the general regulations and provisions of the constitution"; and the committee, composed of one delegate from each county, to consider the propositions made by Congress in the Enabling Act.\textsuperscript{15}

To trace Worthington's work precisely and in detail would be desirable, but the Journal of the Convention is very sketchy. Although reports of committees embody his activities, the record usually gives only a report of his vote. Thus in Article I, on elections, he not only helped set the voting age at twenty-five but opposed an attempt to lower it. On a motion to make the senate term one year instead of two, as first reported, he approved the motion, but the nays had it. He favored a large senate and voted to keep its membership exactly one-half that of the lower house at all times. By the same token he preferred a maximum to a minimum number of legislators for the lower house; he voted to increase the original schedule to thirty-five, voted against reducing it to twenty-four, and after considerable debate supported the compromise measure which stipulated thirty.\textsuperscript{16} He favored a small fixed salary for state officers and a per diem of two dollars for legislators. In general, about two-thirds of the Convention endorsed this proposed compensation, the rest recommending a somewhat larger amount. The Ross County delegation was evenly split on the question, Worthington and Grubb supporting a low pay schedule and Baldwin and Massie a larger one. Worthington voted to fix the governor's

\textsuperscript{14} Utter, "Ohio Politics," Chap. 1, gives a good summary of the work of the convention in both its general and specific aspects. See also his later redaction in \textit{The Frontier State} (Columbus, Ohio, 1942), Chap. 1.


\textsuperscript{16} \textit{Ibid.}, 103.
salary at $1,000 rather than $1,200. On almost all financial items he voted for the smaller figure.\footnote{17}

The salaries as finally adopted were experimental and were subject to change in or after 1803; in every case, the provisions fixing the financial responsibilities of the state were cautiously phrased, the amount being maximized—but not minimized—by the saving words "not more than." Actually, the first legislature cut all salaries slightly, and the total budget for 1803 was a modest $10,950, a figure well within the state's capacity to pay, and one which proved the absurdity of the fears of the Federalists, who had predicted financial disaster.\footnote{18}

Chairman Massie of the Committee of Fifteen appointed to draw up Article II, on the executive authority, reported Tuesday, November 9, the famous article that gave to the new state a figurehead governor. The Committee of Fifteen was dominated by the Jeffersonian St. Clair-haters—Byrd, Massie, Worthington, and Darlington. The article was adopted with very little opposition, for the despotism of colonial royal governors was still fresh in the minds of the members of the Convention. The extremely limited power vested in the executive illustrates the discredit which Governor St. Clair had brought to the office and the Republicans' determination to keep the whip in the hands of the legislature. The governor could call extra sessions, make temporary appointments until the legislature met, recommend legislation, command the militia, and retain the honorable custody of the "great Seal of the State of Ohio" with which to stamp all grants and commissions, but that was all. He was removable by impeachment.\footnote{19}

The Republicans also dominated the Committee on the Judiciary, Federalists Putnam, Gilman, and Wells constituting a minority of three against a majority of twelve, which included Byrd, Massie, Worthington, Darlington, and Smith. After being amended in the committee of the whole numerous times, the article dealing with the judiciary was passed, November 27. It authorized the legislature to elect judges of the supreme court and common pleas court for a seven-year term. The supreme court consisted of three judges, two constituting a quorum. Like the Pennsylvania court, it was to hold its sessions once annually in each county. The court of common pleas was made up of two (or three) county judges sitting with a traveling (or circuit) president-judge; three circuits were established. The

\footnote{17} Ibid., 105-109, 120, 136.

