

for coining money
for declaring war
for raising and supporting an army
for raising and maintaining a navy.

for creating all officers and fixing the salaries

for establishing rules for the government of the land and naval forces.
for calling forth and disciplining the militia.

There are ^{the} powers which will be vested in the house of representatives, but as no reasoning can precisely fix their force when opposed by the powers lodged in the other parts of the government we must have recourse to the experience of ~~the~~ countries where powers somewhat similar though considerably less, have been opposed to much greater powers, and with success.

In England the powers of the house of commons are much more limited than those of the house of representatives, as will appear from an enumeration of the prerogatives of the king amongst which will be found many of the powers which we have seen that the house of representatives has in full participation of:

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house of commons

and yet notwithstanding this inferiority of the powers they possess a very comparison with those of the house of representatives they have been able not only to maintain their ground against the king with all his prerogative supported too by an hereditary nobility, but have acquired the degree of power which they now possess from beginning so small, that nothing but the united weight of the power of the people when lodged with their representatives could have effected:

The House of commons was first called by legal authority in the year 1295 under the reign of Ed: 1st.

They were then confined barely to giving their assent to supplies to the crown.

Under Ed: 2nd they began to annex petitions to the bills which they granted subsidies.

Under Ed: 3rd they declared that they would not in future acknowledge any law to which they had not assented:

In the same reign they impeached and brought to punishment some of the ministers of the crown.

Under Henry 3rd they refused supplies until an answer had been given to their petitions.

And in succeeding reigns they so increased their weight and importance from the having the power of the king whom at their disposal that they have entirely directed the operations of government even in those cases where the king's prerogative gave him nominally the sole direction.

Here let us pause and consider the causes to which this uncommon weight and influence may be assigned.

The government being divided into two powers the legislative and executive in all contests between them the people were divided into the favourers of the one or the other; and the bulk of them from their dread of the executive and their confidence in their representatives (who I shall presently prove) is always in such governments, have been the instrument of the people at large) have also sided with the legislature.

As this union of interest and affection between the people at large and their representatives will always occur to those latter a superiority over the executive in case of any appeal to the sword.

So will the absolute superiority of the representatives over the person always ensure to them a decided superiority in such measures as the constitution gives them a share in the direction of but also in all other operations of government. &c.

When to these are added their power of impeachment there is no longer any cause for wondering at their superiority of the legislature over the executive; for there will be very few instances of ministers who will be hardy enough to bring on themselves an accusation made by the representatives of the people at large, by pursuing measures contrary to their integrity and their integrity so powerful in operations in England, where it affects the sovereign only as it punishes his ministers, whom it affects much more forcibly here where the president himself may be attacked by it. And this power of impeachment will be a sufficient check on the power of pardoning before conviction, that no officer will act with a criminal submission to the president's desire from an expectation of receiving the pardon which will not avail him on an impeachment.

I know of no rule by which the number can be certainly fixed. one may conclude generally that they should be numerous enough to guard against the cabals, and so limited in point of numbers as to guard against the confusion of a mob.

The objectors to the proposed plan say that being so few in number they will thereby become the more liable to be governed by influence of different kinds: and not sufficiently acquainted with the real situation of the people.

On the contrary I apprehend that the smaller the number of the persons to be elected the greater chance there will be of a proper choice being made.

And the greater the number of electors the less danger there will be of their being corrupted by the unworthy art of the candidates and that their suffrages being more free will more likely fall on men of the most merit.

The experience of the British parliament proves the justice of these observations. Some of their counties and cities contain a greater number of souls than will be entitled to a representation in America and yet the representatives chosen by those places have always been distinguished amongst the most distinguished and able advocates for the interests of their particular districts and for the public liberty: 66

Men who have not themselves been bought will not submit to being sold, and representatives chosen by the independent electors of a large district will be so entirely dependant on the good opinion of the people for their office and his political importance will rest so much on their favor that he will find that his most ready way to advancement in the state will be by contriving and patronizing laws of public utility. In some of the states several electors have more influence on them

than others. But admitting the number to be sufficient to secure their integrity, they cannot from the smallness of that number be sufficiently acquainted with the local circumstances and the particular interests of the people they represent.

