Fourth Grade Class Analysis

Excerpted from: James Madison, May 7, 1787. Vices of the Political System of the U. States.

7. Want of sanction to the laws, and of coercion in the Government of the Confederacy.
7. A sanction is essential to the idea of law, as coercion is to that of Government. The federal system being desti-
tute of both, wants the great vital principles of a Political Constitution. Under the form of such a constitution, it is
in fact nothing more than a treaty of amity of commerce and of alliance, between independent and Sovereign
States. From what cause could so fatal an omission have happened in the articles of Confederation? from a mistaken
confidence that the justice, the good faith, the honor, the sound policy, of the several legislative assemblies would
render superfluous any appeal to the ordinary motives by which the laws secure the obedience of individuals:

It is no longer doubted that a unanimous and punctual obedience of 13 independent bodies, to the acts of the fed-
elar Government ought not to be calculated on. Even during the war, when external danger supplied in some de-
gree the defect of legal & coercive sanctions, how imperfectly did the States fulfil their obligations to the Union?
Fourth Grade Class Analysis Translation

Excerpted from: *James Madison, May 7, 1787. Vices of the Political System of the U. States.*

7. The lack of the government’s ability to threaten or force the states to obey the laws
7. Laws must include the ability punishment for disobeying, and a government must be able to force obedience. The federal government cannot do either, so it cannot be a good government. Instead, it is just a friendly treaty between separate states. How did this happen? Because the authors were sure the states would not need to be forced or punished.

. . .

Everyone knows now that the states will not always obey the government. Even during the war, when it was dangerous to not obey the laws, the states still did not always do what they should have for the government.
The Committee, consisting of Mr. Johnson, Mr. King, Mr. Pinckney, Mr. Monroe, and Mr. Grayson, to whom was referred a Letter from his Excellency the Governor of New-York, of the 6th instant,---

2d. That the act of the state of New-York, referred to the committee, does not invest the United States in Congress assembled with power to levy in that state the duties therein mentioned, but reserves to the state of New-York the sole power of levying and collecting the same in the manner directed in and by an act of that state, entitled "An act imposing duties on certain goods, wares and merchandize imported into the said state," passed the 18th day of November, 1784, and consequently prevents the operation of the impost in those states which have made the exercise of this power, by the United States in Congress assembled, an indispensable and express condition of their grants.

2d. Resolved, That the present critical and embarrassed situation of the finances of the United States is such as to require, that the system of impost should be carried into immediate effect.
Excerpted from:

*The Committee, consisting of Mr. Johnson, Mr. King, Mr. Pinckney, Mr. Monroe, and Mr. Grayson, to whom was referred a Letter from his Excellency the Governor of New-York, of the 6th instant,---*

2d. That the law from New York, sent to the committee, does not give Congress the power to collect certain kinds of taxes, but keeps that power just for New York, and this means Congress cannot collect those taxes in any other states that pass that kind of law.

2d. We have decided, That the United States has so little money right now, that the government needs to be able to collect those taxes in all the states immediately.
1. Failure of the States to comply with the Constitutional requisitions. 
This evil has been so fully experienced both during the war and since the peace, results so naturally from the number and independent authority of the States and has been so uniformly exemplified in every similar Confederacy, that it may be considered as not less radically and permanently inherent in than it is fatal to the object of the present system.

2. Encroachments by the States on the federal authority.
2. Examples of this are numerous and repetitions may be foreseen in almost every case where any favorite object of a State shall present a temptation. Among these examples are the wars and treaties of Georgia with the Indians, The unlicensed compacts between Virginia and Maryland, and between Pena, & N. Jersey--the troops raised and to be kept up by Massts.
Excerpted from: *James Madison, May 7, 1787. Vices of the Political System of the U. States.*

8. Want of ratification by the people of the articles of Confederation.
8. In some of the States the Confederation is recognized by, and forms a part of the Constitution. In others however it has received no other sanction than that of the legislative authority. From this defect two evils result: 1. Whenever a law of a State happens to be repugnant to an act of Congress, particularly when the latter [former] is of posterior date to the former, [latter] it will be at least questionable whether the latter [former] must not prevail; and as the question must be decided by the Tribunals of the State, they will be most likely to lean on the side of the State.

2. As far as the union of the States is to be regarded as a league of sovereign powers, and not as a political Constitution by virtue of which they are become one sovereign power, so far it seems to follow from the doctrine of compacts, that a breach of any of the articles of the Confederation by any of the parties to it, absolves the other parties from their respective Obligations, and gives them a right if they chuse to exert it, of dissolving the Union altogether.
Excerpted from: James Madison, May 7, 1787. Vices of the Political System of the U. States.