\footnote{18} Beverley W. Bond, Jr., The Civilization of the Old Northwest (New York, 1934), 132. George Ingersoll's letter (in the Fearing Papers) to his neighbor, Paul Fearing, February 20, 1804, is typical of the Federalist fear that taxes would be higher.

lowest courts were those established in each township and presided over by justices of the peace, who were to be elected by the township voters for a three-year term.\textsuperscript{20}

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The debate on Article IV, concerning the qualifications of electors, precipitated what is perhaps, from the standpoint of national history, the most interesting discussion that took place at the Convention. This debate concerned slavery and the attitude the new state should take toward the Negro race. Article IV, as originally presented, declared that “all white male inhabitants . . . of twenty-one . . . who have paid or are charged with a state or county tax, shall enjoy the right of an elector.” An attempt to strike out the adjective “white” was defeated 14 to 19, Worthington voting nay.\textsuperscript{21} The vote indicates a strong sentiment for enfranchising the Negroes. An attempt was made to amend the same section (Sec. 1) by adding to it the words, “all male negroes and mulattoes now residing in this territory shall be entitled to the right of suffrage, if they shall within ___ months make a record of their citizenship.” This amendment was adopted 19 to 15, Worthington again voting nay. Another amendment was then proposed extending the franchise to the “male descendants” of the said Negroes. This was defeated 16 to 17. On this vote, Abbott, Reily, and Smith switched to the nays. On the other hand, Browne of Hamilton joined the ayes, which would have made the vote 17 to 17 except that the Reverend Philip Catch of Clermont County, who had voted aye on the first amendment, failed to vote at all on the second.

The same day, November 22, another switch in votes took place on the proposal to add as Section 7 to Article VII the following provision: “No negro or mulatto shall ever be eligible to any office, civil or military, or give their oath in any court of justice against a white person, be subject to do military duty, or pay a poll tax in the State; provided always, and it is fully understood and declared, that all negroes or mulattoes now in, or who may hereafter reside in, this State, shall be entitled to all the privileges of citizens of this State, not excepted by this constitution.” To this change Worthington agreed. The others who had voted nay on the previous proposal but now switched with Worthington were Abrams, Baldwin, Bair, Caldwell, Kirker, McIntire, Massie, Milligan, Smith, Carpenter, Donelson, Humphrey, and Woods. These fourteen, with four of the 18 ayes on the

\textsuperscript{21} “Journal of the Convention,” 113.
former vote, carried the amendment 19 to 16, the nineteenth vote being Edward Tiffin's.

It would seem fair to conclude that the majority of radical Republicans were not willing to go further than to promise the resident Negro equal protection of the laws, freedom from legal bondage, and the right to live in peace if not in equality. Worthington and most of his party opposed slavery, but they also opposed racial equality. They had come to Ohio to get away not only from slavery but also from Negroes and a society based on Negro labor, free or slave. They would not be a party to throwing Ohio open to the free Negroes or runaway slaves who were bound to flock into the state if anything like equality of citizenship were given them.\footnote{Ibid., 114, 116. See James H. Rodabaugh, "The Negro in Ohio," Journal of Negro History, XXXI (1946), 9-29.}

Four days later, November 26, the provision in Article IV for the enfranchisement of resident Negroes was deleted after President Tiffin broke a 17 to 17 tie vote. Worthington and the rest of the Virginia party, of course, were in favor of the deletion. The same day, Section 7 of Article VII was also deleted by a vote of 17 to 16, apparently in retaliation by the pro-Negro-rights group, since the Chillicothe party voted against its omission and later tried to substitute the provision, "No negro or mulatto shall ever be eligible to any office, civil or military, or be subject to military duty." This substitution was defeated, however, and Article VII was adopted without any mention of Negroes.\footnote{"Journal of the Convention," 122, 125.}

Agreement on the status of Negroes in Ohio was finally achieved in Section 2 of Article VIII, the Bill of Rights. This section had been debated concurrently with Articles IV and VII, but since references to Negroes in them had by then been deleted, it was easier to compromise the issue in Article VIII. The committee on this article was made up of seven Republicans and two Federalists. Ephraim Cutler was one of the Federalists and, according to his account written long after the occasion and hence subject to considerable question, he dominated the committee although John W. Browne of Cincinnati was its chairman. The bill was reported, November 11, by Goforth, and was debated the next day, with Worthington in the chair. Several amendments were made.

