

*The Genuine Principles of the Ancient Saxon, or English [,] Constitution*  
Demophilus. philadelphia, 1776

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**Demophilus**

[GEORGE BRYAN?]

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American colonists had always viewed themselves as more virtuous, more manly, than their fellow Englishmen back home, and they also viewed themselves as being freer because they possessed to a greater degree the pristine English political institutions. Put in terms of the day, Americans often viewed themselves as carrying on the Saxon yeoman tradition of self-rule by rough equals. The link with a supposed golden age of freedom before the Norman invasion was a popular theme and can be found in the piece by Richard Bland, for instance, but the connection with the supposed Saxon past is made in most full blown form in this essay by Demophilus. Several historians identify Demophilus as the radical Whig George Bryan, who, along with James Cannon and Timothy Matlack, was prominent in writing the 1776 Pennsylvania Constitution, the most radical constitution of its era. He also served in the legislature where he was a prominent figure in state politics. Regardless, this essay is a masterpiece of rhetoric. It manages to lay out a coherent and radical position and, at the same time, appeals effectively to American identification with yeoman virtues, which lends this position legitimacy.

### **Introduction.**

As, by the tyranny of George the Third, the compact of allegiance and protection between him and the good people of this Colony is totally dissolved, and the whole power of government is by that means returned to the people at large; it is become absolutely necessary to have this power collected and again reposed in such hands as may be judged most likely to employ it for the common good.

In most states, men have been too careless in the delegation of their governmental power; and not only disposed of it in a very improper manner, but suffered it to continue so long in the same hands, that the *deputies* have, like the King and Lords of Great-Britain, at length become possessors in their own right; and instead of *public servants*, are in fact the *masters* of the public. Our new Republics should use the utmost caution to avoid those fatal errors; and be supremely careful in placing that dangerous power of controlling the actions of individuals, in such a manner that it may not counteract the end for which it was established.

Government may be considered, a *deposite* of the power of society in certain hands, whose business it is to *restrain*, and in some cases to take off such members of the community as disturb the quiet and destroy the security of the honest and peaceable subject. *This government is founded in the nature of man, and is the obvious end of civil society*; “yet such is the thirst of power in most men, that they will sacrifice heaven and earth to wrest it from its foundation; to establish a power in themselves to tyrannize over the persons and properties of others.” To

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prevent this, let every article of the constitution or *sett of fundamental rules* by which even the supreme power of the state shall be governed, be formed by a convention of the delegates of the people, appointed for that express purpose: which constitution shall neither be added to, diminished from, nor altered in any respect by any power besides the power which first framed it. By this means an effectual bar will be opposed to those enterprising spirits, who have told us with much assurance, that after the people had made their annual or septennial *offering*, they had no more to do with government than their cattle.

A Convention being soon to sit in Philadelphia; I have thought it my duty to collect some sentiments from a certain very scarce book, entitled an Historical Essay on the English Constitution, and publish them, with whatever improving observations our different circumstances may suggest, for the perusal of the gentlemen concerned in the arduous task of framing a constitution.

“That beautiful system, formed, (as Montesquieu says,) in the German woods, was introduced into England about the year four hundred and fifty.” The peculiar excellence of this system consisted in its incorporating small parcels of the people into little communities by themselves. These petty states, *held parliaments often*; for whatever concerned them in common, they met together and debated in common; and after due consideration of the matter, they called a vote, and decided the question, by a majority of voices. In these councils every man had a voice, who had a residence of his own in the tithing, (or township) and paid his tax and performed his share of the public duties. This salutary institution, our honorable Conference of Committees has again revived at their late sitting.

To avoid the tumult, which always must attend the hearing and determining civil and criminal cases, by a popular tribunal, they had their executive courts in every township; and still kept the legislative and executive departments separate, in all cases whatsoever.

Among these people we find the origin of the inestimable trial by juries; and I am much mistaken if our present Justices of the Peace, may not also trace their derivation from the same salubrious source.\* However that may be, one thing is certain, that “they founded their government on the common rights of mankind. They made the elective power of the people the first principle of the constitution, and delegated that power to such men as they could best confide in. But they were curiously cautious in that respect, knowing well the degenerating principles of mankind; that power makes a vast difference in the temper and behaviour of men, and often converts a good man in private life to a tyrant in office. For this reason they never gave up their natural liberty or delegated their power for making laws, to any man for a longer time than one year.”

“The object upon which our elective power acts is remarkably different from that of the Romans. Theirs was directed to operate in the election of their chief officers, and particularly their consuls; or those who were vested with the executive authority whom they changed annually. But the senate where the principal power in their state was lodged, was a more fixed body of men; and not subject to the elective power of the people.”

“Our Saxon forefathers almost reversed this principle; for they made their wittenagemot or parliament, where the principal power was lodged, annually moveable and entirely subject to the

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elective power of the people; and gave a more fixed state to the executive authority. This last they continued within a certain sphere of action, prescribed by law; so that it could not operate to the injury of any individual, either in his person or property; and was controllable in all acts of state, by the elective power which they vested annually in their wittenagemot, or parliament.”

“The annual exercise of the elective power, was the quintessence, the life and soul of the constitution; and the basis of the whole fabric of their government, from the internal police of the minutest part of the country, to the administration of the government of the whole kingdom. This Saxon institution, formed a perfect model of government; where the natural rights of mankind were preserved, in their full exercise, pure and perfect, as far as the nature of society will admit of.”

“It would be something very surprizing to find the people of England continually disputing about the principles and powers, vested in the constituent parts of their government; did we not know that at this day it consists of a mixture of the old, or first establishment, and that which took place at (and since) what is commonly called the conquest, by William the First. These two forms of government, the first founded upon the principles of liberty, and the latter upon the principles of slavery, it is no wonder they are continually at war, one with the other. For the first is grounded upon the natural rights of mankind, in the constant annual exercise of their elective power, and the latter upon the despotic rule of one man. Hence our disputants, drawing their arguments from two principles, widely different, must of course differ in their conclusions.”

