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WORCESTER MAGAZINE.

For the Fourth Week in December, 1787.

FOR the Federal Constitution.

From the CONNECTICUT COURANT, printed at Hartford.

Continuation of the REMARKS on the Hon. ELBRIDGE GERRY's Objections to the new Constitution.

IT is unhappy both for Mr. Gerry and the publick, that he was not more explicit in publishing his doubts. Certainly this must have been from inattention, and not through any want of ability—as all his honourable friends allow him to be a politician even of metaphysical nicety.

In a question of such magnitude, every candid man will consent to discuss objections which are stated with perspicuity; but to follow the honourable writer into the field of conjecture, and combat phantoms, uncertain whether or not they are the same which terrified him, is a task too laborious for patience itself. Such must be the writer's situation in relying to the next objection, "*that some of the powers of the Legislature are ambiguous, and others indefinite and dangerous.*" There are many powers given to the legislature, if any of them are dangerous, the people have a right to know which they are, and how they will operate, that they may guard against the evil. The charge of being ambiguous and indefinite may be brought against every human composition, and necessarily arises from the imperfection of language. Perhaps no two men will express the same sentiment in the same manner, and by the same words; neither do they connect precisely the same ideas with the same words. From hence arises an ambiguity in all languages, with which the most perspicuous and precise writers are in a degree chargeable. Some persons ever attain to the happy art of perspicuous expression, and it is equally true that some persons through a mental defect of their own, will judge the most correct and certain language of others

to be indefinite and ambiguous. As Mr. Gerry is the first and only man who has charged the new Constitution with ambiguity, is there not room to suspect that his understanding is different from other men's, and whether it be better or worse, the Landholder presumes not to decide.

It is an excellency of this Constitution, that it is expressed with brevity, and in the plain common language of mankind.

Had it swelled into the magnitude of a volume, there would have been more room to entrap the unwary, and the people who are to be its judges, would have had neither patience nor opportunity to understand it. Had it been expressed in the scientific language of law, or those terms of art which we often find in political compositions, to the honourable gentleman it might have appeared more definite and less ambiguous; but to the great body of the people, altogether obscure, and to accept it they must leap in the dark.

The people, to whom in this case the great appeal is made, best understand those compositions which are concise and in their own language. Had the powers given to the legislature been loaded with provisos, and such qualifications as a lawyer who is so cunning as even to suspect himself, would probably have intermingled, there would have been much more danger of a deception in the case. It would not be difficult to shew that every power given to the legislature is necessary for national defence and justice, and to protect the rights of the people who create this authority for their own advantage; but to consider each one



particularly would exceed the limits of my design.

I shall therefore select two powers given them, which have been more abused to oppress and enslave mankind, than all the others with which this or any other legislature on earth is clothed. The right of taxation, or of collecting money from the people; and of raising and supporting armies.

These are the powers which enable tyrants to scourge their subjects; and they are also the very powers by which good rulers protect the people, against the violence of wicked and overgrown citizens, and invasion by the rest of mankind. Judge candidly what a wretched figure the American empire will exhibit in the eye of other nations, without a power to array and support a military force for its own protection. Half a dozen regiments from Canada or New Spain, might lay whole provinces under contribution, while we were disputing, who has power to pay and raise an army. This power is also necessary, to restrain the violence of seditious citizens. A concurrence of circumstances, frequently enables a few disaffected persons to make great revolutions, unless government is vested with the most extensive power of self defence. Had Shays, the malcontent of Massachusetts, been a man of genius, fortune and address, he might have conquered that state, and by the aid of a little sedition in the other states, and an army proud by victory, become the monarch and tyrant of America. Fortunately he was checked, but should jealousy prevent vesting these powers in the hands of men chosen by yourselves, and who are under every constitutional restraint, accident or design will in all probability raise up some future Shays to be the tyrant of your children.

