

Antifederalist No. 48

No Separation of Departments Results in No Responsibility

"Leonidas," from London, obviously did not understand Article II Section I of the proposed new Constitution. But his works were welcomed in the London Times, and either The Freeman's Journal, or The North-American Intelligencer on July 30, 1788.

In the new constitution for the future government of the thirteen United States of America, the President and Senate have all the executive and two thirds of the Legislative power.

This is a material deviation from those principles of the English constitution, for which they fought with us; and in all good governments it should be a fundamental maxim, that, to give a proper balance to the political system, the different branches of the legislature should be unconnected, and the legislative and executive powers should be separate. By the new constitution of America this union of the executive and legislative bodies operates in the most weighty matters of the state. They jointly make all treaties; they jointly appoint all officers civil and military; and, they jointly try all impeachments, either of their own members, or the officers appointed by themselves.

In this formidable combination of power, there is no responsibility. And where there is power without responsibility, how can there be liberty?

The president of the United States is elected for four years, and each of the thirteen states has one vote at his election; which vote is not of the people, but of electors two degrees from the people.

The senate is a body of six years duration; and as in the choice of presidents, the largest state has but one vote, so it is in the choice of senators. Now this shows, that responsibility is as little to be apprehended from amenability to constituents, as from the terror of impeachment; for to the members of the senate it is clear, that trial by impeachment is nothing but parade.

From such an union in governments, it requires no great depth of political knowledge to prophesy, that monarchy or aristocracy must be generated, and perhaps of the most grievous kind. The only check in favor of the democratic principle is the house of representatives; but its smallness of number, and great comparative disparity of power, render that house of little effect to promote good or restrain bad government.

The power given to this ill -- constructed senate is, to judge of what may be for the general welfare; and such engagements, when made the acts of Congress, become the supreme laws of the land.

This is a power co-extensive with every possible object of human legislation. Yet there is no restraint, no charter of rights, no residuum of human privileges, not intended to be given up to society. The rights of conscience, the freedom of the press, and trial by jury, are at the mercy of this senate. Trial by jury has been already materially injured. The trial in criminal cases is not by twelve men of the vicinage, or of the county, but of the state; and the states are from fifty to seven hundred miles in extent! In criminal cases this new system says, the trial shall be by jury. On civil cases it is silent. There it is fair to infer, that as in criminal cases it has been materially impaired, in civil cases it may be altogether omitted. But it is in truth, strongly discountenanced in civil cases; for this new system gives the supreme court in matters of appeal, jurisdiction both of law and fact.

This being the beginning of American freedom, it is very clear the ending will be slavery, for it cannot be denied that this constitution is, in its first principles, highly and dangerously oligarchical; and it is every where agreed, that a government administered by a few, is, of all governments, the worst.

LEONIDAS