“Our Saxon forefathers established their government in Britain, before the transactions of mankind were recorded in writing; at least among the northern nations. They therefore handed down to posterity, the principles of their government, by the actual exercise of their rights; which became the ancient usage and custom of the people, and the law of the land. And hence it came to pass, that when this ancient custom and usage ceased to act, the remembrance of the custom ceased with it. We may add to this, that, since the conquest, our arbitrary kings and men of arbitrary principles, have endeavored to destroy the few remaining records, and historical facts that might keep in remembrance a form of government so kind, friendly and hospitable to the human species. It is for these reasons that we have such a scarcity of historical evidence, concerning the principles and manner of conducting the first establishment of our mode of government in this kingdom.”

“However, notwithstanding these difficulties, there are many customs, forms, principles and doctrines, that have been handed down to us by tradition; which will serve as so many landmarks, to guide our steps to the foundation of this ancient structure, which, is only buried under the rubbish collected by time, and new establishments. *Whatever is of Saxon establishment is truly constitutional; but whatever is Norman, is heterogeneous to it, and partakes of a tyrannical Spirit.*”

“From these sources it is, that I would endeavor to draw the outlines of this ancient model of government, established in this kingdom by our Saxon forefathers; where it continued to grow and flourish, for six hundred years; ’till it was overwhelmed and destroyed by William the First, commonly called the Conqueror, and lay buried under a load of tyranny for one hundred and forty seven years. When it arose again, like a phoenix from its own ashes in the reign of Henry

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the Third, by the assistance of many concurrent causes, but principally by the bravery of the English people, under the conduct and intrepidity of our ancient and immortal barons, who restored it, in part, once more to this Isle. And tho' much impaired, maimed, and disfigured, it has stood the admiration of many ages; and still remains *the most noble and ancient monument of Gothic antiquity.*"

It was indeed restored in an impaired condition; as a free constitution must necessarily be, when attempted to be introduced among a people, distinguished by the odious difference of condition of Lord and Vassal.

### **The English Constitution**

*The first establishment of our Constitution, by the Saxons, to what is commonly called the Norman Conquest, under the Heptarchy.*

"The first principle of a government that is founded on the natural rights of mankind is the principle of annual election. Liberty and election are in this case synonymous terms; *for where there is no election there can be no liberty.* And therefore the preservation of this elective power, in its full extent, is the preservation of liberty in its fullest extent: and where that is restrained in any degree, liberty is restrained in just the same proportion; and where that is destroyed by any power in a state, whether military or civil, liberty is also destroyed by that power, whether it be lodged in the hands of one man, one hundred or one thousand."

"It is reported by historians that our Saxon forefathers had no kings in their own country, but lived in tribes or small communities, governed by laws of their own making, and magistrates of their own electing; and further, that a number of these communities were united together for their mutual defence and protection. But by what particular bond of union they were united, I know of no historian, that hath given us any information. There were seven tribes of Saxons, that arrived in Britain about the same time, under so many different leaders; but as they had all the same intentions so far as to establish the same form of government, I shall consider them in this respect indiscriminately."

"They first divided the land into small parts, and that divided the inhabitants upon that land, and made them a distinct and separate people from any other. This division they called a tithing. Here they established a government, which was, no doubt the same as that under which they lived in their Mother-Country. They had two sorts of tithings, one called a town tithing, and the other called a rural tithing. These were governed upon the same principles, only thus distinguished; as one is expressive of a town having such a number of inhabitants as to make a tithing of itself; and the other of a tithing situated in the rural part of the kingdom. Thus they went on, as they conquered the country, to divide the land, till they had cut out the whole kingdom into tithings, and established the same form of government in each."

"In this manner they provided for the internal police of the whole country, which they vested in the respective tithings, who annually elected the magistrates that were to administer justice to them, agreeable to the laws and customs they had brought with them from their Mother-Country. And this internal police was so excellent in its nature, that it hath had the encomiums of most

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authors of our history.”

“They had a legislative authority in every tithing, which made laws and regulations for the good government of the tithing. Besides these, they had a court of law, whose jurisdiction was confined to the same limits. All which were created by the elective power of the people, who were resident inhabitants of the tithing; and the right of election, was placed in every man who paid his shot and bore his lot. From hence we may easily perceive, that, under the establishment of these tithings, by reason of their smallness, the natural rights of mankind might very well be preserved in their power by election without any confusion or inconvenience to the inhabitants.”

“The first connexion the tithings had with one another, was to form an establishment for the military defence of the country. For this end a number of these tithings were united together, so far as related to their military concerns. This union necessarily created a larger division of the land, equal to the number of tithings that were thus united; and this they called a wapentake or weapontake, and might take in as many tithings as would make a Brigade under a Brigadier General. Here likewise they established a court of council and a court of law, which last was called a wapentake court. In the court of council the chief magistrates of every tithing assembled to elect officers of the militia to their respective command, and regulate all matters relating to the militia; in which, every individual tithing was concerned. The court of law was to enforce these regulations within the jurisdiction.” “Let us now consider the third and last division, which they made of the land. This was composed of a certain number of wapentakes, united together; which they called a shire or one complete share or part into which they divided the land. This division completed their system of internal police; by uniting all the tithings within the shire into one body, subject to such laws and regulations as should be made in their shiregemots or shire parliaments; for the benefit and good government of the shire.”

“As this division comprehended many tithings and many people, so it had the greatest court of council in England except the high court of parliament; and the chief officer was vested with as high jurisdiction in the shire, as the king in the kingdom.”

“They had likewise a court of law, called the shire court; to which, I make no doubt every man might appeal who thought himself injured by the inferior courts in the shire. These divisions in the land, are what I call the skeleton of the constitution which was animated and put in motion by all these establishments.”

“We may consider each shire as a complete government; furnished with both a civil and a military power within its own jurisdiction.”