A people cannot long retain their freedom, whose government is incapable of protecting them. The power of collecting money from the people, is not to be rejected because it has sometimes been oppressive. Publick credit is as necessary for the prosperity of a nation, as private credit is for the support and wealth of a family. We are this day many millions poorer, than we should have been, had a well arranged government taken place at the conclusion of the war. All have suffered in this loss, but none in so great proportion as the landholders and farmers. The publick must be served in various

departments. Who will serve them without a meet recompence? Who will go to war and pay the charges of his own warfare? What man will any longer take empty promises of reward from those, who have no constitutional power to reward or means of fulfilling them? Promises have done their utmost, more than they ever did in any other age or country. The delusive bubble has broke, and in breaking it has beggared thousands, and left you an unprotected people; numerous without force, and full of resources, but unable to command one of them. For these purposes there must be a general treasury, with a power to replenish it as often as necessity requires. And where can this power be, more safely vested, than in the common legislature, men chosen by yourselves from every part of the union, and who have the confidence of their several states; men who must share in the burdens they impose on others; men who by a seat in Congress are incapable of holding any office under the states, which might prove a temptation to spoil the people for increasing their own income.

We find another objection to be "that the executive is blended with and will have an undue influence over the legislature." On examination you will find this objection unfounded. The supreme executive is vested in a President of the united states; every bill that hath passed the senate and representatives, must be presented to the President, and if he approves it becomes law. If he disapproves, but makes no return within ten days, it still becomes a law. If he returns the bill, with his objections, the senate and representatives consider it a second time, and if two thirds of them adhere to the first resolution, it becomes law, notwithstanding the President's dissent. We allow the President hath an influence, though strictly speaking he hath not a legislative voice; and think such an influence must be salutary. In the president, all the executive departments meet, and he will be a channel of communication between those who make and those who execute the laws. Many things look fair in theory which in practice are impossible. If lawmakers, in every instance, before their final decree, had the opinions of those who are to execute them, it would prevent a thousand absurd ordinances, which are so solemnly made, only to be repealed and lessen the dignity of legislation in the eyes of mankind.

The Vicepresident is not an executive officer, while the President is in discharge of his duty; and when he is called to preside his legislative voice ceases. In no other instance is there even a shadow of blending or influence between the two departments. We are further told, "that the judicial department, or those courts of law, to be instituted by Congress, will be oppressive." We allow it to be possible, but from whence arises the probability of this event. State judges may be corrupt, and juries may be prejudiced and ignorant, but these instances are not common; and why shall we suppose they will be more frequent under a national appointment and influence, when the eyes of a whole empire are watching for their detection.

Their courts are not to intermeddle with your internal policy, and will have cognizance only of those subjects which are placed under the controul of a national legislature. It is as necessary there should be courts of law and executive officers, to carry into effect the laws of the nation, as that there be courts and officers to execute the laws made by your state assemblies.

There are many reasons why their decisions ought not to be left to courts instituted by particular states.

A perfect uniformity must be observed through the whole union, or jealousy and ungratefulness will take place; and for an uniformity one judiciary must pervade the whole. The inhabitants of one state will not have confidence in judges appointed by the legislature of another state, in which they have no voice. Judges who owe their appointment and support to one state, will be unduly influenced, and not reverence the laws of the union. It will at any time be in the power of the smallest state, by interdicting their own judiciary, to defeat the measures, to defraud the revenue, and insult the most sacred laws of the whole empire. A legislative power,

without a judicial and executive under their own controul, is in the nature of things a nullity. Congress, under the old confederation, had power to ordain and resolve, but having no judicial or executive of their own, their most solemn resolves were totally disregarded. The little state of Rhodeisland was purposely left by Heaven to its present madness, for a general conviction in the other states, that such a system as is now proposed is our only preservation from ruin. Who should see any one thing would be paid to national laws, by judicial and executive officers, who are amenable only to the present assembly of Rhodeisland. The rebellion of Shays, and the present measures of Rhodeisland, ought to convince us that a national legislature, judiciary and executive must be united, or the whole is but a name; and that we must have these, or soon be hewers of wood and drawers of water for all other people.

In all these matters and powers given to Congress, their ordinances must be the supreme law of the land or they are nothing. They must have authority to enact any laws for executing their own powers, or those powers will be evaded by the artful and unjust, and the dishonest trader will defraud the publick of its revenue. As we have every reason to think this system was honestly planned, we ought to hope it may be honestly and justly executed. I am sensible that speculation is always liable to error. If there be any capital defects in this constitution, it is most probable that experience alone will discover them. Provision is made for an alteration, if, on trial, it be found necessary.

