

Antifederalist No. 11

Unrestricted Power Over Commerce Should Not Be Given The National Government

Some scholars regard James Winthrop of Cambridge, Massachusetts to be the "Agrippa" who contributed the series to The Massachusetts Gazette from November 23, 1787 to February 5, 1788. This is a compilation of excerpts from "Agrippa's" letters of December 14, 18, 25, and 28, 1787, taken from Ford, Essays, pp. 70-73, 76-77, 79-81.

It has been proved, by indisputable evidence, that power is not the grand principle of union among the parts of a very extensive empire; and that when this principle is pushed beyond the degree necessary for rendering justice between man and man, it debases the character of individuals, and renders them less secure in their persons and property. Civil liberty consists in the consciousness of that security, and is best guarded by political liberty, which is the share that every citizen has in the government. Accordingly all our accounts agree, that in those empires which are commonly called despotic, and which comprehend by far the greatest part of the world, the government is most fluctuating, and property least secure. In those countries insults are borne by the sovereign, which, if offered to one of our governors, would fill us with horror, and we should think the government dissolving.

The common conclusion from this reasoning is an exceedingly unfair one, that we must then separate, and form distinct confederacies. This would be true if there was no principle to substitute in the room of power. Fortunately there is one. This is commerce. All the states have local advantages, and in a considerable degree separate interests. They are, therefore, in a situation to supply each other's wants. Carolina, for instance, is inhabited by planters, while Massachusetts is more engaged in commerce and manufactures. Congress has the power of deciding their differences. The most friendly intercourse may therefore be established between them. A diversity of produce, wants and interests, produces commerce; and commerce, where there is a common, equal and moderate authority to preside, produces friendship.

The same principles apply to the connection with the new settlers in the west. Many supplies they want, for which they must look to the older settlements, and the greatness of their crops enables them to make payments. Here, then, we have a bond of union which applies to all parts of the empire, and would continue to operate if the empire comprehended all America.

We are now, in the strictest sense of the terms, a federal republic. Each part has within its own limits the sovereignty over its citizens, while some of the general concerns are committed to Congress. The complaints of the deficiency of the Congressional powers are confined to two articles. They are not able to raise a revenue by taxation, and they have not a complete regulation

of the intercourse between us and foreigners. For each of these complaints there is some foundation, but not enough to justify the clamor which has been raised. . . .

The second article of complaint against the present confederation . . . is that Congress has not the sole power to regulate the intercourse between us and foreigners. Such a power extends not only to war and peace, but to trade and naturalization. This last article ought never to be given them; for though most of the states may be willing for certain reasons to receive foreigners as citizens, yet reasons of equal weight may induce other states, differently circumstanced, to keep their blood pure. Pennsylvania has chosen to receive all that would come there. Let any indifferent person judge whether that state in point of morals, education, [or] energy, is equal to any of the eastern states; the small state of Rhode Island only excepted. Pennsylvania in the course of a century has acquired her present extent and population at the expense of religion and good morals. The eastern states have, by keeping separate from the foreign mixtures, acquired their present greatness in the course of a century and an half, and have preserved their religion and morals. They have also preserved that manly virtue which is equally fitted for rendering them respectable in war, and industrious in peace.

The remaining power for peace and trade might perhaps be safely lodged with Congress under some limitations. Three restrictions appear to me to be essentially necessary to preserve that equality of rights to the states, which it is the object of the state governments to secure to each citizen. 1st. It ought not to be in the power of Congress, either by treaty or otherwise, to alienate part of any state without the consent of the legislature. 2nd. They ought not to be able, by treaty or other law, to give any legal preference to one part above another. 3rd. They ought to be restrained from creating any monopolies....

