

# "Centinel"

## Number 1

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*To the Freemen of Pennsylvania.*

Friends, Countrymen and Fellow Citizens,

Permit one of yourselves to put you in mind of certain *liberties* and *privileges* secured to you by the constitution of this commonwealth, and to beg your serious attention to his uninterested opinion upon the plan of federal government submitted to your consideration, before you surrender these great and valuable privileges up forever. Your present frame of government, secures to you a right to hold yourselves, houses, papers and possessions free from search and seizure, and therefore warrants granted without oaths or affirmations first made, affording sufficient foundation for them, whereby any officer or messenger may be commanded or required to search your houses or seize your persons or property, not particularly described in such warrant, shall not be granted. Your constitution further provides "that in controversies respecting property, and in suits between man and man, the parties have a right to *trial by jury*, which ought to be held sacred." It also provides and declares. "that the people have a right of FREEDOM OF SPEECH, and of WRITING and PUBLISHING their sentiments, therefore THE FREEDOM OF THE PRESS OUGHT NOT TO BE RESTRAINED." The constitution of Pennsylvania is yet in existence, as yet you have the right to *freedom of speech*, and of *publishing your sentiments*. How long those rights will appertain to you, you yourselves are called upon to say, whether your *houses* shall continue to be your *castles*; whether your *papers*, your *persons* and your *property*, are to be held sacred and free from *general warrants*, you are now to determine. Whether the *trial by jury* is to continue as your birth-right, the freemen of Pennsylvania, nay, of all America, are now called upon to declare.

Without presuming upon my own judgement, I cannot think it an unwarrantable presumption to offer my private opinion, and call upon others for their's, and if I use my pen with the boldness of a freeman, it is because I know that *the liberty of the press yet remains unviolated*, and *juries yet are judges*.

The late convention have submitted to your consideration a plan of a new federal government -- The subject is highly interesting to your future welfare\_Whether it be calculated to promote the great ends of civil society, viz. the happiness and prosperity of the community; it behoves you well to consider, uninfluenced by the authority of names. Instead of that frenzy of enthusiasm, that has actuated the citizens of Philadelphia, in their approbation of the proposed plan, before it was possible that it could be the result of a rational investigation into its principles; it ought to be dispassionately and deliberately examined, and its own intrinsic merit the only criterion of your patronage. If ever free and unbiased discussion was proper or necessary, it is on such an occasion.\_All the blessings of liberty and the dearest privileges of freemen, are now at stake and dependent on your present conduct. Those who are competent to the task of developing the principles of government, ought to be encouraged to come forward, and thereby the better enable

the people to make a proper judgment; for the science of government is so abstruse, that few are able to judge for themselves: without such assistance the people are too apt to yield an implicit assent to the opinions of those characters, whose abilities are held in the highest esteem, and to those in whose integrity and patriotism they can confide: not considering that the love of domination is generally in proportion to talents, abilities, and superior acquirements; and that the men of the greatest purity of intention may be made instruments of despotism in the hands of the *artful and designing*. If it were not for the stability and attachment which time and habit gives to forms of government it would be in the power of the enlightened and aspiring few, if they should combine, at any time to destroy the best establishments, and even make the people the instruments of their own subjugation.

The late revolution having effaced in a great measure all former habits, and the present institutions are so recent, that there exists not that great reluctance to innovation, so remarkable in old communities, and which accords with reason, for the most comprehensive mind cannot foresee the full operation of material changes on civil polity; it is the genius of the common law to resist innovation.

The wealthy and ambitious, who in every community think they have a right to lord it over their fellow creatures, have availed themselves, very successfully, of this favorable disposition; for the people thus unsettled in their sentiments, have been prepared to accede to any extreme of government; all the distresses and difficulties they experience, proceeding from various causes, have been ascribed to the impotency of the present confederation, and thence they have been led to expect full relief from the adoption of the proposed system of government, and in the other event, immediately ruin and annihilation as a nation. These characters flatter themselves that they have lulled all distrust and jealousy of their new plan, by gaining the concurrence of the two men in whom America has the highest confidence, and now triumphantly exult in the completion of their long meditated schemes of power and aggrandisement. I would be very far from insinuating that the two illustrious personages alluded to, have not the welfare of their country at heart, but that the unsuspecting goodness and zeal of the one, has been imposed on, in a subject of which he must be necessarily inexperienced, from his other arduous engagements; and that the weakness and indecision attendant on old age, has been practiced on in the other.