Cutler's story of how Section 2 was compromised is our only version of the affair. This section, which permanently excluded slavery from the state and did not bar Negroes from legal equality, was, of course, the focal point of the committee's discussion—an exciting subject,
Cutler characterized it. He relates that the committee met with President Tiffin, and Chairman Browne proposed the resolution, "No person shall be held in slavery if a male, after he is thirty-five years of age, or a female, after twenty-five years of age." Cutler had no doubt that Browne's resolution embodied the sentiments of Jefferson. Worthington had told him in Washington at the time the Enabling Act was being passed that the President favored the incorporation of such an article in Ohio's constitution and hoped that no severer limitations would be set regarding slavery, since a constitution containing harsher measures would operate against emigration from the slave states to Ohio. Cutler, backed by several others who were for outright prohibition of slavery in the new state, offered a draft in conformity with the spirit and phraseology of the provision excluding slavery contained in the Ordinance of 1787, which precipitated a warm debate. Cutler expressed the opinion that his Washington County constituents felt very deeply on this subject and stated that so far as his actions were concerned, their wishes must be seriously considered. He proposed thinking the problem over until the next day, to which they agreed.

His account describes the proceedings of the following day:

\[\text{The committee met the next morning, and I was called upon for what I had proposed the last meeting. I then read to them the second section, as it now stands in the constitution. [There shall be neither slavery nor involuntary servitude in this state, otherwise than for the punishment of crimes, wherein the party shall have been duly convicted; nor shall any male person, arrived at the age of twenty-one years, or female person, arrived at the age of eighteen years, be held to serve any person as a servant, under the pretense of indenture, or otherwise, unless such person shall enter into such indenture in a state of perfect freedom, and on a condition of a bona fide consideration, received, or to be received, for their service, except as before excepted. Nor shall any indenture of any negro or mulatto, hereafter made and executed out of the state, or if made in the state, where the term of service exceeds one year, be of the least validity, except those given in the case of apprenticeships.] Mr. Browne observed that what he had introduced was thought by the greatest men in the Nation to be, if established in our constitution, obtaining a great step toward a general emancipation of slavery, and was greatly to be preferred to what I had offered.}\]

I then, at some length, urged the adoption of what I had prepared, and dwelt with energy on the fact that the Ordinance of 1787 was strictly a matter of compact, and that we were bound either to pass it (the section excluding slavery) or leave it, which I contended would be the law [anyway by the Ordinance], if not so defined by our own action. Mr. Baldwin, the only practicing lawyer on the committee, said that he agreed with me that the ordinance was, in its legal aspect, a compact; and, although many of his constituents would prefer to have slavery continue in a modified form, he would vote in

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\^{ Cutler, E. Cutler, 74-77. See also "Journal of the Convention," 90, 92, 110, 113, 126. }
Mr. Browne, who was chairman of the committee, then called the ayes and nays, and his report was negatived, and mine adopted, the ayes being Baldwin, Dunlavy, Cutler, Goforth, and Updegraff; nays, Browne, Donalson, Grubb, and Woods. Several efforts were made to weaken or obscure the sense of the section on its passage, but the Jeffersonian version met with fewer friends than I expected.  

On the whole, the Convention was apparently quite satisfied with Cutler's provision. The overwhelming majority of Ohioans were strongly opposed to the legalization of slavery, as were the members of the Convention. The opposition of the Southern element among the delegates was directed only against enfranchisement. It is worthy of note that Darlington's defeat in Adams County when he ran for the first legislature was ascribed to the fact that he had voted with the Federalists to give resident Negroes civil equality, and that James Grubb of Ross County "lost much Credit" by having done the same.

There was a good deal of pro-slavery sentiment in the Territory to the west of the projected state of Ohio. Abel Westfall wrote Worthington from Vincennes that the people there were "almost unanimous" for a limited slavery. Daniel Symmes wrote Nathaniel Massie, February 20, 1803, that Mr. Short, late of Kentucky, "despairs of being able to live among us . . . without his domestics." Benjamin Van Cleve believed that fear of the incorporation of an anti-slavery provision in Ohio's constitution was one of the chief reasons for the opposition of some to statehood and that there was a strong pro-slavery feeling in the "Scioto Country."

