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Americanus II

Virginia Independent Chronicle, 19 December 1787

Mr. Davis. Sir, The Fœderal Constitution is, in one respect, like the *Christian religion*, the more minutely it is discussed, the more perfect it will appear. Without being guilty of any extravagance of expression or pretending to the gift of divination, I may venture to foretell, that the *Bible* and the *Fœderal Government* will be read and revered, when the arguments, insiduously employed against both, are forgotten. I believe, Sir, there is no one, however insensible he may be to the feelings of his country, who will not readily confess, that the situation, to which we are reduced, justifies the most melancholy reflections, and calls for the combined wisdom and vigor of the states. The *enlightened* apprehend the most ruinous consequences,—the *patriot* laments the deplorable situation of his country, and *apathy itself* feels interested in the event. At this important period, *indifference* would be dangerous, *inaction* criminal.

In a preceding number, I have endeavored to designate the powers of the *president*, and to remove, from the minds of my *fellow-citizens*, the apprehensions, which they might by the insidious misrepresentations of some designing persons, entertain of their supposed dangerous tendency. From an impartial consideration of this point, it must appear evident to every unbiassed mind, that the authority of the *president* is, in many instances, restrained by the *co-operation* of the *senate*, and that the cases, in which he can exercise an *exclusive power*, are too *insignificant* to be productive of *dangerous* consequences. The *president* stands alone. The *United States* are the *scrutinising spectators* of his conduct, and he will, always, be the distinguished object of *political jealousy*. Destitute of a *council* and of the *means*, by which he might extend his influence and secure his safety, *he* and *he alone* is responsible for any perversion of power. This *unity* of the executive authority constitutes, in my humble opinion, our greatest safety, and affords the most effectual means of restraining it within proper bounds. Was the *president* surrounded with *counsellors*, or was the *executive power* lodged in the hands of *many persons*, it would be difficult to discover the *one*, who might recommend an obnoxious measure. *Secrecy* and *dispatch* could not be expected. The *unavoidable imbecility* of measures would be retarded by the difficulty of procuring an unanimous consent, and the most *important proceedings* would be liable to interruption by a contrariety of opinions. No sooner was an *abuse* of *power* suppressed in one place, than it would appear in another. *Tyranny* might assume a variety of forms. It would elude all the *vigilance* of the most watchful jealousy. *It would mock the efforts of the people, not because it is invincible, but because it is unknown;*—seized by the strong arm of a *Hercules*, it would escape with the various transformations of a *Proteus*.

To alarm the people and prejudice them against a government, which, I cannot forbear thinking, has certainly received the *solemn* sanction of *Heaven*, some persons have presumed to

predict the establishment of an *odious aristocracy* in the senate. To detect the futility of this prediction, let us enquire into the manner, in which this body is elected, and examine the powers, with which it is entrusted.

The *senate* is composed of two members from each state chosen by *the respective legislatures*; when assembled, they are to be divided, as equally as possible, into *three classes*. The seats of the *first class* are to be *vacated* at the expiration of the *second year*, of the *second class* at the expiration of the *fourth year*,—and of the *third class* at the expiration of the *sixth year*;—so that *one third* may be chosen *every second year*. The wisdom and prudence, which dictated this *rotation of members*, must, at first sight, forcibly strike every unprejudiced mind. The *fluctuation* of members, the *temporary duration* of their power, and the *variety of interests*, which will, invariably, occur in the *senate*, are so many *securities* to the public for the *faithful administration* of affairs. Is it possible, that a body, subject to the changes which every new election will produce, can form a *junto* sufficiently powerful to govern its decisions? Let us however suppose, that many members of the *senate* should be profligate enough to employ, in the prosecution of *aristocratical designs*, the sacred authority with which they are entrusted—Could they accomplish their purpose? Is it possible, that they could obtain two-thirds to consent to so dangerous a measure? Is it probable, that even one-third would be under a temptation to the same injustice, and have the same object in view? But admit, Sir, that all were actuated by the same ambitious motives—would not the power to execute be remote and circumscribed? Could a *senate*, consisting of few members and modified like ours, erect itself into a perpetual body on the *ruins of thirteen independent states*, to whom it owes its *political existence*? Could it corrupt or annihilate the *foederal house of representatives*, a more numerous body than itself, chosen by the *unbought, unbiassed voices* of an enlightened people, and without whose concurrence it could effect no design? Could they exercise an *aristocratical power* over the different states, so distant from each other, with the same impunity, that a *numerous nobility might do over their respective vassals and dependents*? To admit suppositions of this kind is to insult the *sacred majesty* of the people, *sport* with their undertakings, and by attempting to *scare* them with *visionary dangers* to *treat them like children*.