When your children see the candour and greatness of mind, with which you lay the foundation, they will be inspired with equity to finish and adorn the superstructure.

A LANDHOLDER.

REMARKS on Col. MASON'S OBJECTIONS to the proposed Federal Constitution.

From the CONNECTICUT COURANT, printed at Hartford.

He that is first in his own cause seemeth just; but his neighbour cometh and searcheth him.

THE publication of Col. Mason's reasons for not signing the new Constitution, has extorted some truths that would otherwise in all probability have remained unknown to us.

His reasons, like Mr. Gerry's, are most of them ex post facto—have been revised in New-york by

R. H. L. and by him brought into their present artful and insidious form. The seditious spirit of R. H. L.—his implacable hatred to General Washington—his well known intrigues against him in the late war—his attempt to displace him and give the command of the American army to General Lee, are so recent in your minds it is not necessary to repeat them. He is supposed to be the author of most of the scurrility poured out in the New York papers against the new constitution.

Just at the close of the Convention, whose proceedings in general were zealously supported by Mr. Mason, he moved for a clause that no navigation act should ever be passed but with the consent of two thirds of both branches; urging that a navigation act might otherwise be passed excluding foreign bottoms from carrying American produce to market, and throw a monopoly of the carrying business into the hands of the Eastern States who attend to navigation, and that such an exclusion of foreigners would raise the freight of the produce of the southern states, and for these reasons Mr. Mason would have it in the power of the southern states to prevent any navigation act. This clause, as unequal and partial in the extreme to the southern states, was rejected; because it ought to be left on the same footing with other national concerns, and because no state would have a right to complain of a navigation act which should leave the carrying business equally open to them all. Those who preferred cultivating their lands would do so; those who chose to navigate and become carriers would do that. The loss of this question determined Mr. Mason against the signing the doings of the convention, and is undoubtedly among his reasons as drawn for the southern states; but for the eastern states this reason would not do. It would convince us that Mr. Mason preferred the subjects of every foreign power to the subjects of the United States who live in New-Eng-

land; even the British who lately ravaged Virginia, that Virginia, my countrymen, where your relations lavished their blood—where your sons laid down their lives to secure to her and us the freedom and independence in which we now rejoice, and which can only be continued to us by a firm, equal and effective union—But do not believe that the people of Virginia are all thus selfish: No, there is a Washington, a Blair, a Madison and a Lee (not R. H. L.) and I am persuaded there is a majority of liberal, just and federal men in Virginia, who, whatever their sentiments may be of the new constitution, will despise the artful injustice contained in Col. Mason's reasons as published in the newspapers.

The President of the United States has no council, &c. says Col. Mason. His proposed council would have been expensive—they must constantly attend the president, because the president constantly acts. This council must have been composed of great characters, who could not be kept attending without great salaries, and if their opinions were binding on the president his responsibility would be destroyed—if divided, prevent vigour and dispatch; if not binding, they would be no security. The states who have had such councils have found them useless, and complain of them as a dead weight. In others, as in England, the supreme executive advises when and with whom he pleases; if any information is wanted, the heads of the departments who are always at hand can best give it, and from the manner of their appointment will be trust worthy. Secrecy, vigour, dispatch and responsibility, require that the supreme executive should be one person, and unfettered, otherwise than by the laws he is to execute.

There is no Declaration of Rights. Bills of Rights were introduced in England when its kings claimed all power and jurisdiction, and were considered by them as grants to the people. They are insignificant since

government is considered as originating from the people, and all the power government now has is a grant from the people; the constitution they establish with powers limited and defined, becomes now to the legislator and magistrate, what originally a bill of rights was to the people. To have inserted in this constitution a bill of rights for the states, would suppose them to derive and hold their rights from the federal government, when the reverse is the case.

There is to be no ex post facto laws. This was moved by Mr. Gerry and supported by Mr. Mason, and is exceptional only as being unnecessary; for it ought not to be presumed that government will be so tyrannical, and opposed to the sense of all modern civilisations as to pass such laws, if they should they would be void.

