

THE SUBSTANCE

OF A

SPEECH

DELIVERED BY

James Wilson, Esq.

Explanatory of the general Principles of the proposed

Fæderal Constitution;

Upon a Motion made by the

Honorable *Thomas M^s Kean,*

In the CONVENTION of the

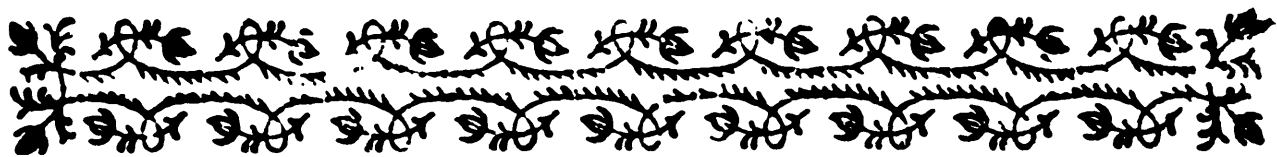
STATE OF PENNSYLVANIA.

On Saturday the 24th of November, 1787.

P H I L A D E L P H I A

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four Doors below the *Coffee-House,* M,DCC,LXXXVII.

1787



Proceedings in Convention, &c.

SATURDAY, November 24, A. M. 1787.

The Convention met pursuant to Adjournment.

THE Minutes of yesterday being read, the proposed Constitution of Federal Government was taken up for a second reading, after which the following proceedings took place.

Mr. M'KEAN. Mr. President, there will perhaps be some difficulty in ascertaining the proper mode of proceeding to obtain a decision upon the important and interesting subject before us. We are certainly without precedent to guide us; but the utility of the forms observed by other public bodies, will be an inducement to adhere to them where a variation of circumstance does not render a variation of the mode essentially necessary. As far, therefore, as the rules of the Legislature of Pennsylvania, will apply to the Constitution and business of this body, I shall recommend their adoption, but I perceive that in a very great degree we shall be obliged, for convenience and propriety, to resort to new regulations, arising from the singularity of the subject offered to our consideration. For the present, however, I shall move you Sir, that we come to the following resolution—"RESOLVED, that this Convention do adopt and ratify the Constitution of Federal Government as agreed upon by the Federal Convention at Philadelphia on the 17th day of September, 1787." This measure, Mr. President, is not intended to introduce an instantaneous decision of so important a question, but merely to bring the object of our meeting fully and fairly into discussion. It is not my wish that it should be determined this day, nor do I apprehend it will be necessary that it should be determined this day week; but it is merely preparatory to another motion with which I shall hereafter trouble you, and which, in my opinion, will bring on that regular and satisfactory investigation of the separate parts of the proposed Constitution, which will finally enable us to determine upon the whole.

Mr. WILSON. As the only member of this respectable body, who had the honor of a seat in the late Federal Convention, it is peculiarly my duty Mr. President, to submit to your consideration, the general principles that have produced the national Constitution, which has been framed and proposed by the assembled delegates of the United States, and which must finally stand or fall by the concurrent decision of this Convention, and of others acting upon the same subject, under similar powers and authority. To frame a govern-

a Government for a single city or State, is a business both in its importance and facility, widely different from the task entrusted to the Federal Convention, whose prospects were extended not only to thirteen Independent and Sovereign States, some of which in territorial jurisdiction, population, and resource, equal the most respectable nations of Europe, but likewise to innumerable States yet unformed, and to myriads of citizens who in future ages shall inhabit the vast uncultivated regions of the continent. The duties of that body therefore, were not limited to local or partial considerations, but to the formation of a plan commensurate with a great and valuable portion of the globe.