To this it may properly be answered that the subjects of deliberation in congress will be the great aggregate and national interests only the local and particular interests of each state being left to the state legislatures and therefore the representation although they will be chosen by large districts in each state will be sufficiently acquainted with the interests of the state they represent & better than they are considered separately or as they stand connected with those of other states.

From these reasonings I think we may fairly conclude that as long as this same body of the people shall remain uncorrupted that the house of representatives even at their present number will discharge their duty with fidelity and zeal.

4thly As to fix the time of their service.

A short continuance in office and a return of the officer to the mass of the people then to depend for his reelection on his former conduct is the greatest security that any people can have over their servants. By this means let their power when in office be what it may they are the better men and not the masters of the people.

But care must be had not to shake their chance so frequently as to prevent the officer by that means from affecting that serviceful commerce which is at the end of his appointment.

Considering the subject in this view it appears that two years is a period as their time of service could have been limited to.

The representatives of so extensive a continent must necessarily many of them at least be a considerable time in travelling to the seat of government and when there it is not to be taken a considerable time to make them situate masters of the state of the finances and our connection with other nations so that if their time of service was limited to a shorter period they would go out of office as soon as they could possibly be supposed to be acquainted with the duties of it.

If a year is not too long for members to the state legislature to serve, two cannot be too long for members to congress taking the nature of their duty into consideration.

5thly England when they were most violent of the powers of the crown they never wished for more than triennial parliaments. and yet London opinion was brought about the revolution in America.

6thly As to their powers and whether they will be suff. to give them such powers as the representatives of the people a proper right in the government.

They are an entire branch of the legislature without whose consent no law can be passed.

All money bills are to originate in their house.

They are to have the sole power of impeachment.

They are to have necessary to all other resolutions.

On the appropriation of the public money.

On laying and collecting taxes, duties, imposts and excises.

For borrowing money on the credit of the United States.

One single fact taken from the English history serves greatly to prove the force of this observation viz: That there is scarcely an instance for a century past of the crown's exercising its undoubted prerogative of rejecting a bill sent up to it from the two houses of parliament.

And it will be no answer to the fact inferred drawn from this fact to say that it is a necessary party for the crown to use that branch of the prerogative as by its influence in parliament it could prevent any obstruction measure from receiving the assent of the two houses; for although this may have been true in the general yet there are many instances within that period of bills having passed the two houses but receiving the royal assent, contrary to the private wish and inclination of the prince.

Obj: But although some of the opposers of the constitution admit the force of this reasoning they say the constitution is defective because it has not prohibited the house of representatives from appropriating to any purpose for the support of armies or to any law for their government more than a continuance for a longer term than one year. I think they are guilty of a very unfair way of reasoning; for they first suppose that the Congress from a love of power which they declare to be natural to all rulers that with which they are entrusted. and then in the same breath they would make up a pretence that the house of representatives notwithstanding their love of power and it ought to be supposed to be as great in a part as in the whole, with the out of their hands the only check which can ensure to them a continuance of the participation of the executive power lodged in Congress is general.

In England there is no restraint of this kind upon the parliament and yet there is no instance of the military bill's being passed for a longer term than one year.

The proposed plan when it declares that no appropriation shall be made for a longer term than two years introduces a check unknown to the English constitution and one that must be acknowledged to be very powerful when we reflect that at that same period there will be a new choice of representatives.

I think we may fairly conclude then that if the house of commons in England have proved more than an overmatch for the crown and the nobility, that the house of representatives will be found a sufficient counterpoise to the president and senate. A president elected only for four years; proposed of such limited powers; and only having at his own command a sum sufficient for his moderate support; and

A senate elected to speak of the longer term for only six years; chosen by and accountable to the state legislatures; and having no separate or distinct interest from the body of the people on the house of representatives.

As to their responsibility to the people and the probability there will be of their using their powers for the benefit of the people at large.

Their responsibility will be sufficiently secured by a variety of ways.