“Let us now see by what mode of union, these shires became united together into a kingdom: and it will be found, I apprehend, that they pursued the same principles, which they had used in every other establishment. That is to say, wherever a combined interest was concerned and the people at large were affected by it, the immediate deputies of the people, met together to attend the respective interests of their constituents, and a majority of voices always bound the whole, and determined for any measure, that was supposed to operate for the good of the whole combined body. This meeting of the deputies of the people, was called by the Saxons the wittenagemote, or assembly of the wise men of the nation; which composed their national council and legislative

authority.”

## **The English Constitution**

### **Under the Monarchy**

“I have already remarked that a number of the Saxon tribes, while in their own country, were united together for their mutual protection and defence. In like manner was our Heptarchy connected; and their mode of union became a part of the constitution, when the seven kingdoms united together under one king. The matter was simply this: one of the seven kings was always chosen generalissimo over the whole body; and they appointed him a standing council of a certain number of deputies, from each state, without whose advice and concurrence, it is probable he could not act.”

“However I do not mean to make any observation upon the powers vested in this standing council; but only to point out that body of men as the origin of our house of lords. Those deputies who composed this great standing council, were appointed to their trust by the joint consent of the king and parliament of the little kingdom from whence they were sent. And when Alfred the great, united the seven kingdoms into one, he undoubtedly, with the approbation of the people, incorporated this great council as a separate branch of the wittenagemote or parliament; so that they still continued to be the king’s great council, and a branch of the legislative authority, which they are at this day. In confirmation of which, it is observable, that the consent of the parliament continued necessary for creating a baron of the realm about as low down as Henry the Seventh; which is the only title by which any man can obtain his seat in our House of Lords; and not as Duke, Marquis, Earl, Viscount, &c.”

“It is needless to mention that after the union of the seven kingdoms under Alfred, a reduction of the members to serve in parliament became absolutely necessary, because it was then impracticable, by reason of their numbers, for the same members to attend, in one parliament, that used to attend in seven, without such anarchy and confusion as must counteract the end of their meeting.”

“Nature herself has confined, or limited the number of men in all societies, that meet together to inform and be informed, by argument and debate, within the natural powers of hearing and speech. So that the question in this case must have been how to reduce the representatives of the people in parliament, to be a convenient number, to transact the business of the nation; and at the same time, to preserve the elective power of the people unhurt? a question of no small difficulty to determine, considering the various interests that were affected by it.” *And how was this effected?*

Our historian informs us; “they excluded from this parliament, all the representatives of the rural tithings, as being a body of men the most numerous of any, considered collectively, and yet elected by the fewest people in proportion, which, must be very evident, since the rural part of the kingdom must be more thinly inhabited than the towns. Besides the town tithings or boroughs, where a great number of inhabitants are collected together, upon a small compass of ground, were undoubtedly, the most conveniently situated, for the commodious exercise of the

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elective power of the people. And the towns, being few in comparison of the rural tithings, and at the same time dispersed over the whole country, were best adapted to receive the regulations they intended to make in their plan of forming the constituent parts of the new parliament.”

“Tho’ the barons of the realm being great freeholders, carried into parliament the greatest concern for the interest of the rural part of the kingdom; yet not being elective, they were not such a body of men as the constitution, and the safety of the inhabitants of the rural tithings required. And therefore, they constituted shire elections, for two members, to represent the shire in parliament, and those representatives were the origin of our knights of the shire.”

“The barons of the realm, and the knights of the shires, I consider as two bodies of men that were substituted, at the establishment of the monarchy, under Alfred the Great, in place of those representatives that used to serve under the Heptarchy for the rural tithings. The alteration that was made with respect to the towns and boroughs was simply this: that all boroughs that used to send one member to the little parliament, to which they belonged, under the Heptarchy, should for the future send two to the great parliament of England.”

From the above concise view of the Saxon affairs, it is plain, that in their own country, and for many years after they settled in England, they maintained that natural, wise and equal government, which has deservedly obtained the admiration of every civilized age and country. In their small republics, they often met in council upon their common concerns; and being all equally interested in every question that could be moved in their meetings, they must of course be drawn in to consider, and offer their sentiments of many occasions. It is from the prevalence of this custom among the savages, that they have been enabled to astonish our great lawyers, judges and governors, commissioned to treat with them, by displays of their sublime policy. By Alfred’s constitution, all occasions for exercising these talents were cut off from the body of the people: the making and amending of laws, being in a manner entirely referred to that great deliverer and his sublime council, whose wisdom and honesty were implicitly confided in by the whole nation; and at the same time distributive justice, was so uprightly administered by his commissioners of the peace, the men fell into a political stupor, and have never, to this day, thoroughly awakened, to a sense of the necessity there is, to watch over both legislative and executive departments in the state. If they have now and then opened their eyes, it is only to survey, with silent indignation, a state from whence they despair of being able to recover themselves. Fixed establishments on the one hand, rooted habits and prejudices on the other, are not easily got over. Power, like wealth, draws many admirers to its possessor: and tho’ all men will confess, that, without a check, it is dangerous in any community, they often flatter themselves, that the *rising* Augustus, having smiled upon them, in his early adventures, they (*in particular*) have nothing to fear from him, and therefore will not oppose him.\*

This Colony, having now but one order of freemen in it; and to the honor of Pennsylvania, but very few slaves, it will need but little argument to convince the bulk of an understanding people, that this ancient and justly admired pattern, the old Saxon form of government, will be the best model, that human wisdom, improved by experience, has left them to copy.

To effect which,

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Let the first care of our approaching Convention be to incorporate every society of a convenient extent into a Township, which shall be a body politic and corporate by itself, having power of electing annually by ballot a town-clerk to record all the public proceedings of the township, town council &c.—to draw up, sign, and issue warrants by order of the town-council for calling two meetings, and transact all such public business as the laws of the colony shall point out as his duty.—A town council consisting of five or seven respectable men, the major part of whom shall be a quorum, invested with full power to manage the affairs and interest of the town; and to order warrants to be issued for calling annual town meetings on such days as shall be stated for that purpose, by law, and occasionally, on the petition of ten or more freemen of the town, setting forth the cause of the requested meeting.—A town treasurer—a town sealer of weights and measures—assessors—collectors—overseers of the poor—constables—pound keeper—sealer of leather—surveyors of highways—fence viewers—gaugers—and all such other officers as have been or may be found necessary and shall be instituted by the present or any future convention appointed to amend the constitution of this colony.