I confess, Sir, that the magnitude of the object before us, filled our minds with awe and apprehension. In Europe the opening and extending the navigation of a single river, has been deemed an act of imperial merit and importance; but how insignificant does it seem when we contemplate the scene that nature here exhibits, pouring forth the Potowmack, the Rapahannock, the Susquehanna, and other innumerable rivers, to dignify, adorn, and enrich our soil. But the magnitude of the object was equalled by the difficulty of accomplishing it, when we considered the uncommon dexterity and address that were necessary to combat and reconcile the jarring interests that seemed naturally to prevail, in a country, which presenting a coast of 1500 miles to the Atlantic, is composed of 13 distinct and Independent States, varying essentially in their situation and dimensions, and in the number and habits of their citizens. Their interests too, in some respects really different, and in many apparently so; but whether really or apparently, such is the constitution of the human mind, they make the same impression, and are prosecuted with equal vigour and perseverance. Can it then be a subject for surprize that with the sensations indispensably excited by so comprehensive and so arduous an undertaking, we should for a moment yield to despondency, and at length, influenced by the spirit of conciliation, resort to mutual concession, as the only means to obtain the great end for which we were convened? Is it a matter of surprize that where the springs of dissension were so numerous, and so powerful, some force was requisite to impel them to take, in a collected state, a direction different from that which separately they would have pursued?

There was another reason, that in this respect, increased the difficulties of the Federal Convention—the different tempers and dispositions of the people for whom they acted. But, however widely they may differ upon other topics, they cordially agree in that keen and elevated sense of freedom and Independence, which has been manifested in their united and successful opposition to one of the most powerful kingdoms of the world. Still it was apprehended by some, that their abhorrence of constraint, would be the source of objection and opposition; but, I confess, that my opinion, formed upon a knowledge of the good sense, as well as the high spirit of my Constituents, made me confident that they would esteem that government to be the best, which was best calculated eventually to establish and secure the dignity and happiness of their country. Upon this ground, I have occasionally supposed that my constituents have asked the reason of my assent to the several propositions contained in the plan before us. My answer, tho' concise, is a candid, and, I think a satisfactory one—because I thought them right; and thinking them right, it would be a poor compliment indeed to presume they could be disagreeable to my Constituents—a presumption that might occasion a retort to which I wish not to expose myself, as it would again be asked, “is this the opinion you entertain of those who have confided in your judgment? From what ground do you infer that a vote right in itself would be disagreeable to us?” and it might with justice be added, “this sentiment implies that you deserved not the trust which we reposed in you.” No Sir—I have no right to imagine that the reflected rays of delegated power can displease by a bright-

a brightness that proves the superior splendor of the luminary from which they proceed.

The extent of country for which the New Constitution was required, produced another difficulty in the business of the Fœderal Convention. It is the opinion of some celebrated writers, that to a small territory, the democratical, to a midling territory, (as Montesquieu has termed it) the monarchical, and, to an extensive territory, the despotic form of government, is best adapted. Regarding then, the wide and almost unbounded jurisdiction of the United States, at first view, the hand of despotism seemed necessary to controul, connect, and protect it; and hence the chief embarrassment arose. For, we knew that, although our Constituents would cheerfully submit to the legislative restraints of a free government, they would spurn at every attempt to shackle them with despotic power.

In this dilemma, a Fœderal Republic naturally presented itself to our observation, as a species of government which secured all the internal advantages of a republic, at the same time that it maintained the external dignity and force of a monarchy. The definition of this form of government may be found in Montesquieu, who says, I believe, that it consists in assembling distinct societies, which are consolidated into a new body, capable of being increased by the addition of other members;—an expanding quality peculiarly fitted to the circumstances of America.

But, while a Fœderal Republic, removed one difficulty, it introduced another, since there existed not any precedent to assist our deliberations; for, though there are many single governments, both ancient and modern, the history and principles of which are faithfully preserved, and well understood, a perfect confederation of independent states is a system hitherto unknown. The Swiss Cantons, which have often been mentioned in that light, cannot properly be deemed a Fœderal Republic, but merely a system of United States. The United Netherlands are also an assemblage of states; yet, as their proceedings are not the result of their combined decisions, but of the decisions of each state individually, their association is evidently wanting in that quality which is essential to constitute a Fœderal Republic. With respect to the Germanic Body, its members are of so disproportionate a size, their separate governments and jurisdictions so different in nature and extent, the general purpose and operation of their union so indefinite and uncertain, and the exterior power of the House of Austria so prevalent, that little information could be obtained or expected from that quarter. Turning then to ancient history, we find the Achæan and Lycian leagues, and the Amphictyonic council bearing a superficial resemblance to a Fœderal Republic; but of all these, the accounts which have been transmitted to us, are too vague and imperfect to supply a tolerable theory, and they are so destitute of that minute detail from which practical knowledge may be derived, that they must now be considered rather as subjects of curiosity, than of use or information.