Their being elected for only two will secure their attention to the interest of the people as better they do or do not wish to be re-elected. If they wish to be re-elected they will know that it will depend greatly on their having pursued such measures as will tend to promote the public. If they do not they must then intend to return to the mass of the people whom they will be equally affected with them by the disadvantages and disadvantages attending any measure they may have agreed to when in office.

By the publishing the yeas and nays the vote of the individuals will always be known and therefore they will always act as if they were immediately under the eyes of their constituents.

The legislatures of the states will also be a very great check on them. All the new powers that are proposed to be given to Congress are such as are taken from the state legislatures; this will naturally make them very jealous of Congress.

And if they should refuse any powers not granted to them or exercise those that are granted improperly as have the greatest security that the state legislatures will be ready enough to take notice of it and sound the alarm to the people.

And on such an appeal nothing could give Congress a chance of success but

the manifest propriety of their conclusion:

for in this government Congress would be the object of the fear, and the state legislatures the affections of the people: therefore the state legislatures would have the same advantage which we have shown the legislature would have over the executive in contests in the state governments:

Another consideration will prove the small probability that would be of Congress prevailing with the people against the state legislatures. Are will support the members of Congress and the members of the state legislatures, all to be men of influence in their respective districts and counties. on a dispute between them there in their state there would be one hundred and sixty men of influence on the one side and only ten on the other:

their superiority of number when we recollect that they are all chosen by electors having the same qualifications will appear decisive. An representative to Congress will be chosen by eight or ten counties his chance to be neglected except from the wisdom of the measures proposed would be very small if opposed by twenty men of the best talent in those counties:

Situation of our senate proves this. Chosen by the same electors but from a greater number of counties they have never ventured to oppose any far more measure of the house of delegates, and if they had their chance of being neglected would have been but small if opposed by all the delegates from the different counties with in their districts. They will be inclined to be neglected except from the wisdom of the measures proposed would be very small if opposed by twenty men of the best talent in those counties:

an enlightened sensible people will always elect such persons as their representatives who have a similarity of interests. ^{and for they have by this means one of the strongest securities they can have} on any man, a regard to his self interest.

Under the constitution by declaring that no person holding any office under the United States shall be a member of either house during his continuance in office. It is a well guarded against any person having a vote who has a different interest from the people at large.

When the representative is elected as a member of the government his interest will be found to coincide with the interest of the people at large. They are themselves depositories of all power in the executive and as their power will be checked by the exercise of the authority of the executive their consciences will depend on the abetting and pro-secution of which they oppose the art and designs of those who govern in the executive.

Being exclusively charged with the care of the public liberty they will be animated by a sense of the greatness of the trust reposed in them. Being distinguished from the rest of the people and forming a separate assembly, when importunate with fear and fall with the power eyes of the people, they will exert the weight of which they are the guardians to the disadvantage of interested men.

And the people at large may safely confide in them as the most watchful custodians that could be placed over their rights and liberties.

In every government it is the object of the few to govern the many and from their small number and the consequent union and consistency with which they can act, they are too generally successful against the body of the people.

But when the people intrust their rights to a few representatives they are opposed by a body proposing the same advantages from their number union and abilities.

And a body having the people on their side will always prevail in any contest with them.

This fully proves by the experience of diff. govts, particularly those of Rome and England.

To prove when the people in a body attempted to resist the power of the few, at the public conventions terminated by providing for the rights of a few, with the swiftness of the many, the result was the same. When these things were expelled all the royal powers were given to two consuls.

Upon the institution of the plebeians to the monarchical officers called tribunes were established. And another violent distinction was settled by making the rich plebeians capable of marrying into patrician families and of being elected consuls.

But in England when the people had deputed their power to a few representatives, at length have terminated in making such provisions as all orders of people were to enjoy the benefit of.

the government, and not sacrifice their liberty by a tame acquiescence in the perversion of those rules which were established to protect it.

But why is so much said about Congress having a power to make regulations respecting the time, place, and manner of holding elections for their own members, when every Legislature upon the continent has the same power as to the time, place and manner of holding their elections?