It may be noted in conclusion that there is no evidence to substantiate Cutler's allegation that President Jefferson favored a policy of expediency on the question of slavery. Moreover, most of the rumors that the Chillicothe group approved of slavery were party propaganda, and few persons were naive enough to take them seriously.

Worthington's voting record is our only clue to his attitude on a number of other issues. On the resolution to submit the constitution to the people for ratification, the committee of the whole on Novem-

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26 McArthur to Worthington, January 17, 1803, in WMOSL.
27 Letter, December 27, 1801, in WM.
28 Massie, Massie, 226.
29 Beverley W. Bond, Jr., "Benjamin Van Cleve," in HPSO, Quarterly Publications, XVII (1922), 70.
ber 13 reported disagreement. When the vote was taken in convention, the resolution for reference was defeated 27 to 7. Worthington voted with the twenty-seven who opposed it. This was a party alignment and not a democratic issue; the seven who voted for the plebiscite—Cutler, Gilman, McIntire, Putnam, Reily, Updegraff, and Wells—were making their last attempt to delay statehood. Cutler argued strongly for reference and alleged that the Republicans opposed it because they objected to the delay and expense it would necessitate. In what he called "mad haste," the resolution was defeated.30

So far as the people were concerned, there is no evidence that they objected to the procedure. There was nothing really strange about this failure to ask popular approval. The framers of the constitution were Jeffersonian—not Jacksonian—Democrats; government for and of the people? Yes—but not necessarily by them. In any case, ratification was a foregone conclusion. Cutler and the Federalists claimed that this action was more autocratic than any they had ever been accused of favoring; yet nine of the original states had not thought a referendum necessary.

One of the most unwise and patently political resolutions submitted for consideration was the proposal that no member of the Convention should hold office under the new constitution for a year after it went into effect unless elected to an office by the people. The triumphant Republicans were not to be balked by any such stratagem; they defeated the resolution, 3 to 31. After all, the "loaves and fishes" were not to be despised. Moreover, to fulfill its purposes the new government had to be administered by its makers, not its enemies.

An attempt was made on November 20 to amend the third section of the Bill of Rights so that atheists would be barred from office-holding. The proposal was to strike from Ephraim Cutler's contribution to religious tolerance the sentence, "No religious test shall be required as a qualification to any office of trust and profit," and to substitute therefor, "No person who denies the being of a God or a future State of rewards and punishments shall hold any office in the civil department of the State."31 This motion was probably introduced by Caldwell, Humphrey, or Milligan, since they were the only ones who voted for it; there were 30 nays, including Worthington's. An amendment to the same article making illegal the levy of a poll tax for county or state purposes was adopted the same day, 26 to 7, Worthington voting yea.

When the final vote was taken on the ratification of the constitution,

Ephraim Cutler's was the only nay. Having opposed statehood from the start and having used every stratagem to delay its achievement, he was consistent to the end, alleging that his action represented his constituents and that he could not compromise them or his own convictions by voting for an instrument of which he did not approve.\footnote{Cutler, E. Cutler, 68.}

Worthington's part in the framing of the constitution is evident in spite of the paucity of records and their unfortunate brevity. He was particularly influential in keeping the governor's powers at a minimum. Something of a student of history and government, he was acquainted with the tyranny of the colonial royal governors, and his clashes with St. Clair had confirmed his abiding distrust of a powerful executive. During the summer of 1802, with the convention but a few months away, he wrote Nathaniel Macon, Speaker of the national House of Representatives, requesting his views on the defects in the government of North Carolina, defects which Worthington hoped to avoid in Ohio's constitution. Macon's reply strengthened Worthington's determination to keep the executive branch weak, and furnished many other suggestions that were valuable to him in the writing of the new frame of government. Macon wrote the following letter on September 1:

\begin{quote}
In our State governments experience has shown the council to be useless, the governor and council have but very little to do; the executive is however full strong, where ever you find a strong executive, in a country which has any liberty, you will also find violent parties; examine the state constitutions, and by the power of the governor you may very nearly ascertain the general state of party as it relates to state affairs. The same principle produces the same effect in the United States and in the territories; The Executive should not appoint a single officer except as the North Carolina constitution directs; the appointment by the legislature is much better than by the Executive, because it destroys patronage, and prevents sycophants from obtaining offices by the dint of courtship; The representation ought to be according to numbers, and a married man ought to vote whether 21 or not. The militia soldiers ought to elect their officers to captains, the company officers elect the field officers, and the field the general officers; This would leave only the civil officers to the legislature, & by dividing the appointment among several bodies, it in very great measure destroys all attempts to bargain. When the Governor has no appointments to bestow, the election will be made without riot or tumult, nor is it in this case a matter of much consequence whether he is elected by the legislature or the people, I would however prefer the latter; the Judges in every county ought to be elected for a limited time, elections during good behavior are nearly the same as for life, it destroys the desire to to [sic] excel,
\end{quote}
in fact it puts an end to industry—every officer in the government should be elected for a limited time. His official conduct should at stated times be under the review of those who elected him. The governor, and the legislature ought to be elected annually—Every cent of the public money paid out of the Treasury and for what paid, ought to be printed and attached to the laws of each session, this will operate against granting money improperly, and greatly curtail what are called contingencies.

These hints will show what alterations I should be glad to have in our constitution, but I would rather have it as it is than to attempt an alteration, because we have hitherto lived happily under it.  

On November 29, the delegates finally adjourned, having ratified the constitution and addressed a communication to President Jefferson and to Congress. Worthington was deputized to carry to Washington the constitution and the Convention’s message.

Worthington left Chillicothe, December 7, in the company of Colonel Samuel Huntington, who rode with him as far as Zanesville. He arrived at Georgetown on the nineteenth and found lodging at Mr. Burch’s, where he had stayed the year before. Nathaniel Macon, John Breckinridge, Wilson Cary Nicholas, Willis Alston, and Richard Winn boarded at the same place, and were congenial associates. Worthington wrote Massie on Christmas day that he found “the members [of Congress] very friendly and disposed to do all they can for the state of Ohio.” The day after he arrived, he called on President Jefferson; on the twenty-second he delivered to Congress the new constitution and the resolutions of the Ohio legislature accepting, with certain modifications, the conditions of statehood established in the Enabling Act. On the twenty-third, he dined with President Jefferson and his daughters—Mrs. John Eppes and Mrs. Thomas Randolph—and was much pleased to learn that St. Clair had been removed. “This poor Old Man has at length got out of public life dishonorable,” was his final judgment. He spent the ensuing days lobbying. He was particularly

83 In WMOSL. This letter is given in Smith, St. Clair, II, 590, in garbled form.
85 Worthington’s diary, December 20; Worthington to Massie, December 25, in Massie, Massie, 221.
solicitous for the people of Wayne County, who, as we have seen, had been excluded from the state by the Enabling Act. He secured assurances from President Jefferson, department heads, and members of both houses that a new territory of Michigan would be created at the next session of Congress.\textsuperscript{37} He dined very frequently with outstanding figures, including Albert Gallatin, Tom Paine, Gideon Granger, General Henry Dearborn, James Madison, and President Jefferson.

On February 1, he was pleased to learn that the election in Ross County had been held with great orderliness, and he was not surprised to find that he had led the ticket among the candidates to the General Assembly.\textsuperscript{38} He took occasion to attend to a great deal of business during his stay in Washington and resigned his offices as supervisor of internal revenue and register of the Chillicothe land office. On March 1, Congress having accepted Ohio's constitution and passed a bill recognizing the new state, he left for home. He arrived at Chillicothe on the fifteenth, and the next day he took his seat in the state legislature.