The idea of consolidation is further kept up in the right given to regulate trade. Though this power under certain limitations would be a proper one for the department of Congress, it is in this system carried much too far, and much farther than is necessary. This is, without exception, the most commercial state upon the continent. Our extensive coasts, cold climate, small estates, and equality of rights, with a variety of subordinate and concurring circumstances, place us in this respect at the head of the Union. We must, therefore, be indulged if a point which so nearly relates to our welfare be rigidly examined. The new constitution not only prohibits vessels, bound from one state to another, from paying any duties, but even from entering and clearing. The only use of such a regulation is, to keep each state in complete ignorance of its own resources. It certainly is no hardship to enter and clear at the custom house, and the expense is too small to be an object.

The unlimited right to regulate trade, includes the right of granting exclusive charters. This, in all old countries, is considered as one principal branch of prerogative. We find hardly a country in Europe which has not felt the ill effects of such a power. Holland has carried the exercise of it farther than any other state, and the reason why that country has felt less evil from it is, that the territory is very small, and they have drawn large revenues from their colonies in the East and West Indies. In this respect, the whole country is to be considered as a trading company, having exclusive privileges. The colonies are large in proportion to the parent state; so that, upon the whole, the latter may gain by such a system. We are also to take into consideration the industry which the genius of a free government inspires. But in the British islands all these circumstances

together have not prevented them from being injured by the monopolies created there. Individuals have been enriched, but the country at large has been hurt. Some valuable branches of trade being granted to companies, who transact their business in London, that city is, perhaps, the place of the greatest trade in the world. But Ireland, under such influence, suffers exceedingly, and is impoverished; and Scotland is a mere by-word. Bristol, the second city in England, ranks not much above this town [Boston] in population. These things must be accounted for by the incorporation of trading companies; and if they are felt so severely in countries of small extent, they will operate with tenfold severity upon us, who inhabit an immense tract; and living towards one extreme of an extensive empire, shall feel the evil, without retaining that influence in government, which may enable us to procure redress. There ought, then, to have been inserted a restraining clause which might prevent the Congress from making any such grant, because they consequentially defeat the trade of the out-ports, and are also injurious to the general commerce, by enhancing prices and destroying that rivalship which is the great stimulus to industry.

There cannot be a doubt, that, while the trade of this continent remains free, the activity of our countrymen will secure their full share. AR the estimates for the present year, let them be made by what party they may, suppose the balance of trade to be largely in our favor. The credit of our merchants is, therefore, fully established in foreign countries. This is a sufficient proof, that when business is unshackled, it will find out that channel which is most friendly to its course. We ought, therefore, to be exceedingly cautious about diverting or restraining it. Every day produces fresh proofs, that people, under the immediate pressure of difficulties, do not, at first glance, discover the proper relief. The last year, a desire to get rid of embarrassments induced many honest people to agree to a tender act, and many others, of a different description, to obstruct the courts of justice. Both these methods only increased the evil they were intended to cure. Experience has since shown that, instead of trying to lesson an evil by altering the present course of things, that every endeavor should have been applied to facilitate the course of law, and thus to encourage a mutual confidence among the citizens, which increases the resources of them all, and renders easy the payment of debts. By this means one does not grow rich at the expense of another, but all are benefitted. The case is the same with the States. Pennsylvania, with one port and a large territory, is less favorably situated for trade than Massachusetts, which has an extensive coast in proportion to its limits of jurisdiction. Accordingly a much larger proportion of our people are engaged in maritime affairs. We ought therefore to be particularly attentive to securing so great an interest. It is vain to tell us that we ought to overlook local interests. It is only by protecting local concerns that the interest of the whole is preserved. No man when he enters into society does it from a view to promote the good of others, but he does it for his own good. All men having the same view are bound equally to promote the welfare of the whole. To recur then to such a principle as that local interests must be disregarded, is requiring of one man to do more than another, and is subverting the foundation of a free government. The Philadelphians would be shocked with a proposition to place the seat of general government and the unlimited right to regulate trade in Massachusetts. There can be no greater reason for our surrendering the preference to them. Such sacrifices, however we may delude ourselves with the form of words, always originate in folly, and not in generosity.

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