The general legislature is restrained from prohibiting the further importation of slaves for twenty odd years— But every state legislature may restrain its own subjects; but if they should not, shall we refuse to confederate with them? their consciences are their own, though their wealth and strength are blended with ours. Mr. Mason has himself about three hundred slaves, and lives in Virginia, where it is found by prudent management they can breed and raise slaves faster than they want them for their own use, and could supply the deficiency in Georgia and South Carolina; and perhaps Col. Mason may suppose it more humane to breed than import slaves—those imported having been bred and born free, may not so tamely bear slavery as those born slaves, and from their infancy inured to it; but his objections are not on the side of freedom, nor in compassion to the human race who are slaves, but that such importation renders the United States weaker, more vulnerable, and less capable of defence. To this I readily agree, and all good men wish the entire abolition of slavery, as soon as it can take place with safety to the public, and for the lasting good of the present wretched race of slaves. The only possible

step that could be taken towards it by the convention was to fix a period after which they should not be imported.

There is no declaration of any kind to preserve the liberty of the press, &c. Nor is liberty of conscience, or of matrimony, or of burial of the dead; it is enough that congress have no power to prohibit either, and can have no temptation. This objection is answered in that the states have all the power originally, and congress have only what the states grant them.

The judiciary of the United States is so constructed and extended as to absorb and destroy the judiciaries of the several states; thereby rendering law as tedious, intricate and expensive, and justice as unattainable by a great part of the community, as in England; and enable the rich to oppress and ruin the poor. It extends only to objects and cases specified, and wherein the national peace or rights, or the harmony of the states are concerned, and not to controversies between citizens of the same state (except where they claim under grants of different states) and nothing hinders but the supreme federal court may be held in different districts, or in all the states, and that all the cases, except the few in which it has original and not appellate jurisdiction, may in the first instance be had in the state courts, and those trials be final except in cases of great magnitude; and the trials be by jury also in most or all the causes which were wont to be tried by them, as congress shall provide, whose appointment is security enough for their attention to the wishes and convenience of the people. In chancery courts juries are never used, nor are they proper in admiralty courts, which proceed not by municipal laws, which they may be supposed to understand, but by the civil law and law of nations.

Mr. Mason deems the president and senate's power to make treaties dangerous, because they become laws of the land. If the president and his proposed council had this power, or the president alone, as in Eng-

land and other nations is the case, would the danger be less? Or is the representative branch suited to the making of treaties which are often intricate, and require much negotiation and secrecy? The senate is objected to as having too much power, and bold unfounded assertions that they will destroy any balance in the government, and accomplish what usurpation they please upon the rights and liberties of the people; to which it may be answered they are elective and rotative, to the mass of the people; the populace can as well balance the senatorial branch there as in the states, and much better than in England, where the lords are hereditary, and yet the commons preserve their weight; but the state governments on which the constitution is built will forever be security enough to the people against aristocratic usurpations:—The danger of the constitution is not aristocracy or monarchy, but anarchy.

I treat you, my fellow citizens, to read and examine the new constitution with candour; examine it for yourselves, you are most of you as learned as the objector, and certainly as able to judge of its virtues or vices as he is. To make the objections the more plausible, they are called, *The Objections of the Hon. George Mason, &c.*—They may possibly be his, but be assured they were not those made in convention, and being directly against what he there supported in one instance, ought to caution you against giving any credit

to the rest; his violent opposition to the powers given congress to regulate trade, was an open decided preference of all the world to you. A man governed by such narrow views and local prejudices, can never be trusted; and his pompous declarations in the House of Delegates in Virginia that no man was more federal than himself, amounts to no more than this, "Make a federal government that will secure Virginia all her natural advantages, promote all her interests regardless of every disadvantage to the other states, and I will subscribe to it."

