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Centinel, Revived, XXVI

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TO THE PEOPLE OF THE UNITED STATES.

Friends and Fellow-Citizens, Happy would it have been for the people of the United States, if the majority of the present Congress had been composed, either of such virtuous, enlightened republicans as a Richard Henry Lee, and a [Thomas Tudor] Tucker, or of the arrogant, unaccommodating votaries of ambition, who would have spurned at every proposition of qualifying the obnoxious parts of the new constitution;—the further labours of the Centinel would then have been needless, for in the first case, Congress would have rendered his interference unnecessary, and in the latter, the people would have vindicated their own liberties. But the discerning friends of republicanism have now the most serious apprehensions for the fate of the public liberties—A Madison has arisen, who by his inimitable abilities and overpowering eloquence, has prevailed over the presumptuous insolence of federalism, and induced the lower House of Congress to adopt a temporising line of conduct, which, whilst it assumes the specious intention of providing against the injurious consequences of the general government, by parading a number of shewy superficial amendments, yet really preserves the principal avenues to despotic power unobstructed: the sagacious votary of ambition will not consider the proposed alterations as any abridgement of his unlimited prospects of aggrandizement and dominion, or as the smallest sacrifice to policy.

Previously to taking particular notice of the report of the select committee of Congress, I will bring before the public, those great exceptionable parts of the new constitution which are not provided for in the proposed amendments, and whose operation would alone introduce despotic power and the most grievous oppression, and that not in the usual progression, but with a rapidity that would annihilate the liberties of America, before her citizens would be aware of even the approach of arbitrary power. By far the most weighty and conclusive objection against the new-constitution in its present form is, that it will necessarily and speedily produce a consolidated or national government, by superceding and annihilating in its operation, the several state governments, which, from the nature of things, would in so extended a territory, be an iron-handed despotism. That a national government of such extensive jurisdiction would necessarily be subversive of all liberty, is a position so well established by the experience of other extensive empires, and the authority of all the celebrated political writers of every age and nation, who have treated of the subject, that I think it superfluous to enter into a formal proof of its truth and certainty:—however, as there are some persons among the infatuated federalists whose minds are so highly

prejudiced as to be impervious to any light on the subject but what is afforded by the concessions of some of their own champions, who could not without renouncing all pretensions to the knowledge of history, the nature of things, the uniform experience of mankind, and the concurring opinions of the most illustrious men, refuse their assent to incontrovertible principles;—I shall therefore, to put my position out of all doubt with even such prejudiced persons, make an extract from Mr. James Wilson’s speech, one of the most ambitious federalists; which was delivered in the Convention of the state of Pennsylvania, December, 1787. Mr. Wilson said—“The extent of country for which the new constitution was required, produced another difficulty in the business of the federal convention. It is the opinion of some celebrated writers, that to a small territory, the democratical; to a middling territory (as Montesquieu has termed it) the monarchical; and to an extensive territory, the despotic form of government, is best adapted. Regarding then the wide and almost unbounded jurisdiction of the United States, at first view, the hand of despotism seemed necessary to controul, connect, and protect it; and hence the chief embarrassment rose. For, we knew that, although our constituents would cheerfully submit to the legislative restraints of a free government, they would spurn at every attempt to shackle them with despotic power.”—And again in another part of his speech he continues—“Is it probable that the dissolution of the state governments, and the establishment of one *consolidated empire* would be eligible in its nature, and satisfactory to the people in its administration? I think not, as I have given reasons to shew, that so extensive a territory could not be governed, connected, and preserved, but by the *supremacy of despotic power*. All the exertions of the most potent Emperors of Rome were not capable of keeping that empire together, which in extent was far inferior to the dominion of America.”

That a consolidated or national government would be destructive of all liberty, having been, then, incontrovertibly established by reasons drawn from the nature of things—by the experience of other countries and ages—by the opinions of all great men who have considered the subject—and lastly, by the concession of the most high-minded votary of ambition—I shall now proceed to shew, that the general government will, in its operation, necessarily become one consolidated national government, by absorbing all power and influence within its vortex, to the entire destruction of the state governments, unless the wisdom and spirit of the people should procure very great and essential amendments to be made, instead of the delusive and paltry ones now proposed.

Having, on a former occasion, discussed this point very fully, I shall now, as a sufficient proof of my position, that the general government will become a consolidated national one, repeat most of the arguments then used, adding some few new remarks.

“The powers of Congress under the new constitution, are complete and unlimited over the *purse* and the *sword*, and are perfectly independent of, and supreme over, the state governments; whose intervention in these great points is entirely destroyed. By virtue of their power of taxation, Congress may command the whole, or any part of the property of the people. They may impose what imposts upon commerce; they may impose what land-taxes, poll-taxes, excises, duties on all written instruments, and duties on every other article that they may judge proper; in short, every species of taxation, whether of an external or internal nature, is comprised in section the 8th, of article the 1st, viz. ‘The Congress shall have power to lay and collect taxes, duties, imposts, and excises, to pay the debts, and provide for the common defence and general welfare of the United States.’

“As there is no one article of taxation reserved to the state governments, the Congress may monopolise every source of revenue, and thus indirectly demolish the state governments, for without funds they could not exist, the taxes, duties and excises imposed by Congress may be so high as to render it impracticable to levy further sums on the same articles; but whether this should be the case or not, if the state governments should presume to impose taxes, duties or excises, on the same articles with Congress, the latter may abrogate and repeal the laws whereby they are imposed, upon the allegation that they interfere with the due collection of their taxes, duties or excises, by virtue of the following clause, part of section 8th, article 1st, viz. ‘To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this constitution in the government of the United States, or in any department or officer thereof.’

