

## **The Address and Reasons of Dissent of the Minority of the Convention of the State of Pennsylvania to their Constituents, 12 December 1787**

It was not until after the termination of the late glorious contest, which made the people of the United States an independent nation, that any defect was discovered in the present confederation. It was formed by some of the ablest patriots in America. It carried us successfully through the war; and the virtue and patriotism of the people, with their disposition to promote the common cause, supplied the want of power in Congress.

The requisition of Congress for the five percent impost was made before the peace, so early as the first of February 1781, but was prevented taking effect by the refusal of one state; yet it is probable every state in the union would have agreed to this measure at that period had it not been for the extravagant terms in which it was demanded. The requisition was new molded in the year 1783, and accompanied with an additional demand of certain supplementary funds for 25 years. Peace had now taken place, and the United States found themselves laboring under a considerable foreign and domestic debt, incurred during the war. The requisition of 1783 was commensurate with the interest of the debt, as it was then calculated; but it has been more accurately ascertained since that time. The domestic debt has been found to fall several millions of dollars short of the calculation, and it has lately been considerably diminished by large sales of the western lands. The states have been called on by Congress annually for supplies until the general system of finance proposed in 1783 should take place.

It was at this time that the want of an efficient federal government was first complained of, and that the powers vested in Congress were found to be inadequate to the procuring of the benefits that should result from the union. The impost was granted by most of the states, but many refused the supplementary funds; the annual requisitions were set at naught by some of the states, while others complied with them by legislative acts, but were tardy in their payments, and Congress found themselves incapable of complying with their engagements, and supporting the federal government. It was found that our national character was sinking in the opinion of foreign nations. The Congress could make treaties of commerce, but could not enforce the observance of them. We were suffering from the restrictions of foreign nations, who had shackled our commerce, while we were unable to retaliate; and all now agreed that it would be advantageous to the union to enlarge the powers of Congress; that they should be enabled in the amplest manner to regulate commerce, and to lay and collect duties on the imports throughout the United States. With this view a convention was first proposed by Virginia, and finally recommended by Congress for the different states to appoint deputies to meet in convention, "for the purposes of revising and amending the present articles of confederation, so as to make them adequate to the exigencies of the union." This recommendation the legislatures of twelve states complied with so hastily as not to consult their constituents on the subject; and though the different legislatures had no authority from their constituents for the purpose, they probably apprehended the necessity would justify the measure; and none of them extended their ideas at that time further than "revising and amending the present articles of confederation." Pennsylvania by the act appointing deputies expressly confined their powers to this object; and though it is probable that some of the

members of the assembly of this state had at that time in contemplation to annihilate the present confederation, as well as the constitution of Pennsylvania, yet the plan was not sufficiently matured to communicate it to the public.

The majority of the legislature of this commonwealth were at that time under the influence of the members from the city of Philadelphia. They agreed that the deputies sent by them to convention should have no compensation for their services, which determination was calculated to prevent the election of any member who resided at a distance from the city. It was in vain for the minority to attempt electing delegates to the convention, who understood the circumstances, and the feelings of the people, and had a common interest with them. They found a disposition in the leaders of the majority of the house to choose themselves and some of their dependents. The minority attempted to prevent this by agreeing to vote for some of the leading members, who they knew had influence enough to be appointed at any rate, in hopes of carrying with them some respectable citizens of Philadelphia, in whose principles and integrity they could have more confidence; but even in this they were disappointed, except in one member [Jared Ingersoll]: the eighth member [Benjamin Franklin] was added at a subsequent session of the assembly.

The Continental convention met in the city of Philadelphia at the time appointed. It was composed of some men of excellent characters; of others who were more remarkable for their ambition and cunning, than their patriotism; and of some who had been opponents to the independence of the United States. The delegates from Pennsylvania were, six of them, uniform and decided opponents to the constitution of this commonwealth. The convention sat upwards of four months. The doors were kept shut, and the members brought under the most solemn engagements of secrecy. Some of those who opposed their going so far beyond their powers retired, hopeless, from the convention, others had the firmness to refuse signing the plan altogether; and many who did sign it, did it not as a system they wholly approved, but as the best that could be then obtained, and notwithstanding the time spent on this subject, it is agreed on all hands to be a work of haste and accommodation.

Whilst the gilded chains were forging in the secret conclave, the meaner instruments of despotism without were busily employed in alarming the fears of the people with dangers which did not exist, and exciting their hopes of greater advantages from the expected plan than even the best government on earth could produce.