It may be asked how I came by my information respecting Col. Mason's conduct in Convention, as the doors were shut? To this I answer, no delegates of the late convention will contradict my assertions, as I have repeatedly heard them made by others in presence of several of them, who could not deny their truth. Whether the constitution in question will be adopted by the United States in our day is uncertain; but it is neither aristocracy or monarchy can grow out of it, so long as the present descent of landed estates last, and the mass of the people have as at present, a tolerable education; and were it ever so perfect a scheme of freedom, when we become ignorant, vicious, idle, and regardless of the education of our children, our liberties will be lost, we shall be fitted for slavery, and it will be an easy business to reduce us to obey our more tyrants. A LANDHOLDER.

AGAINST THE Federal Constitution.

From the FREEMAN'S JOURNAL, of November 7.

To the CITIZENS of PHILADELPHIA.

Friends, Countrymen, Brethren, and Fellowcitizens,

THE proposed plan of Continental government is now fully known to you. You have read it, I trust, with the attention it deserves.—You have heard the objections that have been made to it.—You have heard the answers to these objections.

If you have attended to the whole,

with candour and unbiassed minds, you become men that are possessed and deserv- ing of freedom, you must have been alarmed at the result of your observations. Notwithstanding the splendour of names, which has attended the publication of the new Constitution; notwithstanding the sophistry and vain rea-

sonings that have been urged to support its principles; alas! you must at least have concluded that great men are not always infallible, and that patriotism itself may be led into essential errors.

The objections that have been made to the new Constitution are these:

1. It is not merely (as it ought to be) a consideration of states, but a government of individuals.

2. The powers of Congress extend to the lives, the liberties and the property, of every citizen.

3. The sovereignty of the different States is *ipso facto* destroyed, in its most essential parts.

4. What remains of it will only tend to create violent dissensions between the state governments and the Congress, and terminate in the ruin of the one or the other.

5. The consequence must therefore be, either that the union of the States will be destroyed by a violent struggle, or that their sovereignty will be swallowed up by silent encroachments into an universal aristocracy; because it is clear, that if two different sovereign powers have a coequal command over the purses of the citizens, they will struggle for the spoils, and the weakest will be in the end obliged to yield to the efforts of the strongest.

6. Congress being possessed of these immense powers, the liberties of the states and of the people are not secured by a bill or declaration of rights.

7. The sovereignty of the States is not expressly reserved; the form only, and not the substance of their government, is guaranteed to them by express words.

8. Trial by jury, that sacred bulwark of liberty, is abolished in civil cases; and Mr. Wilson, one of the Convention, has told you, that not being able to agree as to the form of establishing this point, they have left you deprived of the substance. Here are his own words:—"The subject was involved in difficulties. The Convention found the task too difficult for them, and left the business as it stands."

9. The liberty of the press is not secured, and the powers of Congress are fully adequate to its destruction, as they are to have the trial of libels, or pretended libels, against the United States; and may, by a cursed, abominable stamp act (as the Bowdoin Administration* has done in Massachusetts) preclude you effectually

* The author mistakes, it was not Bowdoin's administration that originated the Stamp Act in Massachusetts.

ally from all means of information. Mr. Wilson has given you no answer to these arguments.

10. Congress have the power of keeping up a standing army, in time of peace, and Mr. Wilson has told you that it was necessary.

11. The legislative and executive powers are not kept separate, as every one of the American Constitutions declare they ought to be; but they are mixed in a manner entirely novel and unknown, even in the constitution of Great Britain; because,

12. In England, the King only has a nominal negative over the proceedings of the Legislature, which he has never dared to exercise since the days of King William; whereas, by the new constitution, both the President general and the Senate, two executive branches of government, have that negative, and are intended to support each other in the exercise of it.

13. The representation of the Lower Houses too small, consisting only of 65 members.

14. That of the Senate is so small, that it renders its extensive powers extremely dangerous: It is to consist only of 26 members, two-thirds of whom must concur to conclude any treaty or alliance with foreign powers: Now, who will suppose, that five of them are absent, sick, dead, or unable to attend, twenty-one will remain, and eight of these (one-third and one over) may prevent the conclusion of any treaty, even the most favourable to America. Here will be a fine field for the intrigues, and even the bribery and corruption, of European powers.