Approaching that gulph, where all former projectors have found their systems shipwrecked, I shall, with becoming diffidence, propose a method of conducting elections, which I presume will be found a considerable improvement upon Harrington's plan.

After seating all the qualified electors in pews or squares by themselves, let them be numbered, and a box handed round to receive nomination tickets for the officers to be chosen. These tickets being sorted and numbered, let the clerk enter the names of the proposed candidates; beginning with his, who has the highest number of tickets; and thus proceed 'till all are entered. Where there are ties, let one ticket of each be taken and shaken in a hat, to be drawn out in fair lot and registered. Then in this order let the name or names, being first read over distinctly, be proposed by the Moderator, and balloted for by the bean; and if the first name fails of a majority of yeas, let the next in course be put, 'till the choice is made.

To render this mode of voting as fair and convenient as possible, let beans, or balls of opposite colors, be wrapped in small pellets of the same sort of paper, and one of each sort served to every voter. By opening the paper a little, the elector sees the color; returns the paper to its former condition, and drops which he pleases in the bag, first holding it up between his thumb and finger, that the collector may see there is but one; by proceeding in this manner, a corrupt influence can hardly be exercised; which cannot be said of the common custom of balloting. Besides very little writing is needfull: and when the whole meeting is told that white is yea and black nay, every one is alike knowing in the exercise of his elective power, without having occasion to recur to any man for advice or assistance.

For the first election of a governor, deputy-governor, secretary &c. it may be well for the Convention, to send out a nomination to the respective towns or districts; as the present urgency of public affairs requires that no time be lost 'till an established government be erected.

For the future, *as all debates will undoubtedly be held in public*, the consideration of warlike matters being best managed by Committees, the body of the people will soon become acquainted with the true characters of the delegates, and will continue or withdraw their confidence

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accordingly.

The judges of the supreme judicatory should be nominated by the Governor and executive council, and balloted for by the Assembly.

The *Conservatores*, or justices of the peace should, according to ancient custom be again elected by the districts; and to carry the salutary practice throughout, the justices thus chosen, should, soon after their election, meet at the county town, and ballot for the judges of the county court, the clerk and *solicitor* for the peace, in the county.\*

All judiciary officers should have moderate salaries; and that they might be encouraged to apply their minds to gain a thorough knowledge of their important business, they should have in their commissions, an estate for life, provided they did not forfeit it by misbehaviour.

Judges of the probate of wills, registers of conveyances, deputy-coroners, and officers of such importance to the people, should be established in every convenient district; it being a great hardship, for people in narrow circumstances, to travel far, to have business of so pressing a nature performed for them.

Sheriffs, coroners, county treasurers, and all such county officers, can be elected no other way, with so much convenience, as to ballot by ticket, in each district, and to send the tickets to the townsmen of the shire-town by a sworn officer, under the seals of the respective moderators, where the votes are taken. And should the tickets, when sorted and numbered, fail to afford any one name, balloted for, a clear majority of votes, that is, that one half, more by one vote, for some certain person, than all the rest; the bench of justices for the whole county being for that purpose summoned by the clerk of that township, should meet, and for that year, supply the place of the officer, thus failing of appointment, by nomination and ballot as before described.

A standing grand jury, conducing much to the peace and good order of society, twenty four members for each county should be annually chosen, in the respective districts, as the representatives; having proper regard to the proportion belonging to each district, to serve for the whole year, and watch over the behaviour of the people.

Traverse juries, should be drawn from a box, furnished annually, with the names of all nonexempt freeholders, written each fairly on a ticket, shaken together, and taken by lot.

Jurors serving one year, should be exempt the two following.

Notwithstanding it may be difficult to find men properly qualified to sustain every office proposed to be established in each district; yet the electors should be supremely careful, never to heap offices or indeed confer more than one on the same person. No governor, counsellor, representative, sheriff, coroner, attorney at law, or clerk of the peace should ever be a justice of the peace. Neither, should any one in the executive departments, civil or military, have a seat in the legislature.

Salaries and fees ought to be *competent*: that able men may not be deterred from accepting them,

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nor covetous men conceive them a bait. The latter condition of salaries has been the evident ruin of England; while those Commonwealths who have preserved a strict economy in that respect, continue happy and flourishing.

“If we were to select the attributes of good government, we should find them to consist in *wisdom* and *justice*. And if we could divide those virtues, from all bad qualities, in men, and place such men, and such only, to rule over us, we should establish an heaven upon earth. The power of election which our government hath diffused thro’ the whole nation, will always produce this happy effect, when left to operate according to its genuine principles. For by dividing the country into small parts, as our tithings were, the character of every man, that was fit to bear an office, was well known amongst his neighbours. And therefore, when the choice of an officer to preside over them was their object of election, the concurrent sentiments of an uninfluenced majority, of a multitude of people, would naturally fall upon those men only, who were most eminent for their wisdom and justice.”

The best constructed civil government that ever was devised, having but a poor chance for duration, unless it be defended by arms, against external force as well as internal conspiracies of bad men, it will be the next concern of the convention, to put the colony militia on the most respectable footing.

The Militia is the natural support of a government, *founded on the authority of the people only*.

And to render both the people and the government, perfectly free from any jealousy of each other, it seems proper that the associators should have the choice of all officers immediately commanding them, inclusive of their respective captains—that deputations from a convenient number of companies, consisting both of officers and privates, should ballot for their field officers, and that the legislature should appoint every general officer.

And at length, to come to that dangerous, but necessary engine of state, *a standing army*, whose operations must be conducted with all possible secrecy and dispatch; and for that reason, must be entrusted in few hands; I would propose that a committee of three gentlemen be chosen by joint ballot of the governor, council, and assembly, to be called the committee of war; and to have the conducting of all military affairs, under the direction of the governor and privy council, to whom in matters of great importance, they should always have recourse: but being competent in lesser matters, business would be less subject to delay. This committee being the joint choice of the whole legislature, and by them removeable annually, or at any time, on conviction of misbehaviour, would have a sufficient confidence placed in them, and yet no power that might become dangerous to the liberty of the people.

