

An Old Whig V, Philadelphia *Independent Gazetteer*, 1 November 1787

MR. PRINTER, In order that people may be sufficiently impressed, with the necessity of establishing a BILL OF RIGHTS in the forming of a new constitution, it is very proper to take a short view of some of those liberties, which it is of the greatest importance for Freemen to retain to themselves, when they surrender up a part of their natural rights for the good of society.

The first of these, which it is of the utmost importance for the people to retain to themselves, which indeed they have not even the right to surrender, and which at the same time it is of no kind of advantages to government to strip them of, is the LIBERTY OF CONSCIENCE. I know that a ready answer is at hand, to any objections upon this head. We shall be told that in this enlightened age, the rights of conscience are perfectly secure: There is no necessity of guarding them; for no man has the remotest thoughts of invading them. If this be the case, I beg leave to reply that now is the very time to secure them.—Wise and prudent men always take care to guard against danger beforehand, and to make themselves safe whilst it is yet in their power to do it without inconvenience or risk.—who shall answer for the ebbings and flowings of opinion, or be able to say what will be the fashionable frenzy of the next generation? It would have been treated as a very ridiculous supposition, a year ago, that the charge of witchcraft would cost a person her life in the city of Philadelphia; yet the fate of the unhappy old woman called *Corbmaker*, who was beaten—repeatedly wounded with knives—mangled and at last killed in our streets, in obedience to the commandment which requires “that we shall not suffer a witch to live,” without a possibility of punishing or even of detecting the authors of this inhuman folly, should be an example to warn us how little we ought to trust to the unrestrained discretion of human nature.

Uniformity of opinion in science, morality, politics or religion, is undoubtedly a very great happiness to mankind; and there have not been wanting zealous champions in every age, to promote the means of securing so invaluable a blessing. If in America we have not lighted up fires to consume Heretics in religion, if we have not persecuted unbelievers to promote the unity of the faith, in matters which pertain to our final salvation in a future world, I think we have all of us been witness to something very like the same spirit, in matters which are supposed to regard our political salvation in this world. In Boston it seems at this very moment, that no man is permitted to publish a doubt of the infalibility of the late convention, without giving up his name to the people, that he may be delivered over to speedy destruction; and it is but a short time since the case was little better in this city. Now this is a portion of the very same spirit, which has so often kindled the fires of the inquisition: and the same Zealot who would hunt a man down for a difference of opinion upon a political question which is the subject of public enquiry, if he should happen to be fired with zeal for a particular species of religion, would be equally intolerant. The fact is, that human nature is still the same that ever it was: the fashion indeed changes; but the seeds of superstition, bigotry and enthusiasm, are too deeply implanted in our minds, ever to be eradicated; and fifty years hence, the French may renew the persecution of the Huguenots, whilst the Spaniards in their turn may become indifferent to their forms of religion. They are idiots who trust their future security to the whim of the present hour. One extreme is always apt to produce the contrary, and those countries,

which are now the most lax in their religious notions, may in a few years become the most rigid, just as the people of this country from not being able to bear any continental government at all, are now flying into the opposite extreme of surrendering up all the powers of the different states, to one continental government.

The more I reflect upon the history of mankind, the more I am disposed to think that it is our duty to secure the essential rights of the people, by every precaution; for not an avenue has been left unguarded, through which oppression could possibly enter in any government; without some enemy of the public peace and happiness improving the opportunity to break in upon the liberties of the people; and none have been more frequently successful in the attempt, than those who have covered their ambitious designs under the garb of a fiery zeal for religious orthodoxy. What has happened in other countries and in other ages, may very possibly happen again in our own country, and for aught we know, before the present generation quits the stage of life. We ought therefore in a *bill of rights* to secure, in the first place, by the most express stipulations, the sacred rights of conscience. Has this been done in the constitution, which is now proposed for the consideration of the people of this country?—Not a word on this subject has been mentioned in any part of it; but we are left in this important article, as well as many others, entirely to the mercy of our future rulers.

But supposing our future rulers to be wicked enough to attempt to invade the rights of conscience; I may be asked how will they be able to effect so horrible a design? I will tell you my friends—*The unlimited power of taxation* will give them the command of all the treasures of the continent; *a standing army* will be wholly at their devotion, and the authority which is given them over the *militia*, by virtue of which they may, if they please, change all the officers of the militia on the continent in one day, and put in new officers whom they can better trust; by which they can subject all the militia to strict military laws, and punish the disobedient with death, or otherwise, as they shall think right: by which they can march the militia back and forward from one end of the continent to the other, at their discretion; these powers, if they should ever fall into bad hands, may be abused to the worst of purposes. Let us instance one thing arising from this right of organizing and governing the militia. Suppose a man alleges that he is conscientiously scrupulous of bearing Arms.—By the bill of rights of Pennsylvania he is bound only to pay an equivalent for his personal service—What is there in the new proposed constitution to prevent his being dragged like a Prussian soldier to the camp and there compelled to bear arms?—This will depend wholly upon the wisdom and discretion of the future legislature of the continent in the framing their militia laws; and I have lived long enough to hear the practice of *commuting personal service for a paltry fine* in time of war and foreign invasion most severely reprobated by some persons who ought to have judged more rightly on the subject—Such flagrant oppressions as these I dare say will not happen at the beginning of the new government; probably not till the powers of government shall be firmly fixed; but it is a duty we owe to ourselves and our posterity if possible to prevent their ever happening. I hope and trust that there are few persons at present hardy enough to entertain thoughts of creating any religious establishment for this country; although I have lately read a piece in the newspaper, which speaks of *religious* as well as civil and military *offices*, as being hereafter to be disposed of by the new government; but if a majority of the continental legislature should at

any time think fit to establish a form of religion, for the good people of this continent, with all the pains and penalties which in other countries are annexed to the establishment of a national church, what is there in the proposed constitution to hinder their doing so? Nothing; for we have no bill of rights, and every thing therefore is in their power and at their discretion. And at whose discretion? We know not any more than we know the fates of those generations which are yet unborn.