I am fearful that the principles of government inculcated in Mr. Adams's treatise, and enforced in the numerous essays and paragraphs in the newspapers, have misled some well designing members of the late Convention. But it will appear in the sequel, that the construction of the proposed plan of government is infinitely more extravagant.

I have been anxiously expecting that some enlightened patriot would, ere this, have taken up the pen to expose the futility, and counteract the baneful tendency of such principles. Mr. Adams's *sine qua non* of a good government is three balancing powers, whose repelling qualities are to produce an equilibrium of interests, and thereby promote the happiness of the whole community. He asserts that the administrators of every government, will ever be actuated by views of private interest and ambition, to the prejudice of the public good; that therefore the only effectual method to secure the rights of the people and promote their welfare, is to create an opposition of interests between the members of two distinct bodies, in the exercise of the powers of government, and balanced by those of a third. This hypothesis supposes human wisdom

competent to the task of instituting three co-equal orders in government, and a corresponding weight in the community to enable them respectively to exercise their several parts, and whose views and interests should be so distinct as to prevent a coalition of any two of them for the destruction of the third. Mr. Adams, although he has traced the constitution of every form of government that ever existed, as far as history affords materials, has not been able to adduce a single instance of such a government; he indeed says that the British constitution is such in theory, but this is rather a confirmation that his principles are chimerical and not to be reduced to practice. If such an organization of power were practicable, how long would it continue? not a day\_for there is so great a disparity in the talents, wisdom and industry of mankind, that the scale would presently preponderate to one or the other body, and with every accession of power the means of further increase would be greatly extended. The state of society in England is much more favorable to such a scheme of government than that of America. There they have a powerful hereditary nobility, and real distinctions of rank and interests; but even there, for want of that perfect equality of power and distinction of interests, in the three orders of government, they exist but in name; the only operative and efficient check, upon the conduct of administration, is the sense of the people at large.

Suppose a government could be formed and supported on such principles, would it answer the great purposes of civil society; if the administrators of every government are actuated by views of private interest and ambition, how is the welfare and happiness of the community to be the result of such jarring adverse interests?

Therefore, as different orders in government will not produce the good of the whole, we must recur to other principles. I believe it will be found that the form of government, which holds those entrusted with power, in the greatest responsibility to their constituents, the best calculated for freemen. A republican, or free government, can only exist where the body of the people are virtuous, and where property is pretty equally divided; in such a government the people are the sovereign and their sense or opinion is the criterion of every public measure; for when this ceases to be the case, the nature of the government is changed, and an aristocracy, monarchy or despotism will rise on its ruin. The highest responsibility is to be attained, in a simple structure of government, for the great body of the people never steadily attend to the operations of government, and for want of due information are liable to be imposed on\_If you complicate the plan by various orders, the people will be perplexed and divided in their sentiments about the source of abuses or misconduct, some will impute it to the senate, others to the house of representatives, and so on, that the interposition of the people may be rendered imperfect or perhaps wholly abortive. But if, imitating the constitution of Pennsylvania, you vest all the legislative power in one body of men (separating the executive and judicial) elected for a short period, and necessarily excluded by rotation from permanency, and guarded from precipitancy and surprise by delays imposed on its proceedings, you will create the most perfect responsibility for then, whenever the people feel a grievance they cannot mistake the authors, and will apply the remedy with certainty and effect, discarding them at the next election. This tie of responsibility will obviate all the dangers apprehended from a single legislature, and will the best secure the rights of the people.

Having premised this much, I shall now proceed to the examination of the proposed plan of government, and I trust, shall make it appear to the meanest capacity, that it has none of the

essential requisites of a free government; that it is neither founded on those balancing restraining powers, recommended by Mr. Adams and attempted in the British constitution, or possessed of that responsibility to its constituents, which, in my opinion, is the only effectual security for the liberties and happiness of the people; but on the contrary, that it is a most daring attempt to establish a despotic aristocracy among freemen, that the world has ever witnessed.

I shall previously consider the extent of the powers intended to be vested in Congress, before I examine the construction of the general government.