While all kinds of governmental power reverts annually to the people, there can be little danger of their liberty. Because no maxim was ever more true than that, Where annual election ends, slavery begins.

Having, in as brief and particular a manner as I was able, in the very short time allotted me, deduced the general outlines of a free government from the purest fountain yet known to man; it

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may not be uninteresting to give a short extract of the history of

*The destruction of the Saxon mode of government by a combination of the clergy with William the bastard, duke of Normandy.*

Before I proceed to observe the destruction that was made in the constitution, or mode of government, by the fatal union of the church with William of Normandy, I must not forget to take notice, that I have not given the clergy a place, in the Saxon parliaments; because they were foreign to the original institution, and only grafted themselves upon it, after it was established in England. But as they afterwards obtained a considerable share, both in the legislative authority and the administration of government, it may not be amiss to give some account how they came by it.

“The Roman Pontiff had already extended his plan of church power to a great degree; and the nature of the government introduced into Europe, by the northern nations, greatly contributed to his success. All history is full of the dreadful consequences, that have attended the baleful influence, which every religious hierarchy hath always had upon the bulk of mankind. And a government founded upon the elective power of the people, where their favor was the high road to riches, power and grandeur, gave a fine opportunity to such an artful designing set of men by their intrigues and influence, to procure themselves or their devotees to be elected into the chief magistracy of the country divisions. By this means they possessed themselves, in a great measure of the legislative authority; and consequently became, in proportion, the masters of the state. For whoever is master of the legislative authority in any state, is undoubtedly master of that state.

“Having thus taken possession, as it were of the mansion, they were not long before they began to plunder it. However they first established, and secured the power of the church, by a variety of laws, made in her favor; and defended them by every ecclesiastical establishment, that papal cunning could invent. So that they were now prepared to receive, in the name of the church, all the riches, honors and power, which they could by any means obtain. And what is more, they knew too how to keep them when they had obtained them. For according to their maxim, whatever was given to the church, was given to God, and therefore was never afterwards subject to be taken away by any earthly power whatever.”

“Thus they endeavored to provide against all revolutions in the state, that the property of the clergy might be safe, under the name of the church. Upon this ground, the clergy have grafted themselves upon every state in Europe. And as they are plants that will grow in any soil, they have taken such deep root, that scarce any state, except Holland, has been so unfriendly to their vegetation, as to exclude them from having some share in government; though they have no more business with ours, as a separate body of men, than the company of apothecaries or parish clerks.”

“The church continually acquiring riches and power, and never discharging either, it must follow that the clergy would, in a short time, be the richest and most powerful body in any state where they were thus established. Such was the situation of this kingdom, at the death of Edward the confessor; when England may be said to be governed by the power, and influence of the clergy. And we shall see, presently, how these shepherds betrayed their flocks, and surrendered them to

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the Norman tyranny.”

“Under all tyranny, whether of kings, or priests, or both, it is the people who are to be made the sacrifice; it is the people who are to be plundered of their property; it is the people who are to wear the yoke of slavery; it is they who are to be made the hewers of wood and drawers of water. But so long as the English government continued upon the original principles, upon which it was founded; and the people annually exercised their elective power; so long it was out of the power, either of the king or the clergy to commit any acts of violence, with impunity.”

“Indeed the clergy might recommend, and the people might consent to many things, that were wrong, and even ruinous in their consequences; yet the latter had always in their own hands, a correcting remedy for all their errors. It was this correcting power in the people, that hung, like a millstone, over the pride, and riches of the clergy; and made them apprehensive that, at some time or other, it would crush them to pieces; and put an end to all their schemes of authority riches and grandeur.”

“The parliament in the reign of Edward the confessor, had given such a specimen of their correcting power, as was enough to shake the foundation of the papal chair; and that was by banishing Robert, Archbishop of Canterbury, as an incendiary and fomentor of divisions, between the king and his subjects, and appointing one Stigand, Archbishop in his room. By this they saw there was only one way to avoid the danger, and preserve and extend their tyranny over the people; and that was to destroy the elective power, and establish an arbitrary government in the state. This, they were so bold as to attempt, and so happy as to see effected by William the Bastard duke of Normandy; who in the year one thousand and sixty six, put an end to the Saxon mode of government, which had subsisted six hundred years from its first establishment.”

*What is commonly called the conquest by William the first.*

“We are now come to that period of the English history, which contaminated the purity of the English constitution, or mode of government, with a despotic spirit, which time has not been able totally to eradicate.”

“After the death of Edward the confessor, there were two candidates for the crown of England, which had always been elective, and continued so to this last Saxon king. The one was Harold, an Englishman of great natural abilities, much merit, and vastly beloved by the people; who had been elected chief magistrate of three shires, Kent, Sussex and Surry, at the death of his father earl Goodwin, who before him had held the same offices.”

“The other was William the bastard duke of Normandy, who was a man of a warlike genius and a very powerful prince, whose dominions being situated opposite to our coast, rendered it more convenient for him, than for any other prince, to transport an army into England, and consequently to enslave the nation. For which reason no one who was a friend to his country, would ever think of electing a man, who would be so notoriously dangerous to it’s laws, liberty and constitution.”

“Indeed the dangerous consequence of his election was so apparent, that, tho’ the clergy had

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marked William for their man, yet they could not hinder the choice of Harold; and therefore he was elected king of England, by the wittenagemot or parliament; and was accordingly crowned next day by the Archbishop of York.”