It is needless to repeat the necessity of securing other personal rights in the forming a new government. The same argument which proves the necessity of securing one of them shews also the necessity of securing others. Without a bill of rights we are totally insecure in all of them; and no man can promise himself with any degree of certainty that his posterity will enjoy the inestimable blessings of liberty of conscience, of freedom of speech and of writing and publishing their thoughts on public matters, of trial by jury, of holding themselves, their houses and papers free from seizure and search upon general suspicion or general warrants; or in short that they will be secured in the enjoyment of life, liberty and property without depending on the will and pleasure of their rulers.

If we pass over the consideration of this subject so essential to the preservation of our liberties, and turn our eyes to the *form* of the government which the Convention have proposed to us, I apprehend that changing the prospect will not wholly alleviate our fears.—A few words on this head, will close the present letter. In the first place the office of President of the United States appears to me to be clothed with such powers as are dangerous. To be the fountain of all honors in the United States, commander in chief of the army, navy and militia, with the power of making treaties and of granting pardons, and to be vested with an authority to put a negative upon all laws, unless two thirds of both houses shall persist in enacting it, and put their names down upon calling the yeas and nays for that purpose, is in reality to be a KING as much *a King as the King of Great Britain*, and a King too of the worst kind;—an elective King.—If such powers as these are to be trusted in the hands of any man, they ought for the sake of preserving the peace of the community at once to be made hereditary.—Much as I abhor kingly government, yet I venture to pronounce where kings are admitted to rule they should most certainly be vested with hereditary power. The election of a King whether it be in America or Poland, will be a scene of horror and confusion; and I am perfectly serious when I declare that, as a friend to my country, I shall despair of any happiness in the United States until this office is either reduced to a lower pitch of power or made perpetual and hereditary.—When I say that our future President will be as much a king as the king of Great-Britain, I only ask of my readers to look into the constitution of that country, and then tell me what important prerogative the King of Great-Britain is entitled to, which does not also belong to the President during his continuance in office.—The King of Great-Britain it is true can create nobility which our President cannot; but our President will have the power of making all the *great men*, which comes to the same thing.—All the difference is that we shall be embroiled in contention about the choice of the man, whilst they are at peace under the security of an hereditary succession.—To be tumbled headlong from the pinnacle of greatness and be reduced to a shadow of departed royalty is a shock almost too great for human nature to endure. It will cost a man many struggles to resign such eminent powers, and ere long, we shall find, some one

who will be very unwilling to part with them.—Let us suppose this man to be a favorite with his army, and that they are unwilling to part with their beloved commander in chief; or to make the thing familiar, let us suppose, a future President and commander in chief adored by his army and the militia to as great a degree as our late illustrious commander in chief; and we have only to suppose one thing more, that this man is without the virtue, the moderation and love of liberty which possessed the mind of our late general, and this country will be involved at once in war and tyranny. So far is it from its being improbable that the man who shall hereafter be in a situation to make the attempt to perpetuate his own power, should want the virtues of General Washington; that it is perhaps a chance of one hundred millions to one that the next age will not furnish an example of so disinterested a use of great power. We may also suppose, without trespassing upon the bounds of probability, that this man may not have the means of supporting in private life the dignity of his former station; that like Caesar, he may be at once ambitious and poor, and deeply involved in debt.—Such a man would die a thousand deaths rather than sink from the heights of splendor and power into obscurity and wretchedness. We are certainly about giving our president too much or too little; and in the course of less than twenty years we shall find that we have given him enough to enable him to take all. It would be infinitely more prudent to give him at once as much as would content him, so that we might be able to retain the rest in peace; for if once power is seized by violence not the least fragment of liberty will survive the shock. I would therefore advise my countrymen seriously to ask themselves this question;—Whether they are prepared TO RECEIVE A KING? If they are to say at once, and make the kingly office hereditary; to frame a constitution that should set bounds to his power, and, as far as possible secure the liberty of the subject. If we are not prepared to *receive a king*, let us call another convention to revise the proposed constitution, and form it anew on the principles of a confederacy of free republics; but by no means, under pretence of a republic, to lay the foundation for a military government, which is the worst of all tyrannies.

Cite as: The Documentary History of the Ratification of the Constitution Digital Edition, ed. John P. Kaminski, Gaspare J. Saladino, Richard Leffler, Charles H. Schoenleber and Margaret A. Hogan. Charlottesville: University of Virginia Press, 2009.

Canonic URL: <http://rotunda.upress.virginia.edu/founders/RNCN-03-13-02-0232> [accessed 11 May 2011]

Original source: Commentaries on the Constitution, Volume XIII: Commentaries on the Constitution, No. 1