In the organization of the senate, we may observe three *distinctions of characters*, into which it is divided, the one *legislative*, the other *executive*, the third *judicial*. Each is rendered independent of the other, and so excellently modified, that the privileges, annexed to each character, cannot be exercised without the intervention of another power. Permit me, Sir, to illustrate my meaning. In its *legislative capacity*, it can enact no law, succeed in no measure, and accomplish no purpose, without the *concurrence of the house of representatives*. In its *executive capacity*, it can effect no design, without the *co-operation of the president*; and in its *judicial capacity*, it can exercise no power, without an *impeachment* is previously presented by the *house of representatives*. Thus *fettered*, and *guarded by opposing checks*, I can see no act, which the *senate* can of itself perform, that might lead to the *establishment* of a dreaded *aristocracy*. Should it, however, attempt to overleap the limits prescribed to its power, and dare to invade the rights of one part of the legislature, it would meet an antagonist power, residing in another part capable of restraining it within its original bounds. For instance—Should the *senate* endeavor to extend its authority by contracting the rights and privileges of the *house of representatives*, *the president*, foreseeing his own dignity endangered by every new accession of power, which the senate might acquire, would interpose his *controuling authority* and counteract its *ambitious designs*. On the other hand, if

the *senate*—*this fancied object of fear*—should encroach upon the province of the *president*, and assume the exercise of *his prerogatives*, the *house of representatives* would receive an instant alarm and immediately extend “*its strong arm*” to restrain it. But, independent of *these checks*, which absolutely *reside* in the constitution itself, there are *thirteen collateral checks*, whose united powers, *like an overbearing torrent*, could not be resisted—I mean the *legislatures of the thirteen states*. For, as the *senate* is elected by the legislature of each state, it must be confessed, that each member is responsible to that body, which respectively elect him. Now, Sir, was authority of the *senate* more extensive and less constitutionally controuled, still *these checks* would be sufficient, and will constitute *unsurmountable barriers* to its ambition, which it can never destroy. I shall, Sir, mention but one more *check*, which the *senate* has to encounter. Perhaps it may be considered as trifling, but, in my humble opinion it is as strong, as it is extensive. Should an aristocracy be established in this body, it must be confined to particular families. As we have no nobility, and as no one family can claim a superiority over another, it is natural to suppose, that each would operate as a check to the other, and from a principle of *jealousy*, if not of *patriotism*, endeavor to counteract the ambitious hopes of all. If power thus restrained is not safe, I ask, by what human means can it be rendered more so? If the country is not secure in such hands, in whose hands may it be confided? If a number of such men, as we may suppose the *senate* will be composed, be liable to the influence of corrupt motives, what assembly of men will be secure from the same danger?

No description of people are excluded from a seat in Congress. The Fœderal Constitution, like our holy religion, knows no invidious distinctions. It embraces, without discrimination, every individual citizen of the states, and considers every man as entitled to an equal share in the government. The doors of the *senate* are open for the admission of every one, who is actuated with the *laudable ambition*, of serving his country, and who possesses *that knowledge* and *those faculties*, which qualify men for deliberation and debate. The splendid rewards of *political dignity* and *importance*, which, of all others, *rouse* and *animate* the human mind, are *held out* to all, who have the qualifications necessary to obtain them, and the virtues calculated to gain the confidence of the people.

It is alledged, Sir, “that the right of taxation, with which Congress is invested, is too great a surrender of the properties of the people.” This objection, like many others, appears to me to originate in ignorance, or is maliciously intended to delude the people. That *taxation* and *representation* are inseparable, and that each should bear an exact ratio to the other, are self evident truths. America first asserted the *novel doctrines*, and *fame* has proclaimed it, with *her victories*, to the *remotest regions of the earth*. Had the antient republics of *Greece* and *Rome* rigidly observed this *grand political position*, they might, perhaps, have *still* continued in existence and transmitted their liberties undiminished to the latest ages. It is the *grand palladium* of freedom. It is the *only pedestal* on which a *temple to liberty* can be *securely* erected. In all the *American* governments this *native truth* “that taxation and representation are inseparable” — has been *religiously* observed, and perhaps in *no one* is it more exactly ascertained, than in the *Fœderal Constitution*. The *house of representatives*, which has the exclusive right of *originating* bills of taxation, is composed of members elected *directly* by the people in the most *exact proportion*. The object of this representation is *the common defence and general welfare of the United States*. The concomitant right of *taxation* extends *no farther*. It is the express language of the constitution, that all *monies*, arising from the *taxes* imposed by Congress *shall be* appropriated to the *support* of the *fœderal govern-*

ment, the common defence of the United States, and the regular discharge of the national debts. The interests of the representatives are so intermixed with that of the people, that they cannot, without a partiality too flagrant to be endured, impose a tax in which they will not take a share themselves: nor can they scarcely adopt an advantageous regulation, in which their own interests will not participate of the advantage.

CITE AS: John P. Kaminski et al., eds., *The Documentary History of the Ratification of the Constitution*, Vol. VIII: Virginia [1] (Madison, Wis.: Wisconsin Historical Society Press, 1988), 244–48.