Government, indeed, taken as a science, may yet be considered in its infancy; and with all its various modifications, it has hitherto been the result of force, fraud, or accident. For, after the lapse of six thousand years since the creation of the world, America now presents the first instance of a people assembled to weigh deliberately and calmly, and to decide leisurely and peaceably, upon the form of government by which they will bind themselves and their posterity. Among the ancients, three forms of government seem to have been correctly known, the Monarchical, Aristocratical, and Democratical; but their knowledge did not extend beyond those simple kinds, though much pleasing ingenuity has occasionally been exercised, in tracing a resemblance of mixed government in some ancient institutions, particularly between them and the British Constitution. But, in my opinion, the result of these ingenious refinements does more honor to the moderns in discovering, than to the ancients in forming the similitude. In the work of Homer, it

is supposed by his enthusiastic commentators, the seeds of every science are to be found; but, in truth, they are first observed in subsequent discoveries, and then the fond imagination transplants them to the book. Tacitus, who lived towards the close of that period, which is called ancient, who had read the history of all antecedent and cotemporary governments, who was perfectly competent to judge of their nature, tendency, and quality, Tacitus considers a mixed government as a thing rather to be wished than expected; and, if ever it did occur, it was his opinion, that it could not last long. One fact, however, is certain, that the ancients had no idea of representation, that essential to every system of wise, good, and efficient government. It is surprising, indeed, how very imperfectly, at this day, the doctrine of representation is understood in Europe. Even Great-Britain, which boasts a superior knowledge of the subject, and is generally supposed to have carried it into practice, falls far short of its true and genuine principles. For, let us enquire, does representation pervade the constitution of that country? No. Is it either immediately or remotely the source of the executive power? No. For it is not any part of the British constitution, as practised at this time, that the king derives his authority from the people. Formerly that authority was claimed by hereditary or divine right; and even at the revolution, when the government was essentially improved, no other principle was recognized, but that of an original contract between the sovereign and the people—a contract which rather excludes than implies the doctrine of representation. Again; Is the judicial system of England grounded on representation? No. For the judges are appointed by the king, and he, as we have already observed, derives not his majesty or power from the people. Lastly, then, let us review the legislative body of that nation, and even there, though we find representation operating as a check, it cannot be considered as a pervading principle. The lords, acting with hereditary right, or under an authority immediately communicated by regal prerogative, are not the representatives of the people, and yet they, as well as the sovereign, possess a negative power in the paramount business of legislation. Thus the vital principle of the British constitution is confined to a narrow corner, and the world has left to America the glory and happiness of forming a government, where representation shall at once supply the basis and the cement of the superstructure. For, representation, Sir, is the true chain between the people, and those to whom they entrust the administration of the government; and, though it may consist of many links, its strength and brightness, never should be impaired. Another, and perhaps the most important obstacle to the proceedings of the Federal Convention, arose in drawing the line between the national and the individual governments of the States.

On this point a general principle readily occurred, that whatever object was confined in its nature and operation to a particular State, ought to be subject to the separate government of the States, but whatever in its nature and operation extended beyond a particular State, ought to be comprehended within the Federal jurisdiction. The great difficulty, therefore, was the application of this general principle, for it was found impracticable to enumerate and distinguish the various objects to which it extended, and as the mathematics, only, are capable of demonstration, it ought not to be thought extraordinary that the Convention could not develop a subject, involved in such endless perplexity. If however, the proposed constitution should be adopted, I trust that in the theory there will be found such harmony, and in the practice such mutual confidence between the national and individual governments, that every sentiment of jealousy and apprehension will be effectually destroyed. But Sir, permit me to ask, whether on the ground of a union, the individual or the national government ought most to be trusted? For my part, I think it more natural to presume that the interest of each would be pursued by the whole, than the reverse of the proposition, that

that the several States would prefer the interest of the confederated body ; for in the general government each is represented, but in the separate governments, only the separate States.

