I would like to explain to you again the last of the four proposals that I presented on the Second of this month, concerning the establishment of a Constitutional Jury. I have discussed various aspects of my proposal with the Committee of Eleven, to whom you referred me and who have been occupied with my work for several days now. The Committee welcomes the establishment of such an institution. I therefore thought it useful to present my proposal to the Committee in fuller detail. Not all my ideas were accepted: the Committee limited itself to the sections I have already announced and for which the need is most evident. Nevertheless, the Committee wishes that I present to you my original proposal in its entirety. I will try to do this as concisely as possible.

I admit that I am reluctant to detach the part of my plan that the Committee wants to accept from its proper context. It is my view that no aspect of the

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a Sieyès's proposal was submitted on the Second Thermidor (July 20) of 1795. See text 5 ('First Thermidorian Intervention'). The communication here reproduced took place on the Eighteenth Thermidor (August 5).

b There are several possible renderings of the term *jury constitutionnaire*: ‘constitutional council,’ ‘constitutional committee,’ or ‘constitutional tribunal.’ Contemporary usage suggests the term ‘constitutional court.’ This translation retains the word ‘jury,’ since it carried special significance for Sieyès. He associates juries with trials, which he in turn connected with both the idea of the separation of powers and the concept of popular sovereignty. The adjective *constitutionnaire* is intermediate between *pouvoir constituant* and *pouvoir constitué*. Sieyès deliberately avoids the term *jury constitutionnel* since his jury, although a constitutionally established institution (*constitué*), serves as a constitutional legislator (*constituant*). ‘Constitutionary Jury’ may therefore be the most faithful English translation, but ‘Constitutional Jury’ is better established in the secondary literature.
social mechanism (la mécanique sociale) should be left to chance, and that
the proper place of each part is determined by its position in the overall
institutional structure, which cannot be changed at will.

But even if the Constitutional Jury, as an isolated element, will no longer
enjoy quite the same harmonious fit with respect to the other institutions
and may consequently lose some of its effectiveness, it can still play a use-
ful part in your plans. This is what my most recent work has been aimed
at. The current political situation has encouraged me to leave unaltered the
full powers I originally assigned to the Jury, especially the second one, the
right to improve the constitution piece by piece. In these times especially, do
we not have an acute need for such a means of improvement, which func-
tions almost imperceptibly but nevertheless effectively, in accordance with
our increasing enlightenment and growing experience? (I am not referring to
revolutionary upheavals, whose prevention is not the task of our Jury.) It is,
in other words, a procedure of improvement that accords with fundamental
political principles but suits the needs and character of the French people as
well.

A preliminary question concerns the need for such a Constitutional Jury.
Would a provident legislator abandon a constitution to uphold itself from the
moment when it is born? If it is anything at all, a constitution is a body of
binding laws—and if it is that, one can reasonably ask who will guard it and
who will be the judge of this legal code. We will have to give an answer to
this question. To remain silent on such a fundamental matter would be both
inconceivable and ridiculous in the social sphere, so why would you tolerate it
in the political sphere? Whatever their character, laws admit of being broken,
and therefore must be enforceable.

I therefore allow myself to ask you, Whom have you chosen to receive com-
plaints concerning violations of the constitution? Whom have you charged
with enforcing the law? Are the civil courts to exercise this eminent role?
Remember the prudent directive that prohibits judges from removing adminis-
trators for bad performance. How much more should we withhold from judges
the power to remove the highest political officeholders (les premiers corps poli-
tiques)?

To treat the constitution as another part of the civil code would be fund-
damentally misguided. You are not given to such errors of judgment, and

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c Sieyès uses mechanical metaphors to describe the artificial, constructed ‘body’ of the state,
which belongs to the sphere of the organisation sociale and is thus an object of political
science. By contrast, he draws on organicist metaphors to characterize society itself as an
organisme social, which is the object of sociology.