“The Pope, and William, finding themselves frustrated in all their previous intrigues and secret cabals, in obtaining the crown of England, for the latter, were resolved to obtain it by open force: but the states of Normandy having refused the duke an aid of money for the undertaking, he was obliged to have recourse to some other means for assistance. The pope, therefore, was now obliged to pull off the mask, and declare openly against England, and make a crusading business of it; which, was done with a view to encourage individuals to engage in the enterprize. And that all men might see that William was the champion of the church, he first made the duke a present of a consecrated standard, with a golden *agnus dei*, and one of Saint Peter’s hairs; and then solemnly excommunicated every man that should oppose him.”

“The duke on his part offered the lands of England as a prize to be fought for, and to be divided amongst all those that should assist him in the conquest; by which means he engaged not only great numbers of his own subjects, but many of his neighbours to assist him. Thus the duke of Normandy was enabled to fit out a fleet and an army, with which he invaded England; and, on the 14th of October 1066, was fought the ever memorable battle of Hastings, in which the English army was routed, and king Harold slain; which flung the whole nation into confusion, and soon after procured the crown of England to William.”

“Morcar and Edwin, two brave officers who distinguished themselves all that day in battle, retired in the night, with the broken remains of the army to London; in hopes to recover the people from their fright and consternation, and to apply some remedy to so pressing an evil. Historians observe, that, in all probability, they would have succeeded, if the treacherous behaviour of the clergy in London had not broken all their measures, by secretly caballing amongst the people. These two officers, and some others who were zealous friends to the liberty of their country, assembled the people; and represented to them, that the first thing to be done was to come out of that state of anarchy and confusion they were in, and immediately elect some person to the chief command. That Edgar Atheling was upon the spot, and one of the family of their ancient kings; and that no man could have any just objection against his advancement to the throne. That as soon as he should be proclaimed king, he would send orders to all parts of the kingdom to levy troops, and that the duke of Normandy should soon find to his cost, that the gaining a single battle was not sufficient to render him master of the kingdom. And to spirit up the people the more to action, they put them in mind how they had defended their country, inch by inch against the Danes, for a great many years; and had at last drove them out of the kingdom; and that there was no doubt but they would do the same by this new invader.”

“The clergy knew that this was the critical moment, and that if they could but keep things a little longer in confusion, their business was done, and therefore they openly opposed every proposal of resistance. The declaration of the pope in favor of William was sufficient to induce all the clergy, then in London, with the two archbishops at their head, to cabal amongst the people in order to hinder Edgar’s election; which it so effectually did, that Morcar and Edwin seeing every proposal overruled, and despairing of success, retired into the north to take their own measures.”

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“They were no sooner gone, than the archbishop of Canterbury, the archbishop of York, the bishop of Winchester, and the clergy about London, and some say prince Edgar himself (by their persuasion) went to the duke at Berkhamstead and swore fealty to him; as if he had been already their lawful sovereign. Hence we may justly say, that the lives, liberty, and property of the people of England, were surrendered into the hands of the Normans, by the baneful interest of the clergy. For the city of London, following the example of the clergy, surrendered, afterwards the whole kingdom, without any further resistance.”

“Thus William the first obtained the crown of England by the favor of the clergy, and not by the power of the sword, as, they would seem to intimate, by his surname the conqueror. A name imposed upon him after his death, by the clergy, in order to screen the infamy of their own actions from posterity, that future generations might ascribe, the miserable state of the people, to the conquest of William, and not to the dark treachery of a body of men, who had, under the mask of religion, abused every trust of the confidence reposed in them; and betrayed their flocks, bound hand and foot, like sheep to the slaughter.”

“From this time, civil and religious tyranny, walked hand in hand, two monsters till then unknown in England; which are, equally, the common enemies to mankind, and have at all times, united against every principle of civil and religious liberty. This is the true origin of the alliance between church and state, so much contended for by some of our ecclesiastics; who have renounced the penances of popery, but would fain retain both its pride and its power.”

And on the proceedings of Charles the first’s parliament, in the expulsion of the bishops, the same author observes,

“That it was their duty, as law makers, to remove from parliament, a body of men who had, constitutionally, no right there; and who had invariably, directed their whole influence, against every principle of civil and religious liberty; and were now particularly dangerous to the state.”

“It is undoubtedly the most absurd and pernicious principle, that ever was received into any society of men, to permit the clergy *of any denomination*, to have the least distant share, or influence, upon the legislative authority of any nation. And had the motives of the house of Commons, for excluding the bishops from the house of Lords been as good as their motion, they would have done this kingdom a most essential piece of service; but their intent was only to pull down one nuisance, in order to establish another almost as bad. Their business, as lawmakers, was to protect every man in his right of private judgment, in point of religion; and not suffer any set of men to dictate to others in a matter that merely subsists between God and a man’s own soul.”

—“Had they destroyed all ecclesiastical power, they had destroyed an evil in the state, and abundant matter of vexation. Had they protected all men alike, in their different modes of worshiping God, they would have taken away all just occasion of offence and established peace amongst men.”

Nothing can be more evident, than the mischief that has ever followed the requisition of a declaration of faith in doctrines acknowledged to be above human comprehension, as a

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qualification for any civil trust.

*To believe that God is, and a rewarder according to our works; is the firm foundation of natural and revealed religion; and tho' he deigned to inform Moses, I am, we find him pleased, at that time, to make no further discovery of himself. Neither are we hitherto convinced, that any, by searching, have found him out to greater perfection.*

What is here, faithfully quoted or modestly suggested, is intended to give no offence to any man, or body of men existing. In matters wherein all are concerned, it is the duty of all to give notice of any thing they conceive might be hurtful to the public, if suffered to pass without examination. It is a time when all the sagacity and diligence, all the temper and moderation of this vast Continent, is necessary to separate the *precious* from the *vile*.

We are happy that such plain and salutary paths have been marked out before us. Whatever rubbish has been thrown into them, should be carefully removed, that, like *wisdom's ways*, they may be *pleasant*, and conduct us to a secure and virtuous Peace.

Men entrusted with the formation of civil constitutions, should remember they are *painting for eternity*: that the smallest defect or redundancy in the system they frame may prove the destruction of millions.

