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Centinel II

Philadelphia *Freeman’s Journal*, 24 October 1787

(excerpts)

To the PEOPLE of PENNSYLVANIA.

FRIENDS, COUNTRYMEN, *and* FELLOW-CITIZENS, As long as the liberty of the press continues unviolated, and the people have the right of expressing and publishing their sentiments upon every public measure, it is next to impossible to enslave a free nation. The state of society must be very corrupt and base indeed, when the people in possession of such a monitor as the press, can be induced to exchange the heavenborn blessings of liberty for the galling chains of despotism.—Men of an aspiring and tyrannical disposition, sensible of this truth, have ever been inimical to the press, and have considered the shackling of it, as the first step towards the accomplishment of their hateful domination, and the entire suppression of all liberty of public discussion, as necessary to its support.—For even a standing army, that grand engine of oppression, if it were as numerous as the abilities of any nation could maintain, would not be equal to the purposes of despotism over an enlightened people.

The abolition of that grand palladium of freedom, the liberty of the press, in the proposed plan of government, and the conduct of its authors, and patrons, is a striking exemplification of these observations. The reason assigned for the omission of a *bill of rights*, securing the *liberty of the press*, and *other invaluable personal rights*, is an insult on the understanding of the people. . . .

Mr. *Wilson* asks, “What controul can proceed from the federal government to shackle or destroy that *sacred palladium* of national freedom, the *liberty of the press*?” What!—Cannot Congress, when possessed of the immense authority proposed to be devolved, restrain the printers, and put them under regulation.—Recollect that the omnipotence of the federal legislature over the State establishments is recognized by a special article, 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 *Constitutions* or laws of any State to the contrary notwithstanding.”—After such a declaration, what security does the *Constitutions* of the several States afford for the *liberty of the press and other invaluable personal rights*, not provided for by the new plan?—Does not this sweeping clause subject every thing to the controul of Congress?

In the plan of Confederation of 1778, now existing, it was thought proper by Article the 2d, to declare that “each State retains its sovereignty, freedom and independence, and every power,

jurisdiction and right, which is not by this Confederation expressly delegated to the United States in Congress assembled." *Positive* grant was not *then* thought sufficiently descriptive and restraining upon Congress, and the omission of such a declaration *now*, when such great devolutions of power are proposed, manifests the design of reducing the several States to shadows. But Mr. Wilson tells you, that every right and power not specially granted to Congress is considered as withheld. How does this appear? Is this principle established by the proper authority? Has the Convention made such a stipulation? By no means. Quite the reverse; the *laws* of Congress are to be "the *supreme law* of the land, any thing in the *Constitutions* or laws of any State to the contrary notwithstanding;" and consequently, would be *paramount* to all *State* authorities. The lust of power is so universal, that a speculative unascertained rule of construction would be a *poor* security for the liberties of the people. . . .

Mr. *Wilson* says, that it would have been impracticable to have made a general rule for jury trial in the civil cases assigned to the federal judiciary, because of the want of uniformity in the mode of jury trial, as practised by the several states. This objection proves too much, and therefore amounts to nothing. If it precludes the mode of common law in civil cases, it certainly does in criminal. Yet in these we are told "the oppression of government is effectually barred by declaring that in all criminal cases *trial by jury* shall be preserved." Astonishing, that provision could not be made for a jury in civil controversies, of 12 men, whose verdict should be unanimous, *to be taken from the vicinage*; a precaution which is omitted as to trial of crimes, which may be any where in the state within which they have been committed. So that an inhabitant of *Kentucky* may be tried for treason at *Richmond*.

The abolition of jury trial in civil cases, is the more considerable, as at length the courts of Congress will supersede the state courts, when such mode of trial will fall into disuse among the people of the United States.

The northern nations of the European continent, have all lost this invaluable privilege: *Sweden*, the last of them, by the artifices of the *aristocratic* senate, which depressed the king and reduced the house of commons to insignificance. But the nation a few years ago, preferring the absolute authority of a monarch to the *vexatious* domination of the *wellborn* few, an end was suddenly put to their power.

"The policy of this right of juries, (says judge Blackstone) to decide upon *fact*, is founded on this: That if the power of judging were entirely trusted with the magistrates, or any select body of men, named by the executive authority, their decisions, in spite of their own natural integrity, would have a bias towards those of their own rank and dignity; for it is not to be expected, that the *few* should be attentive to the rights of the *many*. This therefore preserves in the hands of the people, that share which they ought to have in the administration of justice, and prevents the encroachments of the more powerful and wealthy citizens."¹

The attempt of governor [Cadwallader] *Colden*, of New-York, before the revolution to re-examine the *facts* and re-consider the *damages*, in the case of *Forsey* against *Cunningham*, produced about the year 1764, a flame of patriotic and successful opposition, that will not be easily forgotten. . . .

From the foregoing illustration of the powers proposed to be devolved to Congress, it is evident, that the general government would necessarily annihilate the particular governments, and that the security of the personal rights of the people by the state constitutions is superseded

and destroyed; hence results the necessity of such security being provided for by a bill of rights to be inserted in the new plan of federal government. What excuse can we then make for the omission of this grand palladium, this barrier between *liberty* and *oppression*. For universal experience demonstrates the necessity of the most express declarations and restrictions, to protect the rights and liberties of mankind, from the silent, powerful and ever active conspiracy of those who govern.

The new plan, it is true, does propose to secure the people of the benefit of personal liberty by the *habeas corpus*; and trial by jury for all crimes, except in case of impeachment: but there is no declaration, that all men have a natural and unalienable right to worship Almighty God, according to the dictates of their own consciences and understanding; and that no man ought, or of right can be compelled to attend any religious worship, or erect or support any place of worship, or maintain any ministry, contrary to, or against his own free will and consent; and that no authority can or ought to be vested in, or assumed by any power whatever, that shall in any case interfere with, or in any manner controul, the right of conscience in the free exercise of religious worship: that the trial by jury in civil causes as well as criminal, and the modes prescribed by the common law for safety of life in criminal prosecutions shall be held sacred; that the requiring of excessive bail, imposing of excessive fines and cruel and unusual punishments be forbidden; that monopolies in trade or arts, other than to authors of books or inventors of useful arts, for a reasonable time, ought not to be suffered; that the right of the people to assemble peaceably for the purpose of consulting about public matters, and petitioning or remonstrating to the federal legislature ought not to be prevented; that *the liberty of the press be held sacred*; that the people have a right to hold themselves, their houses, papers and possessions free from search or seizure; and that therefore warrants without oaths or affirmations first made, affording a sufficient foundation for them, and whereby any officer or messenger may be commanded or required to search suspected places, or to seize any person or his property, not particularly described, are contrary to that right and ought not to be granted; and that standing armies in time of peace are dangerous to liberty, and ought not to be permitted but when absolutely necessary; all which is omitted to be done in the proposed government. . . .

1. Blackstone, *Commentaries*, Book III, chapter 23, pp. 379–80.

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