



CENTER FOR THE STUDY OF THE AMERICAN CONSTITUTION

csac.history.wisc.edu > Document Collections > Constitutional Debates: Federalist and Antifederalist Essays > The Debate Over the House of Representatives > General Criticism of House of Representatives

Hampden

Pittsburgh Gazette, 16 February 1788 (excerpt)¹

. . . The first clause of the Constitution assures us that the legislative powers shall be vested in a Congress, which shall consist of a Senate and House of Representatives; and in the second clause of the second Article, it is declared that the President, by and with the consent of the Senate, is to make treaties. Here the supreme executive magistrate is officially connected with the highest branch of the legislature; and in Article sixth, clause second, we find that all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land, and the judges in every state shall be bound thereby; any thing in the constitution or laws of any state to the contrary notwithstanding. When we consider the extent of treaties; that in fixing the tariff of trade, the imposts and port duties generally are or may be fixed; and by a large construction, which interested rulers are never at a loss to give to any constitutional power. Treaties may be extended to almost every legislative object of the general government. Who is it that doth not know that by treaties in Europe the succession and constitution of many sovereign states hath been regulated. The Partition Treaty, and the War of the Grand Alliance, respecting the government of Spain, are well remembered; nor is it long since three neighboring powers established a nobleman of that nation upon the throne and regulated and altered the fundamental laws of that country, as well as divided the territory thereof, and all this was done by treaty. And from this power of making treaties, the House of Representatives, which hath the best chance of possessing virtue and public confidence is entirely excluded. Indeed, I see nothing to hinder the President and Senate, at a convenient crisis, to declare themselves hereditary and supreme, and the lower house altogether useless, and to abolish what shadow of the state constitutions remain by this power alone; and as the President and Senate have all that influence which arises from the creating and appointing of all offices and officers, who can doubt but at a proper occasion they will succeed in such an attempt? and who can doubt but that men will arise who will attempt it? Will the doing so be a more flagrant breach of trust, or a greater degree of violence and perfidy, than hath already been practiced, in order to introduce the proposed plan? Do these inconsistent arrangements and contradictory declarations of power merit the character of candor? Of the same kind, and full as inconsistent and dangerous, is the first clause of the second Article compared with the second clause of the second section, we first find the President fully and absolutely vested with the executive power, and presently we find the most important and most influential portion of the executive power, viz., the appointment of all officers vested in the Senate; with whom the President only acts as a nominating member. It is on this account that I

have said above that the greatest degree of virtue may be expected in the House of Representatives, for if any considerable part of the executive power be joined with the legislature, it will as surely corrupt that branch with which it is combined, as poison will the human body; therefore, though the small House of Representatives will consist of the natural aristocracy of the country, as well as the Senate, yet not being dangerously combined with the executive branch, it hath not such certain influential inducements to corruption. Doth this contradiction justify the character of candor? To the character of being inconsistent, I shall add that of being mysterious and hard to be understood, or at least very liable of being misunderstood. What reader will say that the other persons, three-fifths of which are to be taken with a view to taxation and representation, or the clause respecting the raising of a revenue from, or prohibiting the importation of persons in the first and ninth sections, is expressed with candid clearness? If slaves, or emigrant servants only are designed, why are they not so expressed? Candor certainly required a manner of expression suitable to the people's uptakings.

I find that most readers believe that the House of Representatives are certainly to consist of one to 30,000 whereas the truth is they are to consist of one to 50,000 and may be reduced to one to [?]00,000 if our future rulers see fit. The number of 30,000 was inserted out of compliment to General Washington, near the close of their sitting, who, being confined to his chair, had no vote nor share in the arguments, but was so much displeased with the smallness of the representation that he requested an alteration. They complimented him with a nominal change in the ratio, but not with an increased representation. But passing other instances which repeated and attentive reading will discover, I would ask what is meant by the guarantee of a republican form of government to each of the states? Why not guarantee to them their own forms of government or free forms of government? It is but too well-known that under aristocratical republics, there is often less personal freedom and political importance enjoyed by the people at large than under despotic forms, witness, Poland, Venice, and other aristocracies. In the official letter from the Convention to Congress, they say that the proposed plan is the result of that mutual deference and concession, which the peculiarity of our political situation rendered indispensable. It is well-known that all the states have by their own constitution reserved unalienably unto their citizens, the right of trial by jury, in civil as well as in criminal cases; and the liberty of the press, as well as restrictions against standing armies in times of peace, etc. Surely then, these rights to the arbitrary will of our future rulers could not arise from the political situation of the different states. Candor would have dictated a more honest reason. No doubt remains with me, but an aristocracy was the design, at least of those who prevailed so far as to vitiate a plan, the outlines of which I believe were at first well arranged and is yet capable of being made a good government, and I trust in the virtue of the United States that the dark and dangerous paths thereof will be properly altered and then adopted. But it will be asked, no doubt, who is this that dares so boldly to arraign the conduct and censure the production of a Convention composed of so chosen a band of patriots? To this I answer, that I am a freeman, and it is the character of freemen to examine and judge for themselves; they know that implicit faith respecting politics is the handmaid to slavery, and that the greatness of those names who frame a government cannot sanctify its faults, nor prevent the evils that result from its imperfections. Delicacy forbids that scrutiny into particular characters, which the boasting advocates of the new system seem to invite; and indeed the adding so much weight on the gilding of great names betrays a want of more substantial aid.

However, I cheerfully grant that the names of Franklin and Washington would do honor to any deliberative body; their patriotism is unquestionable; but had those great men been the framers of the system, we ought not for this to give up our right of judging, but the case is quite otherwise. We know that General Washington, being President, was obliged to sign officially, whatsoever the majority resolved upon, let it be ever so contrary to his own sentiments; and though the general proceedings of that body are still a secret, we yet certainly know that he expressed a considerable degree of disapprobation of the system, by breaking through the established rules, in order to have it amended, in the important instance before mentioned. With respect to Dr. Franklin, it is now also well-known that he was all along in the minority; that after long labor the patriots of the minority procured some alterations to the better; that Doctor Franklin never approved of it in the Federal Convention, but even to the last expressed his apprehension that it would end in despotism, though he and several others joined it out of submission to the majority, and as the best they could obtain to lay before the people. Messrs. [George] Mason, [Elbridge] Gerry, and [Edmund] Randolph, who refused absolutely to sign the system, were also patriots who souls had been tried, and many such characters retired hopeless before the question was taken.

With respect to the majority, I do not doubt the testimony of a dignified supporter of the system that they were all, or nearly all, eminent lawyers; but I do doubt the patriotism and political virtue of several of the most eminently active of them, but it is not with the men, but with the plan to which they gave birth, we have to contend, and to contend with such a degree of moderation and firmness as will best promote political security shall be the endeavor of HAMPDEN.

1. "Hampden" was apparently William Findley. Thomas Scott stated: "Mr. Finley I am told behaves with considerable moderation, but he republished the Dissent of the Minority in the *Pittsburgh Gazette*, and published his Hampden, which I enclose you."

CITE AS: John P. Kaminski et al., eds., *The Documentary History of the Ratification of the Constitution*, Vol. II: Pennsylvania (Madison, Wis.: Wisconsin Historical Society Press, 1976), 666–69.