Meanwhile, plans for selecting the personnel of the new government were under way in Ohio. A caucus of Republicans had drawn up and pledged support to a ticket of state officers before the Convention dissolved;\textsuperscript{39} since the constitution had provided for the first election in January, the time was short. Edward Tiffin, postmaster at Chillicothe, was the Republicans' very popular candidate for governor. The Federalists threw their slight strength to Benjamin Ives Gilman of Washington County, or, knowing they had no chance to win, did not vote at all. Bad feeling was so strong in some areas that Return J. Meigs of Marietta could write Worthington, "The Federalists here have grown (if possible) more bitter than ever. They fulminate their anathemas against the administration with unprecedented malice. Such was their obstinacy that (knowing they could not carry a Federalist Governor) they would not vote for governor at all, but threw blank tickets."\textsuperscript{40} As a result of the strong Republican organization which Meigs and the Marietta postmaster, Griffin Greene, had built up in Washington County, the Federalists did not

\textsuperscript{37} Worthington to Sol Sibley, April 20, 1803, in Worthington's letter book, LC.
\textsuperscript{38} Worthington's diary; McArthur to Worthington, January 17, 1803, in WMOSL.
\textsuperscript{39} "Memoir of Hon. Thos. Scott," RCHS. See also Utter, "Ohio Politics," 26-27.
\textsuperscript{40} Letter, January 31, 1803, in WMOSL.
have a chance. The opposition was so slight all over the state that Tiffin wrote Worthington he was glad the Federalists at least had a candidate, for he felt it "would have been an awkward cold race at this very inclement season of the year to have run all over the State of Ohio alone." 1 Jacob Burnet, John Reily, and a few other staunch Federalists tried to organize in Hamilton County, but their plan to split the Republicans failed. 2 Instead, their own ranks were divided. Even on the governorship they could not agree. Gilman of Marietta was the major nominee, but a caucus in Hamilton County agreed to support John Paul of Xenia; and in many of the seventeen counties former Governor St. Clair was prominently mentioned as a fit person to head the ticket of local nominees. 3

Tiffin and Gilman remained at home rather than ride their horses over the state either together or separately. St. Clair had left Ohio on Christmas day, and interest in him faded entirely during the next month. When the votes were counted by the legislature, Tiffin had 4,564; since none were reported for any other candidate, it appears that the opposition, as Meigs noted, had either refrained from voting or had cast blank ballots. Six months later, 7,793 votes were cast in the Congressional election, a clear indication that the Federalists had accepted the choice of Tiffin in the previous election as a foregone conclusion.

This was the first election in which correspondence societies, organized in 1797, were used in Ohio in every town of any size to coordinate the support of candidates. On December 10, fourteen of the Republican societies in Hamilton County met to line up their ticket, and in the same county seventeen meetings were scheduled for December 29. 4

The Federalists were overwhelmed in the election. Their ticket carried in Jefferson County only. Writing from Round Bottom Mill, January 22, John Smith told Massie of the victory in Hamilton County: "Burnet & Bowers look blacker than ever since the election—I never saw a party so much chagrined as that of the old Governor—I think he will now be forsaken as he has not the loaves & fishes any longer at his disposal." 5

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41 Letter, January 7, 1803, in WMOSL.
42 Symmes to Massie, May 9, 1803, in Massie, Massie, 225; Burnet and committee to Massie, ibid., 227.
43 Smith, St. Clair, II, 597 et seq.
44 Utter, "Ohio Politics," 53-54; Goforth to Worthington, December 25, 1802, in the Rice Collection.
45 Massie, Massie, 222.
The legislature that met in Chillicothe was made up of fourteen senators and thirty members of the house. Of these forty-four, only twelve had been in the Convention. Not only had Chillicothe secured the capital, but her citizens were awarded a fair share of the offices. Governor Tiffin, Speaker of the Senate Massie, Speaker of the House Baldwin, and Secretary of State Creighton were all from Chillicothe. It was in more than one respect a rather close coterie, since Tiffin was Worthington’s brother-in-law, Massie and Creighton had married sisters, and the four had been associated in pioneering, business, and politics.