It will not be controverted that the legislative is the highest delegated power in government, and that all others are subordinate to it. The celebrated *Montesquieu* establishes it as a maxim, that legislation necessarily follows the power of taxation. By sect. 8, of the first article of the proposed plan of government, "the Congress are to 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, but all duties, imposts and excises, shall be uniform throughout the United States." Now what can be more comprehensive than these words; not content by other sections of this plan, to grant all the great executive powers of a confederation, and a STANDING ARMY IN TIME OF PEACE, that grand engine of oppression, and moreover the absolute control over the commerce of the United States and all external objects of revenue, such as unlimited imposts upon imports, etc.\_they are to be vested with every species of *internal* taxation;\_whatever taxes, duties and excises that they may deem requisite for the *general welfare*, may be imposed on the citizens of these states, levied by the officers of Congress, distributed through every district in America; and the collection would be enforced by the standing army, however grievous or improper they may be. The Congress may construe every purpose for which the state legislatures now lay taxes, to be for the *general welfare*, and thereby seize upon every object of revenue.

The judicial power by 1st sect. of article 3 "shall extend to all cases, in law and equity, arising under this constitution, the laws of the United States, and treaties made or which shall be made under their authority; to all cases affecting ambassadors, other public ministers and consuls; to all cases of admiralty and maritime jurisdiction, to controversies to which the United States shall be a party, to controversies between two or more states, between a state and citizens of another state, between citizens of different states, between citizens of the same state claiming lands under grants of different states, and between a state, or the citizens thereof, and foreign states, citizens or subjects."

The judicial power to be vested in one Supreme Court, and in such Inferior Courts as the Congress may from time to time ordain and establish.

The objects of jurisdiction recited above, are so numerous, and the shades of distinction between civil causes are oftentimes so slight, that it is more than probable that the state judicatories would be wholly superceded; for in contests about jurisdiction, the federal court, as the most powerful, would ever prevail. Every person acquainted with The history of the courts in England, knows by what ingenious sophisms they have, at different periods, extended the sphere of Their jurisdiction over objects out of the line of their institution, and contrary to their very nature; courts of a criminal jurisdiction obtaining cognizance in civil causes.

To put the omnipotency of Congress over the state government and judicatories out of all doubt, the 6th article ordains 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."

By these sections the all-prevailing power of taxation, and such extensive legislative and judicial powers are vested in the general government, as must in their operation, necessarily absorb the state legislatures and judicatories; and that such was in the contemplation of the framers of it, will appear from the provision made for such event, in another part of it; (but that, fearful of alarming the people by so great an innovation, they have suffered the forms of the separate governments to remain, as a blind.) By sect. 4th of the 1st article, "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 chusing senators.*" The plain construction of which is, that when the state legislatures drop out of sight, from the necessary operation this government, then Congress are to provide for the election and appointment of representatives and senators.

If the foregoing be a just comment if the United States are to be melted down into one empire, it becomes you to consider, whether such a government, however constructed, would be eligible in so extended a territory; and whether it would be practicable, consistent with freedom? It is the opinion of the greatest writers, that a very extensive country cannot be governed on democratical principles, on any other plan, than a confederation of a number of small republics, possessing all the powers of internal government, but united in the management of their foreign and general concerns.

It would not be difficult to prove, that any thing short of despotism, could not bind so great a country under one government; and that whatever plan you might, at the first setting out, establish, it would issue in a despotism.

If one general government could be instituted and maintained on principles of freedom, it would not be so competent to attend to the various local concerns and wants, of every particular district, as well as the peculiar governments, who are nearer the scene, and possessed of superior means of information, besides, if the business of the *whole* union is to be managed by one government, there would not be time. Do we not already see, that the inhabitants in a number of larger states, who are remote from the seat of government, are loudly complaining of the inconveniencies and disadvantages they are subjected to on this account, and that, to enjoy the comforts of local government, they are separating into smaller divisions.

Having taken a review of the powers, I shall now examine the construction of the proposed general government.

Art. 1. Sect. 1. "All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a senate and house of representatives." By another section? the president (the principal executive officer) has a conditional control over their proceedings.

Sect. 2. "The house of representatives shall be composed of members chosen every second year, by the people of the several states. The number of representatives shall not exceed one for every 30,000 inhabitants."

The senate, the other constituent branch of the legislature, is formed by the legislature of each state appointing two senators, for the term of six years.