The proposed plan had not many hours issued forth from the womb of suspicious secrecy, until such as were prepared for the purpose were carrying about petitions for people to sign, signifying their approbation of the system, and requesting the legislature to call a convention. While every measure was taken to intimidate the people against opposing it, the public papers teemed with the most violent threats against those who should dare to think for themselves, and tar and feathers were liberally promised to all those who would not immediately join in supporting the proposed government be it what it would. Under such circumstances petitions in favor of calling a convention were signed by great numbers in and about the city, before they had leisure to read and examine the system, many of whom, now they are better acquainted with it, and have had time to investigate its principles, are heartily opposed to it. The petitions were speedily handed into the legislature.

Affairs were in this situation when on the 28th of September last, a resolution was proposed to the assembly by a member [George Clymer] of the house who had been also a member of the federal convention, for calling a state convention, to be elected within ten days for the purpose of examining and adopting the proposed constitution of the United States, though at this time the house had not received it from Congress. This attempt was opposed by a minority, who after offering every argument in their power to prevent the precipitate measure, without effect, absented themselves from the house as the only alternative left them, to prevent the measure taking place previous to their constituents being acquainted with the business. That violence and outrage which had been so often threatened was now practiced; some of the members were seized the next day by a mob collected for the purpose, and forcibly dragged to the house, and there detained by force whilst the quorum of the legislature, so formed, completed their resolution. We shall dwell no longer on this subject, the people of Pennsylvania have been already acquainted therewith. We would only further observe that every member of the legislature, previously to taking his seat, by solemn oath or affirmation, declares, "that he will not do or consent to any act or thing whatever that shall have a tendency to lessen or abridge their rights and privileges, as declared in the constitution of this state." And that constitution which they are so solemnly sworn to support cannot legally be altered but by a recommendation of the council of censors, who alone are authorized to propose alterations and amendments, and even these must be published at least six months, for the consideration of the people. The proposed system of government for the United States, if adopted, will alter and may annihilate the constitution of Pennsylvania; and therefore the legislature had no authority whatever to recommend the calling a convention for that purpose. This proceeding could not be considered as binding on the people of this commonwealth. The house was formed by violence, some of the members composing it were detained there by force, which alone would have vitiated any proceedings, to which they were otherwise competent; but had the legislature been legally formed, this business was absolutely without their power.

In this situation of affairs were the subscribers elected members of the convention of Pennsylvania. A convention called by a legislature in direct violation of their duty, and composed in part of members, who were compelled to attend for that purpose, to consider of a constitution proposed by a convention of the United States, who were not appointed for the purpose of framing a new form of government, but whose powers were expressly confined to altering and amending the present articles of confederation. Therefore the members of the continental convention in proposing the plan acted as individuals, and not as deputies from Pennsylvania. The assembly who called the state convention acted as individuals, and not as the legislature of Pennsylvania; nor could they or the convention chosen on their recommendation have authority to do any act or thing, that can alter or annihilate the constitution of Pennsylvania (both of which will be done by the new constitution) nor are their proceedings in our opinion, at all binding on the people.

The election for members of the convention was held at so early a period and the want of information was so great, that some of us did not know of it until after it was over, and we have reason to believe that great numbers of the people of Pennsylvania have not yet had an opportunity of sufficiently examining the proposed constitution. We apprehend that no change can take place that will affect the internal government or constitution of this commonwealth,

unless a majority of the people should evidence a wish for such a change; but on examining the number of votes given for members of the present state convention, we find that of upwards of seventy thousand freemen who are entitled to vote in Pennsylvania, the whole convention has been elected by about thirteen thousand voters, and though two-thirds of the members of the convention have thought proper to ratify the proposed constitution, yet those two-thirds were elected by the votes of only six thousand and eight hundred freemen.

In the city of Philadelphia and some of the eastern counties, the junto that took the lead in the business agreed to vote for none but such as would solemnly promise to adopt the system in toto, without exercising their judgment. In many of the counties the people did not attend the elections as they had not an opportunity of judging of the plan. Others did not consider themselves bound by the call of a set of men who assembled at the state house in Philadelphia, and assumed the name of the legislature of Pennsylvania; and some were prevented from voting by the violence of the party who were determined at all events to force down the measure. To such lengths did the tools of despotism carry their outrage, that in the night of the election for members of convention, in the city of Philadelphia, several of the subscribers (being then in the city to transact your business) were grossly abused, ill-treated and insulted while they were quiet in their lodgings, though they did not interfere, nor had anything to do with the said election, but, as they apprehend, because they were supposed to be adverse to the proposed constitution, and would not tamely surrender those sacred rights, which you had committed to their charge.

