

## A Federal Republican, A Review of the Constitution, 28 November 1787

Hitherto we have been considering the blemishes of the Constitution as they statedly exist—other objects are derived from omission. Among these the grand one, upon which is indeed suspended every other, is the omission of a bill of rights.

The remarker upon the address of the sixteen members has answered their objection with much force. “I answer (says he) *this is not true*, it contains a declaration of many rights, and very important ones, i.e., that people shall be obliged to fulfill their contracts, and not avoid them by *tenders* of anything less than the value stipulated—that no *ex post facto* laws shall be made, etc.”

The gentleman has here very wittily mistaken the sense of the two terms right and obligation.

They are correlative terms and between two parties. Whenever the former applies to the one, the latter of necessity applies to the other. Whatever anyone has a *right* to expect from me, I am *obliged* to render him. He might as well have said that the Constitution gave the people a *right* to submit to Congress in everything, and that we have a *right* to pay the last farthing of compliance to their despotic whims.

What he mentions is the enforcing of *obligation* and not the declaring of *right*.

One of the learned members of the late Convention, the Honorable Mr. [James] Wilson, observes in his speech that all powers which are not by the Constitution given up to Congress are reserved for the disposition of the several states. This observation is wise and true, because properly speaking it should be so. In entering into the social compact, all rights which are not expressly given up to the governors are reserved to the people. That it is so from a just construction it is easy to discover.

But notwithstanding, if the people are jealous of their rights, where will be the harm in declaring them? If they be meant, as they certainly are, to be reserved to the people, what injury can arise from a positive declaration of it? Although in reasoning it would appear to be unnecessary, yet if the people prefer having their rights stately defined, it is certainly reasonable that it should be done. I am well acquainted with the logical reason that is general[ly] given for it.

It is said that the insertion of a bill of rights would be an argument against the present liberty of the people.

To have the rights of the people declared to them would imply that they had previously given them up or were not in possession of them.

This indeed is a distinction of which the votaries of scholastic philosophy might be proud—but in the political world, where reason is not cultivated independently of action and experience, such futile distinctions ought not to be agitated.

In fact, it does not exist, for I should think it is as rational to declare the right of the people to what they already possess, as to decree to them any new rights. If the people do really possess them, there can be no harm in expressing what is meant to be understood.

A bill of rights should either be inserted, or a declaration made that whatever is not decreed to Congress is reserved to the several states for their own disposal.

In this particular, the Articles of the present Confederation have an evident advantage. The second Article says, that “each state retains its *sovereignty, freedom and independence, and every power, jurisdiction, and right, which is not by this confederation expressly declared to United States in Congress assembled.*”

This will appear the more proper, if we consider that these *are rights* in which all the states are concerned. It is thought proper to delegate to Congress supreme power on all occasions where the *natural* interests of the states are concerned, and why not for the same reason grant and declare to the states a bill of *those rights* which are also *mutual*?

At any rate it is certain that no injury can arise from it, and to do it would be satisfactory and wise.

On the whole, my fellow citizens, this Constitution was *conceived* in wisdom; the thanks of the United States are justly due to the members of the late Convention.

But let their productions pass again through the furnace.

Do not give them even the opportunity of depriving you of your rights and privileges, and that, without breaking over any restraint imposed by the Constitution.

Because this once granted they will be fully enabled in the present age to lay the gentle foundation of despotic power, and after a temporary interval of seeming humanity between you and succeeding generations, to rivet upon *them* the chains of slavery beyond the possibility of a rupture.

To guard against this, I could wish to see the proposed Constitution revised and corrected.

If the states are not to be *confederated*, let them be reduced to one compact body.

And if a perfect consolidation of the states is to take place, if the people are to become the source of power, and if Congress is to represent them as the head of this grand body politic, in the name of all that is dear to freemen, permit not the veins through which the life of

government itself is to flow from the *heart* to the *head* be any way obstructed—let the passages be free and open that *vital* heat may *animate* every *limb*.

That if all the states were to offer their objections, the Constitution would be reduced to nothing, is an ill-founded idea.

The good-natured similarity which the citizen of America discovered between this Constitution and a piece of painting is perfectly erroneous.

All painting is addressed to the *sense* and relished by *taste* which is various and fluctuating—but this Constitution is addressed to the *understanding* and judged of by *reason* which is fixed and true.

The Constitution is for the most part good, and perhaps many of the objections which have been made to it arise from our not being able to discern *clearly* the collective interest of the states.

Some of them, however, in all probability, exist beyond contradiction.

Let the convention of each state make its exceptions, then let a future and general one receive them all and reconcile them with as much wisdom as possible.

This would certainly be some refinement.

It *could* do no *harm*, but *might* do much *good*.

To conclude, my friends and fellow citizens, have [the] proposed Constitution revised, corrected and amended—have every dubious expression be made plain and clear—have every power accurately defined and well understood, and your own rights and privileges clearly stated or a declaration made that all powers that are not by this Constitution delegated to Congress are reserved for your own disposal.

Then, and not till then, will impartial justice rule over our land, and America become the theater of equity and wisdom, as she has already been the field of patriotism and bravery.

This once obtained, we shall be happy and free, and having enjoyed the blessings of peace and plenty under the ample shade of the tree of *liberty*, we shall deliver them down unimpaired by the corrosive influence of time to the latest posterity.

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