15. The most important branches of the executive department are to be put into the hands of a single Magistrate, who will be, in fact, an elective king. The military, the land and naval forces, are to be entirely at his disposal; and therefore,

16. Should the Senate, by the intrigues of foreign powers, become devoted to foreign influence, as was the case of late in Sweden, the people will be obliged, as the Swedes have been, to seek their refuge in the arms of the monarch or president general.

17. Rotation, that noble prerogative of liberty, is entirely excluded from the new system of government, and great men may, and probably will, be continued in office during their lives.

18. *Annual elections* are abolished, and the people are not to reassume their rights, until the expiration of *two, four, and six* years.

19. Congress are to have the power of fixing the *time, place and manner*, of holding elections, so as to keep them forever subjected to their influence.

20. The importation of slaves is not to be prohibited until the year 1808, and *slavery* will probably resume its empire in Pennsylvania.

21. The *militia* is to be under the immediate command of Congress, and men *conscientiously scrupulous of bearing arms* may be compelled to perform military duty.

22. The new government will be *expensive*, beyond any we have ever experienced; the judicial department alone, with its concomitant train of Judges, justices, chancellors, clerks, sheriffs, coroners, escheators, state attorneys and solicitors, constables, &c. in every state, and in every county in each state, will be a burden beyond the utmost abilities of the people to bear.—And, upon the whole,

23. A government, partaking of monarchy and aristocracy, will be fully and firmly established; and liberty will be but a name, to adorn the *short* historick page of the halcyon days of America.

These, my countrymen, are the objections that have been made to the new proposed system of government; and if you read the system itself with attention, you will find them all to be founded in truth. But what have you been told in answer?

I pass over the sophistry of Mr. Wilson, in his equivocal speech at the state house. His pretended arguments have been echoed and reechoed by every retailer of politicks, and *victoriously* refuted by several patriotick pens. Indeed, if you read this famous speech in a cool dispassionate moment, you will find it to contain no more than a train of pitiful sophistry and evasions, unworthy of the man who spoke them. I have taken notice of some of them in stating the objections, and they mult, I am sure, have excited your *pity and indignation*. Mr. Wilson is a man of sense, learning and extensive information; unfortunately for him, he has never sought the more solid fame of *patriotism*. During the late war he narrowly escaped the effects of popular rage, and the people seldom arm themselves against a citizen in vain. The

whole tenour of his political conduct has always been strongly tainted with the spirit of *high aristocracy*; he has never been known to join in a truly popular measure, and his talents have ever been devoted to the patrician interest. His lofty carriage indicates the lofty mind that animates him, a mind able to conceive and perform great things, but which unfortunately can see nothing great out of the pale of power and wordly grandeur; despising what he calls the inferior order of the people, popular liberty and popular assemblies offer to his exalted imagination an idea of meanness and contemptibility, which he hardly seeks to conceal.—He sees, at a distance, the pomp and pageantry of Courts; he sighs after those stately palaces, and that apparatus of human greatness, which his vivid fancy has taught him to consider as the supreme good. Men of sublime minds, he conceives, were born a different race from the rest of the sons of men; to them, and them only, he imagines, high heaven intended to commit the reins of earthly government; the remaining part of mankind he sees below, at an immense distance; they, he thinks, were born to serve, to administer food to the ambition of their superiours, and become the footstool of their power.—Such is Mr. Wilson; and, fraught with these high ideas, it is no wonder he should exert all his talents, to support a form of government so admirably contrived to carry them into execution.—But when the people, who possess, collectively, a mass of knowledge superior to his own, enquire into the principles of that government, on the establishment or rejection of which depend their dearest concerns; when he is called upon, by the voice of thousands, to come and explain that favourite system, which he holds forth as an object of their admiration, he comes—he attempts to support by reasoning, what reason never dictated; and, finding the attempt vain, his great mind, made for nobler purposes, is obliged to stoop to mean evasions and pitiful sophistry; himself not deceived, he strives to deceive the people; and the treasonable attempt delineates his true character, beyond the reach of the pencil of a *West* or a *Peale*, or the pen of a *Valerius*.

An Officer of the late Continental Army.
Philadelphia, Nov. 3, 1787.

[An answer to these Objections will appear in our next Magazine.]