

Populist #14 On the Nature of the Senate

That government is little more than a choice between evils, is recognized by the wisest among humankind, and has been a widely-accepted doctrine for ages. A free government, being the most obvious choice to ensure liberty, rests solidly on one fundamental principle; that the people themselves should make the laws by which they are to be governed. A person who is controlled by another is no more than a slave; and a government that is directed by the will of one person, a few people, or any number less than the will of the people, is a government for slaves.

There can be no free government where the people do not have the power of making the laws by which they are governed, either by themselves, or by other people representing them on their behalf. The purpose of every free government is the protection of the liberty and freedom of the people, and all lesser goals must abdicate to this. On the other hand, the object of every despotic and tyrannical government is the advancement and happiness of one person, or a few, and to these goals, the public good, as well as every other interest, must submit.

The prime goal, therefore, in forming a just and proper constitution, is to form it to best ensure that those to whom power is entrusted by the people, will have the same interests, feelings and goals as the people do who give them their authority. There is no possible way to bring this about, except through an equal, full and fair representation, or by creating mechanisms that allow the people themselves to be the final adjudicator in all acts of lawmaking. For, without either, the government cannot be said to be free; whether those in power govern with justice or evil, it will still be a government, not of the people, but a government according to the will of the few.

When vast and abundant powers are given to any person, or body of people, which in their operation may result in the oppression of the people, it is of the utmost importance that powerful checks should be created to prevent the abuse of such power. Therefore, it is the true policy of a free and fair government that all people who are involved in governing must be made accountable to some greater power for their conduct in office. This responsibility should ultimately rest with the people.

In recent numbers of this series of papers, we have examined closely some glaring defects in our current federal system, primarily in the House of Representatives, which have shown, conclusively, that our representation is neither equal, full, nor fair; and that those in both Houses of Congress, due to the very nature of its structure, do not have a great enough level of responsibility to the people, to ensure freedom and liberty.

But, going further into our examination, we must take note of the Senate as well. Among its many deformities, it has an awful tendency; it leans towards an aristocracy. Now, therefore, is unquestionably the proper time to begin our examination of it more closely, and see if it really is what, on paper, it was intended or appears to be.

The legislative branch of our government is divided between the People, who are the democratic portion, and the Senate who are the aristocratic part of the legislature; but this branch is also connected to the Executive between the Senate and the President, who represents the monarchical branch. In the construction of this system, their interests, along with the Judicial, are meant to be put in opposite directions. If they are *exactly* balanced, the government will remain perfect; if there is superiority in force, importance, or influence of any interest, it will soundly prevail.

The Senate, by its structure, represents the aristocracy of the country; but as a part of the legislative branch, it is not an equal part because the smallest states send the same number of members as the largest. It also has the ability to act as a negative on the democratic part of

government, the House of Representatives. In practice, over greater than two centuries, we can see that it has clearly reduced the People to less than their one-third share of government, which was supposedly a necessity for our system of free government.

Our senators serve for six years, at minimum. History has shown us that those who stay long in office have a great tendency to feel as if they are actually independent, and they soon begin to form and pursue interests quite different from those who appointed them. This has been even more prevalent in the Senate, as they for the most part, are not present in the State they represent, and spend their time associating with the great and powerful of our country and the world, who have very little interest or feelings for the common people. It has already happened far too often, that Senators chosen for six years have continued in office for life. Everyone well-versed in the study of politics knows how difficult a task it is to remove from a person from office who has been there for many years. It is rarely a successful event, and it is seldom done except in cases of extreme misconduct.

This ease of a long continuance in office for senators creates in them the same feelings and motives of an hereditary nobility. I know that the idea of such an aristocracy existing in our country is ridiculed by some; but since most of these tend to belong to such a class, I quickly brush aside their attacks, as they are simply doing what we all naturally do; protect their own position! Such a class of people has existed throughout the ages in despotic as well as in free countries, and its existence is a natural occurrence of human history.

The Senate carries a great deal of weight as a constituent branch of the legislature, and it also has judicial power in judging on impeachments. Moreover, the Senate has great and numerous executive powers; in concurrence with the president, they form treaties with other countries, and such treaties may, and actually have, gone beyond the limits of what is allowable in both the federal and state constitutions. Indeed, there is no power, privilege, or liberty of the state governments, or of the people, that is out of the reach of this power, since all treaties made by them are the "supreme law of the land."

Further executive powers do exist in the Senate. The principal officers appointed by the president take office with the concurrence of the Senate, and therefore, they obtain their offices in part from the Senate. This has often times biased the judgments of the senators who approved these public servants. Because of this, there is a tendency for the greatest usurpers of power, and violators of the law, to be screened from punishment, for it would expose the lack of prudence of those senators who approved such officials.

As the Senate also has the power to try all impeachments; when they try the impeachment of the President, are we to expect fairness from those senators, who are to determine, as judges, the propriety of the advice they gave, as senators, to the President? Is it possible that party loyalties, personal rewards, and the like, will prevent true impartiality? Can the Senate, in this, ever be an impartial judicature? Who is left to determine when the Senate is abusing this essential power, and try *them* for abuse!

Such various, extensive, and important powers combined in one body of people, are inconsistent with all freedom, and it is this, as well as a further examination of the defects of the Senate, that will be the topic of my next paper on November 3, 2005. In parting, I am also reminded of the words of the acclaimed Montesquieu:

"when the legislative and executive powers are united in the same person, or in the same body of magistrates, there can be no liberty, because apprehensions may arise, lest the same monarch or senate should enact tyrannical laws, to execute them in a tyrannical manner"

In the spirit of liberty and prosperity,

Franklin