

Valerius Agricola, *Albany Gazette*, 6 December 1787

An ESSAY, On the CONSTITUTION recommended by the FEDERAL CONVENTION to the United States. By P. Valerius Agricola.

<So frequently has the catalogue of public calamities been recited, so long have its gloomy contents engrossed our attention, that I would gladly waive coming to particulars, were it less essential to the present enquiry.

These are stubborn facts, too apparent we presume to be contested.

—That the union of the American States, if not merely nominal is at best imperfect, inefficient and precarious.

—That our national character has become contemptible in the sight of mankind.

—That our finances are deranged, our resources exhausted, and we [are] consequently unable to satisfy the demands of the national creditors, now clamorous for justice.

—That no uniform continental system of justice has been yet established, but that to the disgrace of the American name, there are at this day existing, in several of the states, laws incompatible with the principles of morality, destructive of that good faith, by which our domestic and foreign interests can alone be maintained.

—That a spirit of discord and rebellion which too visibly pervades the continent on the one hand, and the recent hostilities of the savages, on the other, evince the necessity of a spirited, energetic government, to ward off the calamities of war and insure our domestic tranquility.

—That while thus endangered we are destitute, of the means of defence, without an army to secure us from domestic violence, without a navy to guard our sea coasts, from piratical depredations, without money to raise and maintain an armament, and without that credit which might enable us to make use of foreign resources.

That our deranged and enfeebled situation being known to the world, we are become the prey of European policy, ever ready to take advantages of our embarrassments, and deprive us of the many benefits incident to our local situation, and which a wise system of policy might undoubtedly secure.

That our commerce is dwindled to a sound—the trifling trade we carry on, being fettered with restrictions equally injurious and degrading.

And finally that in our present situation, we have no reasonable prospect of securing the blessings of liberty to ourselves and our posterity.>

A question now naturally occurs, how came we in this embarrassed situation? so complicated a series of difficulties, could scarcely proceed from circumstances merely adventitious, but rather argue that something is radically defective in the constitution. The history of mankind has afforded us these two cases in politics; each of which is replete with mischief to [the] community.

I. When the constitution of a state, is so vague and imperfect, that it becomes dubious to what part of the community; many of the *powers of government* are intrusted.

II. When the constitution has so injudiciously disposed the *powers of government* in the community, that they cannot co-operate nor act to advantage.

In the first case, we find the source of these calamities, which ordinarily attend nations, just emerging from a state of nature and as yet unacquainted with many principles of civil policy. Such are the erratic tribes of Asia and America, barbarous and unpolished as they are, we can yet discern among them the faint traces of sovereignty, some few and simple regulations formed on the spur of the occasion, and adapted to their immediate exigences.

Yet as no actual compact has been ever made, as their ideas and their wants are comparatively few, their constitutions are very defective, and in numerous instances it becomes impossible to determine what rights belong to the community, and what to the individual; involved in this obscurity they are put into confusion by every new occurrence in their politics, and fall an easy prey to the first more civilized invader. In justice to ourselves we must own that we are yet some degrees removed, from absolute barbarity—Perhaps all the members of sovereignty may be found scattered here and there in our unwieldy system of state and federal policy, and at one period or other of our national existence, we have exercised or attempted to exercise all the rights of a state.—We have exercised legislation, proclaimed and carried on war—concluded peace—made treaties—sent and received ambassadors—established loans—opened loans—laid assessments and levies—emitted bills of credit—established commercial regulations, &c. We must therefore apply to the second case mentioned, viz. An injudicious disposition of the *rights of sovereignty*:—For as it is well known, that a piece of machinery, for instance, a clock or a watch may contain all the necessary springs, wheels and pivots, but these being improperly disposed may produce an effect quite contrary to the design of the artist;—so from an unskilful disposition of the *jura summi imperij*, the politician has often seen his fine spun theories, his darling systems, fall into confusion,

“And like the baseless fabric of a vision,
Leave not a trace behind.”

And here we beg leave to advance certain political axioms: That the *rights of sovereignty* combined, form our grand and national law, to which universality, permanency and uniformity are essential—consequently any system will be defective in proportion as either or all of these requisites are wanting. That as in mechanics when equal forces oppose, they mutually destroy each other as in domestics; when several members of a family pretend to an equal share in the government, discontent and confusion will ensue—so in politics, when the *parts* pretend to an exercise of those transcendent and sovereign rights, which the safety of government requires should be vested in the confederacy, the community will naturally be reduced to debility, and distraction, for this reason, civilians have ever exploded the *imperium in imperio* as an absurdity in government.

A person superficially acquainted with the system of American policy might, perhaps, conclude, that the sovereignty of the states is lodged in *Congress*, as several of the grand rights of sovereignty are actually, and others ostensibly, vested in that body by the confederation, but, upon enquiry, he would find that certain of the *jura summi imperij* are not expressly deposited in the federal government—that others are

participated by Congress with the particular States, and that the most pernicious consequences have, in every instance, attended this participation.

