

Portius, *Boston American Herald*, 12 November 1787

To the PEOPLE of MASSACHUSETTS.

The time is fast approaching, when you are to decide on the most important question that ever fell to the lot of humanity to determine upon.—TIME, which is on the wing, will speedily introduce the second Wednesday of January next, a day which will never be forgotten—a day big with the fate of, perhaps the rights, properties and privileges of the citizens of this Commonwealth—a day, on the events of which, depends the *interest*, not only of each individual in this Commonwealth, but of their posterity to the latest generation.—And no doubt you will receive either the blessings or the curses of all your unborn posterity, according as you decide, either in favour or against the all important question then to be determined on.

Of what importance then is it, that you previously examine the matter fully; that you duly consider the propriety of the part you then propose to take? You will undoubtedly take the *advantages* which will accrue to you as a people, by the adoption of the proposed Constitution, and put them in *one* scale, and the *disadvantages* you will put in the *other*, and as the preponderation of either scale appears, your conduct will be according.

A subject of such vast magnitude should be taken up with all the cool, dispassionate deliberation the mind of man is capable of: Every thing therefore which has a tendency to raise the passions, or inflame the mind should studiously be avoided, both in our *mental* deliberations, and in our discourses *with*, and communications *to*, others; and wherever this is wanting, we run the greatest danger of forming a wrong determination within ourselves, as well as injuring those we have communication with, and we should do well to remember that it is ten to one if we make use of such means with others, but we shall injure that cause which we wish to support.

As a free member of a free community, I have offered the foregoing observations to my fellow-citizens, and I pray the candid attention of the public to the following observations on the proposed Constitution, and only wish they may be considered with the same candour with which they are offered.

I shall begin my observations with that which I conceive every Constitution should begin with, viz. a *Bill of Rights*; this we search for in vain in the proposed Fœderal System.

When the proposed System came first to my hands, I made diligent search for that article, but searched to no purpose; why it was omitted was a question of too delicate a nature for me to determine. Since which I have been informed that it was omitted for *two reasons*, the first of which was, “The Congress could exercise no powers, but what were expressly delegated to them, in the fœderal Constitution, which made a Bill of Rights wholly unnecessary.”

However true this objection is, it will apply with equal force to any Constitution whatever; we will take for example the Constitution of this Commonwealth, where we shall find the powers

by it vested in the General Court as particularly defined, as those with which Congress is proposed to be vested with, are in the fœderal Constitution,—yet it was deemed *absolutely* necessary, that our State Constitution should be prefaced with an unalterable Bill of Rights; and I could wish that my fellow-citizens would consider, before they give their decisive determination, whether they have any kind of reason to view a Bill of Rights less necessary *now* than *seven years* ago.—The other reason which has been alledged why a Bill of Rights was *needless* in the fœderal Constitution, is because “each State has a Bill of Rights of its own,” which would be a sufficient safe-guard and protection to its liberties.

This at first blush appears to have a considerable degree *of plausibility* in it: But that plausibility, I think, will vanish if we attend seriously to the matter as precipitately as darkness from before the rays of the sun:—*The Bill of Rights* of this Commonwealth ‘tis true is a mound insurmountable by their own legislature, but it is no *barricade* against the operations of a Fœderal Government.

Our Bill of Rights is a rule of conduct to no body but our own rulers and our own citizens, any more than the other parts of our Constitution, or the Acts of our Legislature are: How *insignificant* then is the last excuse for omitting a Bill of Rights in the Fœderal System of Government!

The good people are therefore only desired to consider this simple question, *Is a Bill of Rights necessary in a System of Government?*

Before we attempt to consider the articles of the proposed Constitution, it is needful that we consider one previous matter, which lies with peculiar weight on my mind, and which, if it is not obviated, can not fail of over-throwing the whole structure, and reduce it to the situation of a baseless fabrick of nocturnal reverees. It is this—Congress on the ninth day of July, A. D. 1778, entered into a Federal System of Government, contained in 13 articles of confederation; which articles were sent out to each State for their approbation or disallowance, after near three years deliberation, was approved and confirmed by every State, whereby it became a *complete* System of Federal Government, and as sacredly inviolable as any System of Government *can be*, and as binding on each State as any human Institution, Contract, Agreement, or Ordinance which can be invented. In the last and concluding article it is mutually agreed upon that said *articles shall be inviolably observed by every State, and the union shall be perpetual, nor shall any alteration at any time hereafter be made in any of them; unless such alteration be agreed to in a Congress of the United States, and be afterwards confirmed by the Legislature of every State.*

Here the whole System of the United States are sacredly bound to adhere to the said articles of Confederation, until such time as they are altered in the manner aforesaid.—Here too each State individually are holden, sacredly holden to stand to, abide by, and defend said Continental System of Government until the same is altered by the joint consent and act of each State—Here we find too the Commonwealth of Massachusetts, by every tye of *good faith*, by every principle of *compact*, and by every *idea* of national honour, bound inviolably thereby, until

Congress shall make alterations therein, and such alterations are *ipso facto* ratified by each and every State's Legislature. . . .

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