Above all things, the greatest care should be taken, that the persons who grant the public money, and should of course have the power of enquiring into its disposal, should have no hand in contracts; or any connection with persons thro' whose hands the public treasure passes. A house of commons should indeed be the guardians of common right, and the interest of the public. Places, pensions and other emoluments, from the public treasury having, for near a century past, been open to British commoners, their power of bringing peculators to account, has been of no use to the oppressed people. They have indeed united with them, and formed such powerful factions as have bid defiance to the whole nation. By this means, the legislative and executive authority, which our wise and virtuous ancestors, carefully kept asunder, are become confounded together, in the hands of the same men. This has principally arisen from another fatal inattention of the people to the usurpations of their deputies, when they took upon them to alter the first principle of the constitution by acts of parliament.

“Upon this foundation, they may mould it into what shape they please; and in the end make us slaves by law. The house of commons are constituted, a body of men, merely passive, with regard to their creation, duration, and dissolution; and therefore have no consent to give to their own duration, even for an hour.”

“There cannot be a more dangerous doctrine adopted in a state, than to admit that the legislative authority has a right to alter the constitution.”

This shrewd observation needs little to be said in proof of it. For as the constitution limits the authority of the legislature, if the legislature can alter the constitution, they can give themselves what bounds they please.

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It is therefore, I beg leave to repeat, that after the approaching Convention has met, and settled the grand outlines of a constitution, let the legislature go on with the affairs of government, without sensible deviation from the obvious meaning of their digest; and whatever inconveniences may be found unprovided for, may be candidly advertised to the public, and amended by another Convention.

*The powers of the several parts of the Legislature*

The respective powers of the several branches of the Legislature come next into consideration. And it must be confessed, that on this question I find the greatest difference of opinion among the really wise and learned, of any pertaining to our system. Some talk of having two councils, one legislative, and the other executive: some of a small executive council only; which should have nothing to do with framing the laws. Some would have the Governor, an integral part of the legislature: others, only president of the council with a casting vote.

The latter opinion appears to me most consonant to the intentions of wise framers of Governments. The Governor should have a seat in some part of the Legislature, that he might be fully acquainted with the necessity and reasons for passing any bill into a law, and on the other hand, to prevent any one person from possessing too much, or a dangerous power, he should have no more than a casting vote when necessary.

Some are strenuous for only one legislative body namely, the house of representatives: but a council will be found necessary for the following reasons.

An Act, ever so well intended, and in appearance ever so well framed to promote the public good, will notwithstanding, throw the society into confusion, if it can be made appear that it is founded on principles which will not bear examination.

The persons selected to compose a council, are of course always supposed to have a superior degree of acquaintance with the history, laws, and manners of mankind; and by that means they will be more likely to foresee the mischievous consequences, that might follow a proceeding, which at first view did not appear to have any thing dangerous in it, to many honest men, who may however, be very worthy of a seat in the house of representatives.

For on no circumstance does the public peace and prosperity more immediately depend, than on the clearness, fullness and consistency of the laws.

The Governor should be furnished with a small privy council, to afford him their advice and assistance in the executive department; but they should have no share whatever in the Legislature.

In this capacity they should take cognizance of high crimes; such as mal-administration of Judges in their offices; being the proper inquest for this purpose—The Assembly and Legislative Council, in like manner to enquire into the conduct of the Governor and privy council, and the cause of complaint being found, a regular trial by the country should determine all causes

whatever.

A Council, annually eligible, will endeavor to maintain their seats by the rectitude of their conduct.

To suppose they can *inveterate* themselves, is to suppose that mankind will forget the mischiefs which have overspread the world from the days of Sylla to the present bloody period, from the same tyrannic source.

We should make all prudent provision for posterity, and indeed the most salutary provision we can possibly make for them, is to enable them to provide for themselves; but we ought never to run into one extreme to avoid another.

The last important measure I would propose, is, that, whereas the heat of war in our very neighbourhood, may well be supposed to agitate the minds of the delegates in convention, and render it impossible to have every provision made for the security of our liberties, that cool and continued reflexion would suggest, after the principal parts of the constitution are established, an adjournment might be made to a convenient day; and mean while every man might be invited to give his sentiments freely and discreetly upon any part of the system he might conceive could be altered for the better.

Probably a decennial meeting of delegates, to examine the state of the constitution, and conduct of the government, would not be an imprudent provision for keeping the constitution in health and vigor, by having an opportunity to see that it did not depart from its first principles. This would be effectually holding the supreme power in its *only* safe repository *the hands of the* people.

## CONCLUSION

The last and greatest security that men can have for a permanent enjoyment of their rights, is to learn, what they are from their very elements, as they are well explained by Burlamaqui and others; and besides, to learn the art of defending them with their arms.

I, alike discommend a heedless inattention to the concerns of our country and posterity; and a despairing anxiety, grounded on a supposition, that if some particular matters are not settled in just such particular manners, that all will be lost irrecoverably.

This is a day of cool and impartial enquiry. Adversity sobers our spirits and causes us to give each other a patient hearing. We learn from our troubles that each man needs the advice and assistance of his neighbour: and perhaps this is not the most trivial lesson.

The varying circumstances of our situation, have gradually pointed out arrangements already which no man could have foreseen some months ago: those successive improvements which will thence arise, and the advantage of such a communication of sentiments as will accrue from the establishment of frequent town meetings among the people, will give such a new face to the affairs of this colony, and raise up so many able men to improve its internal police; that as arts

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and manufactures have already made it their peculiar, or at least principal residence, so we trust in God that the principal science that ever rendered mankind happy and glorious, the science of *just* and *equal* government, will shine conspicuous in Pennsylvania.

The events which have given birth to this mighty revolution; and will vindicate the provisions that shall be wisely made against our ever again relapsing into a state of bondage and misery, cannot be better set forth than in the following Declaration of

**American Independence.**

IN CONGRESS, JULY 4, 1776.

A Declaration by the Representatives of the United States of America, in General Congress Assembled.

When in the course of human Events, it becomes necessary for one people to dissolve the Political Bands which have connected them with another, and to assume among the Powers of the Earth, the separate and equal Station to which the Laws of Nature and of Nature's God entitle them, a decent Respect to the Opinions of Mankind requires, that they should declare the causes, which impel them to the Separation.