Might it not as well have been objected that the Legislature of the state might under that power have directed that the election for Abigail should be held at Dorchester, and that for Prince of Wales at Stanton? It might also have been answered that the Legislature of the state could never have borne so absurd a thought, and even if they were wicked or weak enough to do so, would not dare to attempt it, because their design would certainly be defeated in one of the two ways already mentioned.

But this power is absolutely necessary because these elections are to be held at stated periods, if the Legislature of the state by accident, neglect or design are prevented from exercising the necessary discretion for holding the elections at the stated periods no election could be held until the expiration of the term for which members ought then to have been elected.

And a very little consideration of the subject will satisfy us that objection to the common mode of holding the elections would more probably come from the state Legislature than from Congress and therefore that it was necessary to give Congress this right to ensure the proper and timely exercise of the general power which is lodged in the state Legislatures. 3^dly ^{the Congress which will meet in 1792 as to the time of holding the election of members of Congress and of the officers of the Union}

As it fixes the number of the House of Representatives.

"Representatives and direct taxes shall

therein be necessary to frame to ascertain what the number of representatives is to be.

As persons they are to consist of sixty five members but this to be only until an actual enumeration shall be made, then they are not to exceed one for every thirty thousand.

This enumeration to be made for the purpose, to represent the representatives to each state, and the proportion of direct taxes that shall be

It further declares that the actual enumeration shall be made within three years, and at the end of every subsequent term of ten years without this being done Congress can impose no direct taxes because the constitution does not fix any scale by which the proportion of direct taxes shall be ascertained during the interval, as it does concerning the number of representatives.

When this enumeration is actually made I conceive that a reapportionment of representatives must necessarily also take place for the reason is because of the improbability that the proportion has been observed between the several states by the present allotment, and because the constitution expressly says that the present proportion is to continue only until the actual enumeration shall be made.

Supposing then that the enumeration is to be altered as soon as this enumeration is made I take it for granted that it will be considerably increased, because from the number of inhabitants supposed to be in America the proportion of one to 30000 would give a greater number than the present number has informed the public that when the number to only very 40000, so that we may suppose that there would on the first enumeration be from ninety to one hundred members.

And if we suppose that agreeable to the spirit of the constitution an additional number of representatives will be allowed on every new enumeration the number will be considerably increased once in every ten years; and

we may naturally suppose that this will be the case from the situation of those who will have to determine on it.

It will be a favorable object with the people and they will only have their seat for a short time; so that the probability of their being elected will be greatly increased by such an increase, as they will thereby conciliate the affections of the people and by increasing the number of representatives they will also be increasing one of their own number.

But let us now inquire what effect may be reasonably expected from the number a different scale be one hundred, ninety, or even continued at sixty five. The present number may be increased by one or two, or by being equal to people, and by refusing supplies

1st As it fixes the qualification of the electors.

2nd As it fixes on government agree that in a republic there can be no other right of suffrage are fundamental.

3rd Therefore by the proposed plan the right of suffrage is left unimpaired. or if it is fixed on the wrong person it will be a radical defect. the electors in each state shall have the qualifications required for electors of the most numerous branch of the state legislature. For example we find a certain and fixed rule established by the legislature for electing a governor who shall have the right of suffrage; and the same rule perhaps the best that could possibly have been adopted. It is certain because it refers to a criterion which must always be known in every state.

It is sufficiently fixed too because it cannot be changed in any state without changing their state government, and no state can have any inducement to make any alteration in their right of suffrage with a view to the election of representatives in congress as the number each state is to elect will depend on the number of souls and will continue the same but the right of suffrage being fixed as it may become a different qualification and acquire in different states it may.

It is also the best criterion that could have been established for no one state qualification could have been fixed on in the plan without qualifying many persons from voting for representatives to congress who are now qualified to vote for members to their respective state legislatures which would have caused great inequality in the right of citizens of the same state and consequently occasioned great uneasiness but by the rule adopted by this plan all the citizens of each state will remain on one footing, and the difference of the qualifications in the different states will cause no inequality between the different states themselves.