These difficulties, Mr. President, which embarrassed the Fœderal Convention, are not represented to enhance the merit of surmounting them, but with a more important view, to shew how unreasonable it is to expect that the plan of government, should correspond with the wishes of all the States, of all the citizens of any one state, or of all the citizens of the United continent. I remember well, Sir, the effect of those surrounding difficulties in the late Convention. At one time the great and interesting work seemed to be at a stand, at another it proceeded with energy and rapidity, and when at last, it was accomplished, many respectable members beheld it with wonder and admiration. But having pointed out the obstacles which they had to encounter, I shall now beg leave to direct your attention, to the end which the Convention proposed.

Our wants, imperfections, and weakness, Mr. President, naturally incline us to society ; but it is certain, society cannot exist without some restraints. In a state of nature each individual has a right, uncontroled, to act as his pleasure or his interest may prevail, but it must be observed that this licence extends to every individual, and hence the state of nature is rendered insupportable, by the interfering claims, and the consequent animosities of men, who are independant of every power and influence, but their passions and their will. On the other hand, in entering into the social compact, though the individual parts with a portion of his natural rights, yet, it is evident that he gains more by the limitation of the liberty of others, than he loses by the limitation of his own,—so that in truth, the aggregate of liberty is more in society, than it is in a state of nature.

It is then, Sir, a fundamental principle of society, that the welfare of the whole shall be pursued and not of a part, and the measures necessary to the good of the community, must consequently be binding upon the individuals that compose it. This principle is universally allowed to be just with respect to single governments, and there are instances in which it applies with equal force to independent Communities ; for the situation and circumstances of states may make it as necessary for them, as for individuals, to associate. Hence, Mr. President, the important question arises—*are such the situation and circumstances of the American States ?*

At this period, America has it in her power to adopt either of the following modes of Government : She may dissolve the individual sovereignty of the States, and become one consolidated empire ; She may be divided into thirteen separate, independant, and unconnected Commonwealths ; she may be erected into two or more confederacies ; or, lastly, she may become one comprehensive Fœderal Republic.

Allow me, Sir, to take a short view of each of these suppositions. Is it probable that the dissolution of the State governments, and the establishment of one consolidated empire, would be eligible in its nature, and satisfactory to the people in its administration ? I think not, as I have given reasons to shew that so extensive a territory could not be governed, connected, and preserved, but by the Supremacy of despotic power. All the exertions of the most potent Emperors of Rome were not capable of keeping that Empire together, which in extent was far inferior to the dominion of America. Would an Independent, an unconnected situation, without any associating head, be advantageous or satisfactory ? The consequences of this system would at one time expose the States to foreign insult and depredations, and, at another, to internal jealousy, contention, and war. Then let us consider the plan of two or more confederacies which has often been suggested, and which certainly presents some aspects more inviting than either of the preceding modes, since the subjects of strife would not be so numerous, the strength of the confederates would be greater, and their interests more united. But even here
when

when we fairly weigh the advantages and the disadvantages, we shall find the last greatly preponderating; the expences of government would be considerably multiplied, the seeds of rivalry and animosity would spring up, and spread the calamities of war and tumult through the country; for tho' the sources of rancour might be diminished, their strength, and virulence would probably be increased.