Worthington and John Smith of Hamilton County were elected United States Senators on April 1. Worthington unquestionably deserved one of the Congressional offices in return for his yeoman efforts to secure statehood for Ohio. He was considered by a very large percentage of the Ohio electorate unquestionably the most suitable man in the Territory to represent the new state in Congress.

The legislative records do not reveal any opposition to Worthington’s election, but William T. Utter, in his admirable study of early Ohio politics, points out that Samuel Huntington of Cleveland (Trumbull County) was also placed in nomination. Someone had started a rumor that Huntington and Worthington had agreed to lobby for each other, a rumor which grew to such proportions that Worthington in a friendly manner finally asked Huntington to disavow publicly any such bargain. In a cordial private letter to Worthington, Huntington denied that any agreement had been made between them, but neither of the men gave the letter to the newspapers. This incident marked the beginning of a coldness between them and later made them bitter rivals. Worthington had been informed that Huntington started the story, as perhaps he had; but it is impossible to believe that Worthington could have struck such a bargain with an erstwhile Federalist. Huntington and his colleague George Tod had both supported the division law the previous year, and Huntington had had some hope

48 Worthington to Huntington, October 19, 1803, in the Huntington Papers, WRHS; Huntington to Worthington, October 23, in WMOSL.
49 Silliman to Worthington, November 20, in WMOSL.
of succeeding St. Clair as governor. After the passage of the Enabling Act, both had had the good sense to transfer their political allegiance, but they were justly viewed with some suspicion by their former opponents. The day after the United States Senators were chosen, Huntington was compensated by being made one of the three supreme court judges; Return J. Meigs of Marietta and William Sprigg of Chillicothe were the other two.

A number of nominees entered the race for Ohio’s sole Representative in Congress. A legislative caucus of Republicans named Jeremiah Morrow of Hamilton County, an upcounty Republican who lived in what is now Warren County. Other Hamilton County Republicans electioneered for William Goforth. Elias Langham and Michael Baldwin, both of Chillicothe, had some Republican following. Cincinnati Republicans importuned Worthington to support Goforth, but although he respected him and appreciated the aid he had given to the state-makers, Worthington pledged his support to Morrow, the party nominee, and warned Goforth not to split the party and reward the Federalists. The Federalists put several nominees in the field. Jacob Burnet and his associates got out a circular in favor of William McMillan, who “reluctantly consented” to run. The Marietta branch of the party supported Bezaleel Wells of Steubenville. In the June voting, Morrow was elected by a wide margin, receiving almost twice as many votes as his nearest competitor, McMillan. The vote was Morrow, 3,701; McMillan, 1,887; Baldwin, 902; Langham, 615; Goforth, 615; and Wells, 73.

Among other persons to whom political plums were distributed by the first legislature and by the patronage dispensers as part of the spoils of victory were Postmaster Greene of Marietta, who became justice of the court of common pleas in Washington County; Wyllys Silliman, elected to the legislature from the same town, who was appointed president of the common pleas middle circuit; Calvin Pease of Trumbull County, who was assigned the same post in the eastern circuit; and Francis Dunlavy of Hamilton, who was made president of

50 Tod to Huntington, January 14, 1802, in the Huntington Papers, WRHS. See also Downes, Frontier Ohio, 220-23.
51 House Journal, 1st General Assembly, 81; W. A. Taylor, Ohio Statesmen and Annals of Progress (Columbus, Ohio, 1899), 37. Huntington wrote his wife on April 2, notifying her of his election, and expressed no regret concerning the senatorial election. In the Rice Collection.
the western common pleas circuit. George Tod, who had rather too obviously joined the Republicans along with Huntington, had to wait until 1806 before he was finally appointed judge of the supreme court; Charles Willing Byrd, through Worthington's influence, had already been made federal district judge by President Jefferson. A year later Worthington, as senator, was instrumental in getting George Hoffman of Chillicothe appointed register of public lands at Detroit, and Elijah Backus of Marietta receiver of public monies at Kaskaskia.