4. Trespasses of the States on the rights of each other.
4. These are alarming symptoms, and may be daily apprehended as we are admonished by daily experience. See the law of Virginia restricting foreign vessels to certain ports--of Maryland in favor of vessels belonging to her own citizens--of N. York in favor of the same--

... The practice of many States in restricting the commercial intercourse with other States, and putting their productions and manufactures on the same footing with those of foreign nations, though not contrary to the federal articles, is certainly adverse to the spirit of the Union, and tends to beget retaliating regulations, not less expensive and vexatious in themselves than they are destructive of the general harmony.
7. Want of sanction to the laws, and of coercion in the Government of the Confederacy.
7. A sanction is essential to the idea of law, as coercion is to that of Government. The federal system being destitute of both, wants the great vital principles of a Political Constitution. Under the form of such a constitution, it is in fact nothing more than a treaty of amity of commerce and of alliance, between independent and Sovereign States. From what cause could so fatal an omission have happened in the articles of Confederation? from a mistaken confidence that the justice, the good faith, the honor, the sound policy, of the several legislative assemblies would render superfluous any appeal to the ordinary motives by which the laws secure the obedience of individuals:

. . . .

It is no longer doubted that a unanimous and punctual obedience of 13 independent bodies, to the acts of the federal Government ought not to be calculated on. Even during the war, when external danger supplied in some degree the defect of legal & coercive sanctions, how imperfectly did the States fulfil their obligations to the Union?
Excerpted from:

_By the UNITED STATES in CONGRESS assembled._

_NOVEMBER I, 1783._

THE committee consisting of Mr. Carroll, Mr. Duane and Mr. S. Huntington, to whom was referred a motion of Mr. Wilson, to devise means for procuring a full representation in Congress, having reported,

"That whether from the peculiar circumstances some of the states have been under during the war, or that the states in general were not sufficiently impressed with the importance of keeping up a constant representation in Congress, the committee cannot find on examining the journals, notwithstanding the repeated earnest recommendations for that purpose, that all the states have been represented at the same time: it appears that frequently there have not been more than nine states, and too generally not more than a competent representation for the lesser objects of the confederation. . . .

That from facts under the observation of Congress, they are clearly convinced that a representation of two members from the several states, is extremely injurious by producing delays, and for this reason is likewise much more expensive than a general representation of three members from each state."
The trust reposed in Congress, renders it their duty to be attentive to the conduct of foreign nations, and to prevent or restrain as far may be, all such proceedings as might prove injurious to the United States. The situation of commerce at this time claims the attention of the several states, and few objects of greater importance can present themselves to their notice.

Already has Great Britain adopted regulations destructive of our commerce with her West India Islands. It would be the duty of Congress, as it is their wish, to meet the attempts of Great-Britain with similar restrictions on her commerce; but their powers on this head are not explicit.

Unless the United States in Congress assembled shall be vested with powers competent to the protection of commerce, they can never command reciprocal advantages in trade.

That the United States may be enabled to secure such terms, they have

Resolved, That it be, and it hereby is recommended to the legislatures of the several states, to vest the United States in Congress assembled, for the term of fifteen years, with power to prohibit any goods, wares or merchandize from being imported into or exported from any of the states, in vessels belonging to or navigated by the subjects of any power with whom these states shall not have formed treaties of commerce.
Excerpted from:

_The Committee, consisting of Mr. Johnson, Mr. King, Mr. Pinckney, Mr. Monroe, and Mr. Grayson, to whom was referred a Letter from his Excellency the Governor of New-York, of the 6th instant, ---_

2d. That the act of the state of New-York, referred to the committee, does not invest the United States in Congress assembled with power to levy in that state the duties therein mentioned, but reserves to the state of New-York the sole power of levying and collecting the same in the manner directed in and by an act of that state, entitled "An act imposing duties on certain goods, wares and merchandize imported into the said state," passed the 18th day of November, 1784, and consequently prevents the operation of the impost in those states which have made the exercise of this power, by the United States in Congress assembled, an indispensable and express condition of their grants.

2d. Resolved, That the {Begin deleted text} present {End deleted text} critical and embarrassed situation of the finances of the United States is such as to require, that the system of impost should be carried into immediate effect.
Excerpted from:

**United States in Congress assembled,**
**MARCH 3, 1786.**

THE committee consisting of Mr. Kean, Mr. Gorham, Mr. Pinckney, Mr. Smith and Mr. Grayson, to whom were recommitted sundry papers and documents relative to commerce, and the act passed by the states in consequence of the recommendations of Congress of the 30th April, 1784, report,—

That in examining the laws passed by the states, in consequence of the act of the 30th April, 1784, they find that four states, namely, Massachusetts, New-York, New-Jersey and Virginia, have enacted laws conformable to the recommendations contained in the act, but have restrained their operation, until the other states shall have substantially complied.

That three states, namely Connecticut, Pennsylvania and Maryland, have passed laws conforming to the same, but have determined the time from which they are to commence; the first from the time of passing their act in May, 1785; and the two latter from the 30th April, 1784.

That New-Hampshire, have granted full powers to regulate their trade, with a proviso that the law shall be suspended until the other states have substantially done the same.

That Rhode-Island, have granted power for the term of twenty-five years with a proviso restrictive of its operation until the other states shall have substantially complied.

That North-Carolina, have granted powers similar to those granted by Rhode Island but unrestrained in duration.

That they cannot find that the three other states, namely, Delaware, South Carolina and Georgia have passed any laws in consequence of the recommendations. The result is that four states have fully complied, three others have also complied, but have determined the time of commencement so that there will be a dissimilarity in the duration of the power granted; that three other states have passed laws in pursuance of the recommendations, but so inconsonant to them, both in letter and spirit that they cannot be deemed compliances; and that three other states have passed no acts whatever.