Of these three species of government, however, I must observe, that they obtained no advocates in the Fœderal Convention, nor can I presume that they will find advocates here, or in any of our sister states. The general sentiment in that body, and, I believe, the general sentiment of the citizens of America, is expressed in the motto which some of them have chosen, *UNITE OR DIE*; and while we consider the extent of the country, so intersected and almost surrounded with navigable rivers, so separated and detached from the rest of the world, it is natural to presume that Providence has designed us for an united people, under one great political compact. If this is a just and reasonable conclusion, supported by the wishes of the people, the Convention did right in proposing a single confederated Republic. But in proposing it they were necessarily lead, not only to consider the situation, circumstances, and interests of one, two, or three states, but of the collective body; and as it is essential to society, that the welfare of the whole should be preferred to the accommodation of a part, they followed the same rule in promoting the national advantages of the Union, in preference to the separate advantages of the States. A principle of candor, as well as duty, lead to this conduct; for, as I have said before, no government, either single or confederated can exist, unless private and individual rights are subservient to the public and general happiness of the nation. It was not alone the state of Pennsylvania, however important she may be as a constituent part of the union, that could influence the deliberations of a Convention, formed by a delegation from all the United States, to devise a government adequate to their common exigencies, and impartial in its influence and operation. In the spirit of union, inculcated by the nature of their commission, they framed the constitution before us, and in the same spirit, they submit it to the candid consideration of their constituents.

Having made some remarks upon the nature and principles of civil society, I shall now take a cursory notice of civil liberty, which is essential to the well-being of civil government. The definition of civil liberty is, briefly, that portion of natural liberty which men resign to the government, and which then produces more happiness, than it would have produced if retained by the individuals who resign it;—still however leaving to the human mind, the full enjoyment of every privilege that is not incompatible with the peace and order of society. Here I am easily lead to the consideration of another species of liberty, which has not yet received a discriminating name, but which I will venture to term Fœderal liberty. This, Sir, consists in the aggregate of the civil liberty which is surrendered by each state to the national government; and the same principles that operate in the establishment of a single society, with respect to the rights reserved or resigned by the individuals that compose it, will justly apply in the case of a confederation of distinct and Independent States.

These observations have been made, Mr Resident, in order to preface a representation of the state of the union, as it appeared to the late Convention. We all know, and we have all felt, that the present system of confederation is inadequate to the government and the exigencies of the United States. Need I describe the contrasted scene which the revolution has presented to our view? On the one hand, the arduous struggle in the cause of liberty terminated by a glorious and triumphant peace; on the other, contention and poverty at home, discredit and disgrace abroad. Do we not remember what high expectations were formed by others and by ourselves

ourselves, on the return of peace? And have those honorable expectations from our national character, been realized? No!—What then has been the cause of disappointment? Has America lost her magnanimity or perseverance? no. Has she been subdued by any high handed invasion of her liberties? still I answer no; for, dangers of that kind were no sooner seen, than they were repelled. But the evil has stolen in from a quarter little suspected, and the rock of Freedom, which stood firm against the attacks of a foreign foe, has been sapped and undermined by the licentiousness of our own citizens. Private calamity, and public anarchy have prevailed; and even the blessing of Independency has been scarcely felt or understood by a people who have dearly achieved it.

Shall I, Sir, be more particular in this lamentable history? The commencement of peace, was likewise the commencement of our distresses and disgrace. Devoid of power, we could neither prevent the excessive importations which lately deluged the country, nor even raise from that excess a contribution to the public revenue; devoid of importance, we were unable to command a sale for our commodities in a foreign market; devoid of credit, our public securities were melting in the hands of their deluded owners, like snow before the Sun; devoid of dignity, we were inadequate to perform treaties on our own part, or to compel a performance on the part of a contracting nation. In short, Sir, the tedious tale disgusts me, and I fondly hope, it is unnecessary to proceed. The years of languor are over. We have seen dishonor and destruction, it is true, but we have at length penetrated the cause, and are now anxious to obtain the cure. The cause need not be specified by a recapitulation of facts; every act of Congress, and the proceedings of every State are replete with proofs in that respect, and all point to the weakness and imbecility of the existing Confederation; while the loud and concurrent voice of the people proclaims an efficient national government to be the only cure. Under these impressions, and with these views, the late Convention were appointed and met; the end which they proposed to accomplish, being to frame one national and efficient government, in which the exercise of beneficence, correcting the jarring interests of every part, should pervade the whole, and by which the peace, freedom, and happiness of the United States should be permanently ensured. The principles and means that were adopted by the Convention to obtain that end, are now before us, and will become the great object of our discussion. But on this point, as upon others, permit me to make a few general observations.