Suffer us here to particularize.

One of the *rights of sovereignty* is, the assessing of money for the public service, and this right is lodged in Congress—Congress may ascertain the *quantum* of supplies, and assign the quota of the several states.

But it belongs, likewise, to sovereignty to levy the supplies when assessed; for *qui dat finem dat media ad illum necessaria*. In this instance, however, the power of Congress is merely recommendatory; Congress may request, but cannot compel.—The right of levying money, the extreme caution of our political fathers, has lodged in the individual states: here the sovereignty is participated between the *whole* and the *parts*, and an absolute *imperium in imperio* at once created.

It is essential to a law that it be *compulsory*; for law acts upon the unwilling; but where is the power lodged of compelling the individual states to comply with the will of the *whole* signified in the requisition of Congress? The state, it will be said, has contracted that it *will* comply; but contracts act only on the willing, and require the intervention of a compulsory power to carry them into effect—This power is not in *Congress*—they can only recommend; it is not in the delinquent state, for a power of forcing one's selves, is an absurdity in terms—it is not lodged in any other state in the confederacy, for the states are equals and *inter pares nulla est potestas*.—Thus, in this instance, both the cases afore mentioned are exemplified.

Here it has been answered, that although a state cannot *quasi* be said to compel itself, yet, a state may compel its delinquent members, which will eventually be the same thing; and that we may safely rely on the wisdom and patriotism of the states in a matter so essential to their own happiness and security.

Reasoning of this sort may argue the honest, unsuspecting man, but can give us no high opinion of his acquaintance with human nature.

The history of mankind will inform us that public bodies, like individuals, are capable of acting foolishly, and directly contrary to their interests; and that *patriotism*, when the spur of danger ceases to impel, dwindles to a sound and becomes the mere watch word of party.

In the moment of imminent danger, of the *Hannibal ad portas*, *public spirit*, like the gods of Homer, may descend from heaven and support the combatants; but when that critical moment is past, she mixes again with the divinities and leaves man to himself. The experience of every age has confirmed this truth—and the founders of our policy might have remembered that Americans were but men.

A few years ago, and these sentiments had been censured as visionary and malevolent, and the author stigmatized as unfriendly to the liberties of this country; but he is unhappy to observe, that innumerable facts have but too well realised the facts he apprehended in theory.—We have seen in Rhode-Island, a striking example of political madness and perverseness—we have seen the plains of Springfield red with gore, and an armed banditti hovering o'er the heights of Pelham!

Quos Deus perdat prius dementat.

Come hither, ye opposers of a reform, and inform us what is the state of the public finances? what progress has been made (we will not ask) in discharging the principal, but the interest of the national debt? What are our resources, in case invasion from abroad or rebellion at home should render it necessary to appeal to arms? Inform us how far the states have complied with congressional requisitions—whether any of the states, excepting *New York*, have paid any considerable part of their quotas into the public treasury? What is the probability of their speedy compliance, and whether many of the public embarrassments must not be charged to these deficiencies; and finally, whether they imagine that the sounds of *public spirit* and democracy will prove as effectual a charm in blunting the tomahawk and dagger, as they have been in lulling the senses and fears of the multitude? Let truth reply, and on the answer we will venture to rest the question.

We presume that the reader will excuse us for presenting him in this place with the following lines; written by the ingenuous author of the *Anarchiad*, lately published in Connecticut.

And lo! th' expected scene advances near,
The promis'd age; the fiends' *millenial* year!
At that fam'd æra, rais'd by angry fates,
What countless imps shall throng the new born states!
See from the shades on tiny pinions swell,
And rise the young *democracy* of hell!
Before their face the powers of Congress fade
And *public credit* sinks an empty shade;
Wide severance rages, wars intestine spread,
Their boasted *union* hides its dying head,
The forms of government in ruin hurl'd,
Reluctant empire quits the western world!
Oh glorious throng, beyond expression wise,
Expert to act, excentric to devise!
In retrogressive march, what schemes advance,
What vast resources and what strange finance!
Chimeras sage with plans commercial fraught,
Sublime abortions of projecting thought!
To paper coin how copper mints succeed!
How Indian wars in brains prolific breed!
What strength, what firmness guide the public helm,
How troops disbanded guard the threat'ned realm!
How treaties thrive, and midst the sons of Ham,
The lybian lion shrinks before the lamb!
New modes of taxing spring from Woglog's hands.
And peerless Wimble sells the western lands.

The author of this essay takes it for granted, that the present political system of the states, as expressed in the articles of confederation, is materially defective—as even the warmest opposers of the constitution, proposed by the convention have not scrupled, of late to acknowledge it, however, they differ in their ideas of reform. Indeed the resolutions of Congress, which recommended the convention at Philadelphia; the concurring acts of the state legislatures, have authoritatively fixed this a maxim, in American politics—that the confederation is inadequate to the exigencies, of the community and requires a revision.

(To be continued)

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