We hold these Truths to be self-evident, that all Men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the Pursuit of Happiness—That to secure these Rights, Governments are instituted among Men, deriving their just Powers from the Consent of the Governed, that whenever any Form of Government becomes destructive of these Ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its foundation on such principles, and organizing its powers in such form, as to them shall seem most likely to effect their safety and happiness. Prudence, indeed, will dictate that governments long established should not be changed for light and transient causes; and accordingly all experience hath shewn, that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. But when a long train of abuses and usurpations, pursuing invariably the same object, evinces a design to reduce them under absolute despotism, it is their right, it is their duty, to throw off such government, and to provide new guards for their future security. Such has been the patient sufferance of these colonies, and such is now the necessity which constrains them to alter their former systems of government. The history of the present King of Great Britain is a history of repeated injuries and usurpations, all having in direct object the establishment of an absolute tyranny over these states. To prove this, let facts be submitted to a candid world.

He has refused his assent to laws, the most wholesome and necessary for the public good.

He has forbidden his Governors to pass laws of immediate and pressing importance, unless suspended in their operation till his assent should be obtained; and, when so suspended, he has utterly neglected to attend to them.

He has refused to pass other laws for the accomodation of large districts of people, unless those

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people would relinquish the right of representation in the legislature, a right inestimable to them, and formidable to tyrants only.

He has called together legislative bodies at places unusual, uncomfortable, and distant from the depository of their public records, for the sole purpose of fatiguing them into compliance with his measures.

He has dissolved Representative Houses repeatedly, for opposing with manly firmness his invasions on the Rights of the people.

He has refused for a long time, after such dissolutions, to cause others to be elected; whereby the legislative powers, incapable of annihilation, have returned to the people at large for their exercise; the state remaining in the mean time exposed to all the dangers of invasion from without, and convulsions within.

He has endeavoured to prevent the population of these states; for that purpose obstructing the laws for naturalization of foreigners; refusing to pass others to encourage their migrations hither, and raising the conditions of new appropriations of lands.

He has obstructed the administration of justice, by refusing his assent to laws for establishing judiciary powers.

He has made Judges dependent on his will alone, for the tenure of their offices, and the amount and payment of their salaries.

He has erected a multitude of new offices, and sent hither swarms of officers to harrass our people, and eat out their substance.

He has kept among us, in times of peace, standing armies, without the consent of our legislatures.

He has affected to render the military independent of, and superior to the civil power.

He has combined with others to subject us to a jurisdiction foreign to our constitution, and unacknowledged by our laws; giving his assent to their acts of pretended legislation:

For quartering large bodies of armed troops among us:

For protecting them, by a mock trial, from punishment for any murders which they should commit on the inhabitants of these states:

For cutting off our trade with all parts of the world:

For imposing taxes on us without our consent:

For depriving us, in many cases, of the benefits of trial by jury:

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For transporting us beyond seas to be tried for pretended offences:

For abolishing the free system of English laws in a neighbouring province, establishing therein an arbitrary government, and enlarging its boundaries, so as to render it at once an example and fit instrument for introducing the same absolute rule into these Colonies:

For taking away our charters, abolishing our most valuable laws, and altering fundamentally the forms of our governments:

For suspending our own legislatures, and declaring themselves invested with power to legislate for us in all cases whatsoever.

He has abdicated government here, by declaring us out of his protection and waging war against us.

He has plundered our seas, ravaged our coasts, burnt our towns, and destroyed the lives of our people.

He is, at this time, transporting large armies of foreign mercenaries to compleat the works of death, desolation, and tyranny, already begun with circumstances of cruelty and perfidy scarcely paralleled in the most barbarous ages, and totally unworthy the head of a civilized nation.

He has constrained our fellow Citizens taken captive on the high seas to bear arms against their country, to become the executioners of their friends and brethren, or to fall themselves by their hands.

He has excited domestic insurrections amongst us, and has endeavoured to bring on the inhabitants of our frontiers, the merciless Indian savages, whose known rule of warfare, is an undistinguished destruction, of all ages, sexes and conditions.

In every stage of these oppressions we have petitioned for redress in the most humble terms: Our repeated petitions have been answered only by repeated injury. A prince, whose character is thus marked by every act which may define a tyrant, is unfit to be the ruler of a free people.

Nor have we been wanting in attentions to our British brethren. We have warned them from time to time of attempts by their legislature to extend an unwarrantable jurisdiction over us. We have reminded them of the circumstances of our emigration and settlement here. We have appealed to their native justice and magnanimity, and we have conjured them by the ties of our common kindred to disavow these usurpations, which, would inevitably interrupt our connexions and correspondence. They too have been deaf to the voice of justice and of consanguinity. We must, therefore, acquiesce in the necessity, which denounces our separation, and hold them, as we hold the rest of mankind, enemies in war, in peace, friends.

We, therefore, the Representatives of the United States of America in General Congress, assembled, appealing, to the Supreme Judge of the world for the rectitude of our intentions, do, in the name, and by authority of the good people of these colonies, solemnly publish and declare,

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that these United Colonies are, and of Right ought to be, Free and Independent States; that they are absolved from all allegiance to the British Crown, and that all political connexion between them and the state of Great Britain is and ought to be totally dissolved; and that, as Free and Independent States, they have full power to levy war, conclude peace, contract alliances, establish commerce, and to do all other acts and things which Independent States may of right do. And for the support of this declaration, with a firm reliance on the protection of Divine Providence, we mutually pledge to each other our lives, our fortunes, and our sacred honor.

Signed by order and in behalf of the Congress,

John Hancock, President.

Charles Thompson, Sec.

**Attest.**

[\*] The ancient *Conservatores*, were to all valuable purposes *Justices* of the Peace.

[\*] For an example of such fatal policy, read the history of the famed Marcus Tullius Cicero.

[\*] This I conceive the proper title of the officer lately called King's Attorney.