“The Congress might gloss over this conduct by construing every purpose for which the state legislatures now lay taxes, to be for the ‘*general welfare*,’ and therefore as of their jurisdiction.

“And the supremacy of the laws of the United States is established by article 6th, viz. ‘That this constitution and the laws of the United States, which shall be made in pursuance thereof, and *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*.’ It has been alledged that the words ‘pursuant to the constitution,’ are a restriction upon the authority of Congress; but when it is considered that by other sections they are invested with every efficient power of government, and which may be exercised to the absolute destruction of the state governments, without any violation of even the forms of the constitution, this seeming restriction, as well as every other restriction in it, appears to us to be nugatory and delusive; and only introduced as a blind upon the real nature of the government. In our opinion, ‘pursuant to the constitution,’ will be co-extensive with the *will* and *pleasure* of Congress, which, indeed, will be the only limitation of their powers.

“We apprehend, that two co-ordinate sovereignties would be a solecism in politics. That therefore as there is no line of distinction drawn between the general, and state governments; as the sphere of their jurisdiction is undefined, it would be contrary to the nature of things, that both should exist together, one or the other would necessarily triumph in the fullness of dominion. However, the contest could not be of long continuance, as the state governments are divested of every means of defence, and will be obliged, by ‘the supreme law of the land,’ *to yield at discretion*.

“It has been objected to this total destruction of the state governments, that the existence of their Legislatures is made essential to the organization of Congress; that they must assemble for the appointment of the Senators and President-General of the United States. True, the State Legislatures may be continued for some years, as boards of appointment, merely, after they are divested of every other function; but the framers of the constitution foreseeing that the people will soon be disgusted with this solemn mockery of a government without power and usefulness, have made a provision for relieving them from the imposition, in section 4th, of article 1st, viz. ‘The times, places, and manner of holding elections for Senators and Representatives, shall be prescribed in each state by the Legislature thereof; *but the Congress may at any time, by law make or alter such regulations; except as to the place of choosing Senators*.’

“As Congress have the controul over the time of the appointment of the President-General, of the Senators, and of the Representatives of the United States, they may prolong their existence in office, for life, by postponing the time of their election and appointment, from period to period, under various pretences, such, as an apprehension of invasion, the factious dispositions of the people, or any other plausible pretence that the occasion may suggest; and having thus obtained life-estates in the government, they may fill up the vacancies themselves, by their controul over the mode of appointment; with this exception in regard to the Senators, that as the place of appointment for them, must, by the constitution, be in the particular state, they may depute some body in the respective states, to fill up the vacancies in the Senate, occasioned by death, until they can venture to assume it themselves. In this manner, may the only restriction in this clause, be evaded. By virtue of the foregoing section, when the spirit of the people shall be gradually broken; when the general government shall be firmly established, and when a numerous standing army shall render opposition vain, the Congress may complete the system of despotism, in renouncing all dependence on the people, by continuing themselves and children in the government.

“The celebrated *Montesquieu*, in his *Spirit of Laws*, vol. 1, page 12th, says, “That in a democracy there can be no exercise of sovereignty, but by the suffrages of the people, which are their will; now the Sovereign’s will is the Sovereign himself; the laws therefore, which establish the right of suffrage, are fundamental to this government. In fact, it is as important to regulate in a republic in what manner, by whom, and concerning what, suffrages are to be given, as it is in a monarchy to know who is the Prince, and after what manner he ought to govern.’ The *time*, *mode*, and *place* of the election of Representatives, Senators and President-General of the United States, ought not to be under the controul of Congress, but fundamentally ascertained and established.

“The legislative power vested in Congress by the foregoing recited sections, is so unlimited in its nature; may be so comprehensive and boundless in its exercise, that this alone would be amply sufficient to annihilate the state governments, and swallow them up in the grand vortex of general empire.

“The judicial powers vested in Congress are also so various and extensive, that by legal ingenuity they may be extended to every case, and thus absorb the state judiciaries; and when we consider the decisive influence that a general judiciary would have over the civil polity of the several states, we do not hesitate to pronounce that this power, unaided by the legislative, would effect a consolidation of the states under one government.”

As an instance of the unlimited jurisdiction of the federal judiciary, I will only select one of the many objects that are made cognizable by it, in order to illustrate how conclusively comprehensive that one may be made to the annihilation of the state judiciaries. Sect. 2. of the new government. — “The judicial power shall extend to all cases in law and equity, &c. to all controversies between citizens of different states.” Here, then, is a section which will enable any person, having any manner of controversy, whether it respects real or personal estate, to bring the matter in dispute into the federal judiciary, by making an assignment of his demand to a citizen of another state, whose name he may thus borrow, to make his case cognizable in the federal court. After this sweeping jurisdiction, added to its auxiliaries, what will remain for the state courts? — Nothing that can prevent their being reduced to cyphers. However, it will be said to this, that

Congress, in the proposed judiciary bill, have prohibited such assignments of demands. But to this I reply, that this is but a legislative regulation; that when the public ferment is lulled, may be at any time repealed; and that this is the intention, no one can doubt, when he beholds this very Congress, who are about making this present restriction on the unlimited jurisdiction of the federal courts, decidedly refusing to make it a fundamental alteration in the form of government; yea, refusing even to refer the consideration of such a stipulation to a committee—Consequently, the present restraint upon the federal judiciary, is but an emanation of that lulling policy which characterises the proposed amendments.

Philadelphia, Aug. 27.

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