The executive power by Art. 2, Sect. 1. is to be vested in a president of the United States of America, elected for four years: Sect. 2. gives him "power, by and with the consent of the senate to make treaties, provided two thirds of the senators present concur; and he shall nominate, and by and with the advice and consent of the senate, shall appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law," etc. And by another section he has the absolute power of granting reprieves and pardons for treason and all other high crimes and misdemeanors, except in case of impeachment.

The foregoing are the outlines of the plan.

Thus we see, the house of representatives, are on the part of the people to balance the senate, who I suppose will be composed of the *better sort*, the *well born*, etc. The number of the representatives (being only one for every 30,000 inhabitants) appears to be too few, either to communicate the requisite information, of the wants, local circumstances and sentiments of so extensive an empire, or to prevent corruption and undue influence, in the exercise of such great powers; the term for which they are to be chosen, too long to preserve a due dependence and accountability to their constituents; and the mode and places of their election not sufficiently ascertained, for as Congress have the control over both, they may govern the choice, by ordering the *representatives* of a *whole* state, to be *elected* in *one* place, and that too may be the most *inconvenient*.

The senate, the great efficient body in this plan of government, is constituted on the most unequal principles. The smallest state in the union has equal weight with the great states of Virginia Massachusetts, or Pennsylvania\_The Senate, besides its legislative functions, has a very considerable share in the Executive; none of the principal appointments to office can be made without its advice and consent. The term and mode of its appointment, will lead to permanency; the members are chosen for six years, the mode is under the control of Congress, and as there is no exclusion by rotation, they may be continued for life, which, from their extensive means of influence, would follow of course. The President, who would be a mere pageant of state, unless he coincides with the views of the Senate, would either become the head of the aristocratic junto in that body, or its minion, besides, their influence being the most predominant, could the best secure his re-election to office. And from his power of granting pardons, he might skreen from punishment the most treasonable attempts on liberties of the people, when instigated by the Senate.

From this investigation into the organization of this government, it appears that it is devoid of all responsibility or accountability to the great body of the people, and that so far from being a regular balanced government, it would be in practice *a permanent* ARISTOCRACY.

The framers of it, actuated by the true spirit of such a government, which ever abominates and suppresses all free enquiry and discussion, have made no provision for the *liberty of the press* that grand *palladium of freedom*, and *scourge of tyrants*, but observed a total silence on that head. It is the opinion of some great writers, that if the liberty of the press, by an institution of religion, or otherwise, could be rendered *sacred*, even in *Turkey*, that despotism would fly before it. And it is worthy of remark, that there is no declaration of personal rights, premised in most free constitutions; and that trial by *jury* in *civil* cases is taken away; for what other construction can be put on the following, viz. Article m. Sect. 2d. "In all cases affecting ambassadors, other public ministers and consuls, and those in which a State shall be party, the Supreme Court shall have original jurisdiction. In all the other cases above mentioned, the Supreme Court shall have *appellate* jurisdiction, both as to *law and fact*?" It would be a novelty in jurisprudence, as well as evidently improper to allow an appeal from the verdict of a jury, on the matter of fact; therefore, it implies and allows of a dismissal of the jury in civil cases, and especially when it is considered, that jury trial in criminal cases is expressly stipulated for, but not in civil cases.

But our situation is represented to be so *critically* dreadful that, however reprehensible and exceptionable the proposed plan of government may be, there is no alternative, between the adoption of it and absolute ruin. My fellow citizens, things are not at that crisis, it is the argument of tyrants; the present distracted state of Europe secures us from injury on that quarter, and as to domestic dissensions, we have not so much to fear from them, as to precipitate us into this form of government, without it is a safe and a proper one. For remember, of all *possible* evils that of *despotism* is the *worst* and the most to be *dreaded*.

Besides, it cannot be supposed, that the first essay on so difficult a subject, is so well digested, as it ought to be, if the proposed plan, after a mature deliberation, should meet the approbation of the respective States, the matter will end, but if it should be found to be fraught with dangers and inconveniencies, a future general Convention being in possession of the objections, will be the better enabled to plan a suitable government.

*Who's here so base, that would a bondsman be?  
If any, speak; for him have I offended.  
Who's here so vile, that will not love his country?  
If any, speak; for him have I offended.  
[Julius Caesar, Act 3, Scene 2 ]*

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