2d As it fixes the qualifications of the persons to be elected.

"No person shall be a representative who shall not have attained to the age of twenty five years and been seven years a citizen of the United States and who shall not when elected, be an inhabitant of that state in which he shall be chosen."

Here we find no qualification required in the representative but we can well carry with him a probability of his being mature in judgment acquainted with the situation of the state he represents, and attached to the interests and welfare of the United States.

Objection they ought to have had a permanent landed interest in the land of the electors in almost all the states will be land which will secure a choice of such men as will attend to the landed interest.

This will more probably be the case from the nature of the districts in congress than in the state legislatures and yet we see already a decided majority of men attached to the landed interest in the state legislatures.

I say it will more probably be the case in the choice of representatives to congress than in the state legislatures because in very few parts of America there is a sufficient number of merchants and manufacturers assembled together to entitle them to choose one representative to congress.

It has never been considered as a great security to public liberty that very few citizens should be admitted intelligible to the legislature.

Objection "Congress may at any time alter by law the time place and manner of holding elections for representatives which is not fixed by state authority from their claim. The enemies to the proposed plan have raised special objections to it; but on an attentive observation it will be found not to merit censure."

It should be observed that the constitution has fixed and congress cannot alter it, the rule to determine by whom and concerning what suffrage shall be given; this being done the time manner and place are not very essential.

What is apprehended from this power? That congress will by law so fix the time and place that the people is general will not be able to vote at the election and by that means congress will direct them as they please. If the constitution had fixed the time place and manner of holding the elections in such a manner as to have produced those consequences great danger might have been apprehended from it. but I think now that by leaving from the power of congress to alter the state regulations on that subject.

These alterations must be made by law to this law the representatives chosen for two years only must consent. I flatter myself I shall be able to prove presently that there will be no danger to apprehend that the house of representatives will not consent to any regulations in this manner. It is contrary to the spirit of liberty and the sense of the people at large but I will acquit it for a moment that such a plan shall be made and then ask which would be the consequence. Either the people would surmount this inconvenient attending their making such a choice as would immediately bring about a repeal of the law; or if they found that impracticable they would.

One could produce magna carta containing only stipulations for the good of the whole.

So also all the confirmations of magna carta and the new charters grant us in diff. manners the same in favor of the whole body of the people.

Of the same nature as the petition of rights under Ch. 2^d & 3^d

The habeas corpus act under Ch. 2^d

and the declaration of rights under Wm and Mary.

To shew so far as the body of the people are concerned, all revolutions terminated very differently in Rome and in Genoa, in the first only caused a change in their masters in the second they are always attended with a confirmation of their rights liberties.

Our confidence in our house of representatives must be also especially increased by an examination of the manner in which that house of commons in England are elected.

They consist as has been said of 558 members.

200 of them are chosen by 2000 electors.

In many instances a single individual names two members to shew that half of them are elected by the people, the other half of have their seats by purchase.

Yet even in this assembly the representatives are so intermixed with the mass of the people, by a society of interests and passions, that the will of the people when it has been determined and general has always prevailed.

And so far has this house of commons so constituted been from sacrificing the interests of the liberties of the people that they have continually been deriving new securities for both.

And any temporary infraction made in them has been constantly remedied so that it is declared by the writers on that subject that the bicameral act is the only provision for the amendment of the constitution, which has been repealed.

Compare the manner of manner of representation being chosen from all these reasons I am induced to think that a. may not our liberties and interests upon the house of representatives, as on a rock which cannot be shaken as on a ground fully able to support our rights.

And on whom interest as well as duty it will be to do so.

But if mistaken in these opinions on right will still remain the right of mistakes.

Special probability of success in that, under the present state of any other.

In all other the government into people when forming an opposition to government without a head.

They will enter into it under the wings of the state government which so far from checking them when right, will I fear be too apt from their misapprehensions under the loss of power, to complain themselves without cause.

in all the charters in magna carta bill of rights & only say such things shall not be done without consent of parliament.