The convention met, and the same disposition was soon manifested in considering the proposed constitution, that had been exhibited in every other stage of the business. We were prohibited by an express vote of the convention, from taking any question on the separate articles of the plan, and reduced to the necessity of adopting or rejecting in toto. Tis true the majority permitted us to debate on each article, but restrained us from proposing amendments. They also determined not to permit us to enter on the minutes our reasons of dissent against any of the articles, nor even on the final question our reasons of dissent against the whole. Thus situated we entered on the examination of the proposed system of government, and found it to be such as we could not adopt, without, as we conceived, surrendering up your dearest rights. We offered our objections to the convention, and opposed those parts of the plan, which, in our opinion, would be injurious to you, in the best manner we were able; and closed our arguments by offering the following propositions to the convention.

1. The right of conscience shall be held inviolable; and neither the legislative, executive, nor judicial powers of the United States shall have authority to alter, abrogate, or infringe any part of the constitution of the several states, which provide for the preservation of liberty in matters of religion.
2. That in controversies respecting property, and in suits between man and man, trial by jury shall remain as heretofore, as well in the federal courts, as in those of the several states.
3. That in all capital and criminal prosecutions, a man has a right to demand the cause and nature of his accusation, as well in the federal courts, as in those of the several states; to be heard by himself and his counsel; to be confronted with the accusers and witnesses; to call for evidence in his favor, and a speedy trial by an impartial jury of his vicinage, without whose

unanimous consent, he cannot be found guilty, nor can he be compelled to give evidence against himself; and that no man be deprived of his liberty, except by the law of the land or the judgment of his peers.

4. That excessive bail ought not to be required, nor excessive fines imposed, nor cruel nor unusual punishments inflicted.

5. That warrants unsupported by evidence, whereby any officer or messenger may be commanded or required to search suspected places, or to seize any person or persons, his or their property, not particularly described, are grievous and oppressive, and shall not be granted either by the magistrates of the federal government or others.

6. That the people have a right to the freedom of speech, of writing and publishing their sentiments, therefore, the freedom of the press shall not be restrained by any law of the United States.

7. That the people have a right to bear arms for the defense of themselves and their own state, or the United States, or for the purpose of killing game; and no law shall be passed for disarming the people or any of them, unless for crimes committed, or real danger of public injury from individuals; and as standing armies in the time of peace are dangerous to liberty, they ought not to be kept up; and that the military shall be kept under strict subordination to and be governed by the civil powers.

8. The inhabitants of the several states shall have liberty to fowl and hunt in seasonable times, on the lands they hold, and on all other lands in the United States not enclosed, and in like manner to fish in all navigable waters, and others not private property, without being restrained therein by any laws to be passed by the legislature of the United States.

9. That no law shall be passed to restrain the legislatures of the several states from enacting laws for imposing taxes, except imposts and duties on goods imported or exported, and that no taxes, except imposts and duties upon goods imported and exported, and postage on letters shall be levied by the authority of Congress.

10. That the house of representatives be properly increased in number; that elections shall remain free; that the several states shall have power to regulate the elections for senators and representatives, without being controlled either directly or indirectly by an interference on the part of the Congress; and that elections of representatives be annual.

11. That the power of organizing, arming, and disciplining the militia (the manner of disciplining the militia to be prescribed by Congress) remain with the individual states, and that Congress shall not have authority to call or march any of the militia out of their own state, without the consent of such state, and for such length of time only as such state shall agree.

That the sovereignty, freedom, and independency of the several states shall be retained, and every power, jurisdiction, and right which is not by this constitution expressly delegated to the United States in Congress assembled.

12. That the legislative, executive, and judicial powers be kept separate; and to this end that a constitutional council be appointed, to advise and assist the president, who shall be responsible

for the advice they give, hereby the senators would be relieved from almost constant attendance; and also that the judges be made completely independent.

13. That no treaty which shall be directly opposed to the existing laws of the United States in Congress assembled shall be valid until such laws shall be repealed, or made conformable to such treaty; neither shall any treaties be valid which are in contradiction to the constitution of the United States, or the constitutions of the several states.

14. That the judiciary power of the United States shall be confined to cases affecting ambassadors, other public ministers and consuls; to cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more states—between a state and citizens of different states—between citizens claiming lands under grants of different states; and between a state or the citizens thereof and foreign states, and in criminal cases, to such only as are expressly enumerated in the constitution, and that the United States in Congress assembled shall not have power to enact laws, which shall alter the laws of descents and distribution of the effects of deceased persons, the titles of lands or goods, or the regulation of contracts in the individual states.

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