Thus ended the long struggle of the Republicans for statehood. To Worthington and his confreres, Ohioans may justly be thankful that their state assumed her place in the Union with broad boundaries and a democratic constitution. We can overlook the selfishness of local politics in the noble achievement of this band of state-makers. Their perquisites of power have perished with them, but the state endures, a monument to their genius.

During the summer and autumn of 1803, Worthington built a hay barn and harvested twenty-five acres of wheat and thirty-five of corn. During August, he had a violent attack of bilious fever—in this instance he called it "inflammation of the bowels." He took a trip to his brother's home in Kentucky during the first ten days of September.

Since Mrs. Worthington and the children—Mary six, Sarah three, and James one—were to accompany him to Shepherdstown when Congress convened, a great deal of time had to be devoted to preparations for that journey. Worthington's mills and other business enterprises were placed in competent hands; the care of the house, barns, and stock was entrusted to his white and Negro helpers; and arrangements were made for his financial affairs to go on as usual during his absence. His expectation was that Mrs. Worthington would be back in Chillicothe in about eight weeks and that he himself would not be absent more than sixteen weeks.

The Worthingtons left Chillicothe on September 22 to make the journey of four hundred and twelve miles. Mrs. Worthington and the children traveled in the carriage, a Negro boy driving them, and Worthington rode his horse. Now and then, he and the boy exchanged

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54 House Journal, 1st General Assembly, 81-87.
55 Territorial Papers, VII, 192, 200-201.
places. Their route took them through Lancaster, Zanesville, Wills Creek (Cambridge), Wheeling, and across the Alleghenies to Cumberland. Their accommodations must have been at least passable, for the only criticism noted by Worthington in his diary concerned the night they spent at Peter Golly's near Laurel Hill, Pennsylvania, where they found "the most dirty, lazy family we had met."

Worthington's arrangements for the management of his business affairs during his long absences were of considerable consequence. He was not always so fortunate as in the winter of 1811-12, when Mrs. Worthington's two brothers were in charge: James S. Swearingen lived at Adena and was general supervisor of the estate and the flour mills; Thomas Swearingen managed the textile mill and rope walk in Chillicothe.

Worthington's domestic helpers, especially the Negroes, were not always dependable; James Swearingen reported in 1813 that Nelly, the chief cook, was "fat and lazy," and it was difficult to keep her attentive to her duties, but Mrs. Worthington was very fond of her. Moreover, she was "very impudent to the hands," and tried to run the house when master and mistress were away or out of sight. Worse yet, her young assistant in the kitchen seemed bent on emulating her in every way. Nelly was the ringleader in night visits to neighboring estates. "I can not keep any of them at home at night," reported James. "So soon as I am in bed all off [they go]. . . . They frolic all night." (Perhaps Nelly was not so much lazy as tired during the day.)

Swearingen reported that the Negro boys were good help except Henry, who was not worth much; that he had Peter employed cutting and hauling wood, Jacob tending the cattle, and David and Daniel engaged in lesser duties. Baz was herding the sheep and helping with the cordwood; "Moses is as good a boy as I know."56 It may be noted in this connection that shepherding the sheep was always necessary, especially during the winter months. As late as November, 1813, Worthington had twenty merinos killed by wolves or so badly injured that they had to be destroyed.57

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56 James Swearingen to Worthington, December 24, 1811, and January 13 and February 2, 1812, in WM.
57 James T. Worthington to Worthington, November 16, 1813, in WM.
We may conclude that although Worthington's business and estate interests were fairly well supervised in his occasional absences, they did not flourish as they did when he was home and able to give them his constant attention. There is little question that the master and mistress of Adena paid a price for the public service they performed.