

## Antifederalist No. 47

### "Balance" of Departments Not Achieved under New Constitution

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I am fearful that the principles of government inculcated in Mr. [John] Adams' treatise [Defence of the Constitutions of Government of the United States of America], 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' 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 sentiment 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....

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 screen from punishment the most treasonable attempts on the liberties of the people, when instigated by the senate....

Mr. [James] Wilson asserts that never was charge made with less reason, than that which predicts the institution of a baneful aristocracy in the federal Senate.' In my first number, I stated that this body would be a very unequal representation of the several States, that the members being appointed for the long term of six years, and there being no exclusion by rotation, they might be continued for life, which would follow of course from their extensive means of influence, and that possessing a considerable share in the executive as well as the legislative, it would become a permanent aristocracy, and swallow up the other orders in the government.

That these fears are not imaginary, a knowledge of the history of other nations, where the powers of government have been injudiciously placed, will fully demonstrate. Mr. Wilson says, "the senate branches into two characters; the one legislative and the other executive. In its legislative character it can effect no purpose, without the co-operation of the house of representatives, and in its executive character it can accomplish no object without the concurrence of the president. Thus fettered, I do not know any act which the senate can of itself perform, and such dependence necessarily precludes every idea of influence and superiority." This I confess is very specious, but experience demonstrates that checks in government, unless accompanied with adequate power and independently placed, prove merely nominal, and will be inoperative. Is it probable, that the President of the United States, limited as he is in power, and dependent on the will of the senate, in appointments to office, will either have the firmness or inclination to exercise his prerogative of a conditional control upon the proceedings of that body, however injurious they may be to the public welfare? It will be his interest to coincide with the views of the senate, and thus become the head of the aristocratic junto. The king of England is a constituent part in the legislature, but although an hereditary monarch, in possession of the whole executive power, including the unrestrained appointment to offices, and an immense revenue, enjoys but in name the prerogative of a negative upon the parliament. Even the king of England, circumstanced as he is, has not dared to exercise it for near a century past. The check of the house of representatives upon the senate will likewise be rendered nugatory for want of due weight in the democratic branch, and from their constitution they may become so independent of the people as to be indifferent of its interests. Nay, as Congress would have the control over the mode and place of their election, by ordering the representatives of a whole state to be elected at one place, and that too the most inconvenient, the ruling powers may govern the choice, and thus the house of representatives may be composed of the creatures of the senate. Still the semblance of checks may remain, but without operation.

This mixture of the legislative and executive moreover highly tends to corruption. The chief improvement in government, in modern times, has been the complete separation of the great distinctions of power; placing the legislative in different hands from those which hold the

executive; and again severing the judicial part from the ordinary administrative. "When the legislative and executive powers (says Montesquieu) are united in the same person or in the same body of magistrates, there can be no liberty."

*CENTINEL*