In all governments, whatever is their form, however they may be constituted, there must be a power established, from which there is no appeal; and which is therefore called absolute, supreme, and uncontrollable. The only question is, where that power is lodged?—a question that will receive different answers from the different writers on the subject. Sir William Blackstone says, it resides in the omnipotence of the British Parliament, or in other words, corresponding with the practice of that country, it is whatever the British Parliament pleases to do: So that when that body was so base and treacherous to the rights of the people as to transfer the legislative authority to Henry the eighth, his exercising that authority by proclamations and edicts, could not strictly speaking be termed unconstitutional, for under the act of Parliament his will was made the law, and therefore, his will became in that respect the constitution itself. But were we to ask some politicians who have taken a faint and inaccurate view of our establishments, where does this supreme power reside in the United States? They would probably answer, in their Constitutions. This however, tho' a step nearer to the fact, is not a just opinion; for, in truth, it remains and flourishes with the people; and under the influence of that truth we, at this moment, sit, deliberate and speak. In other countries, indeed

the revolutions of government are connected with war, and all its concomitant calamities. But with us, they are considered as the means of obtaining a superior knowledge of the nature of government, and of accomplishing its end. That the supreme power therefore, should be vested in the people, is, in my judgment, the great panacea of human politics. It is a power paramount to every constitution, inalienable in its nature, and indefinite in its extent. For, I insist, if there are errors in government the people have the right not only to correct and amend them, but likewise totally to change and reject its form ; and under the operation of that right, the citizens of the United States can never be wretched beyond retrieve, unless they are wanting to themselves.

Then let us examine, Mr. President, the three species of simple governments, which, as I have already mentioned, are the monarchical, aristocratical and democratical. In a monarchy, the supreme power is vested in a single person : in an aristocracy, it is possessed by a body, not formed upon the principle of representation, but enjoying their station by descent, by election among themselves, or in right of some personal or territorial qualification ; and, lastly, in a democracy, it is inherent in the people, and is either exercised by themselves or by their representatives. Each of these systems has its advantages, and its disadvantages. The advantages of a monarchy are strength, dispatch, and unity : its disadvantages are expence, tyranny, and war. The advantages of an aristocracy are experience, and the wisdom resulting from education : its disadvantages are the disunion of the governors, and the oppression of the people. The advantages of a democracy are liberty, caution, industry, fidelity, and an opportunity of bringing forward the talents and abilities of the citizens, without regard to birth or fortune : its disadvantages are disunion and imbecility, for the assent of many being required, their exertions will be feeble, and their councils too soon discovered.

To obtain all the advantages, and to avoid all the inconveniences of these governments, was the leading object of the late Convention. Having therefore considered the formation and principles of other systems, it is natural to enquire, of what description is the Constitution before us ? In its principles, Sir, it is purely democratical ; varying indeed, in its form, in order to admit all the advantages, and to exclude all the disadvantages which are incidental to the known and established constitutions of government. But when we take an extensive and accurate view of the streams of power that appear through this great and comprehensive plan, when we contemplate the variety of their directions, the force and dignity of their currents, when we behold them intersecting, embracing, and surrounding the vast possessions and interests of the Continent, and when we see them distributing on all hands, beauty, energy and riches, still, however numerous and wide their courses, however diversified and remote the blessings they diffuse, we shall be able to trace them all to one great and noble source, **THE PEOPLE.**

Such, Mr. President, are the general observations with which I have thought it necessary to trouble you. In discussing the distinct propositions of the Fœderal Plan, I shall have occasion to apply them more particularly to that subject, but at present, I shall conclude with requesting the pardon of the Convention for having so long intruded upon their patience.

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I do Certify that Mr. Thomas Bradford has this 26th day of November, 1787, entered a Pamphlet, entitled, "The substance of a Speech delivered by James Wilson, Esq. Explanatory of the general principles of the proposed Federal Constitution; upon a Motion made by the Honorable Thomas M'Kean, in the Convention of the State of Pennsylvania," agreeable to an Act of Assembly.

J. B. SMITH,
Prothonatary of Philadelphia County.



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