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George Clinton: Remarks on the Mode of Ratifying the Constitution, 17 July 1788

Remarks made in the N.Y. State Convention on the question as to the mode, in which the State should express its acceptance of the new Constitution.

Altho' I came to the Convention impressed with an idea that the system of Government proposed for our adoption was unsafe and dangerous to the liberties of the people, and I conceive that the measures which were taken to introduce this change of govt. were equally exceptionable. Yet I was sensible that I was as all other men are liable to error and as I entertained a high opinion of the good sense, and patriotism of many of the gentlemen who advocated it, I came here with a firm determination to hear with coolness, and candor the arguments which might be offered in its favor and to give them their due weight.

I have therefore avoided taking any considerable part in the debates lest as is too apt to be the case, I might become prejudiced in favor of my own reasoning—the little that I have said, it must appear has been rather to raise objections with a view of having them answered than to support any opinion on either side of the question—I have listened with candor and attention to every argument that has been offered in support of the system when under debate by paragraphs and as far as I have been capable, I have given them their due weight, and if they had been such as would have convinced me that my first opinion was wrong, I would have cheerfully acquiesced and used my utmost endeavours by the same arguments to spread conviction among my constituents and to reconcile them to the plan.

Unfortunately, however, this has not been the case—some explanations indeed have been made of articles doubtful in their nature, which I never thought very material—but I can with great truth and sincerity declare that notwithstanding every thing I have yet heard the principal objections agt. the system remain in my mind unimpaired and in full force.

Nothing has been offered to convince my judgment that the representation is not too feeble and imperfect considering the extensive and undefined powers that are committed to this government or that there is a sufficient degree of security under this Constitution that the will of the people will be the law. And this it must be admitted is the only true definition of a free government. Nor is there sufficient security afforded for the existence of the states Sovty. which I consider the only stable security for the liberties of the people against the encroachments of power.

The system still appears to be radically defective in its organization—the most important legislative, judicial and executive powers being dangerously blended together in the President and Senate.—whereby responsibility is in a great measure destroyed.

The judicial department also appears to me equally defective—it is not however my intention at this time to enter into a detail of arguments to establish these points—it is not necessary to take up the time of the Committee in repeating arguments that have been already alledged by other gentlemen, especially as the amendments proposed which are calculated to cure these defects in some degree will naturally recal to the minds of gentlemen the reasons upon which they are founded.

In the course of the debate some new doctrines have indeed been attempted to be established which if they could be supported would seem in a degree to obviate some of the objections that have been made to the system. to wit. that the only true security the people can have in a govt. is its being a representative governt. formed upon republican principles and a proper distribution of the Legislative, Judicial & Executive powers—

But it will be easily perceived that this doctrine is not only wrong in itself but even a departure from the principles pursued by the very framers of this Governt. because we will find that it contains several limitations such as the suspension of the Writ of Habeas Corpus, the passing of Bills of attainder and Ex post facto laws and the creation of a Nobility—Whereas if the doctrine attempted to be established was true in almost any extent these provisions would have been utterly unnecessary—for after having provided for the organization of the government and the due distribution of its powers the whole system might have been comprised in these words—Congress shall have power to provide for the common defence and general welfare and to make all laws which in their judgment may be necessary and proper for these purposes or in the words of the powers that were given to the Roman Dictators So take care that the Republic receives no detriment

The other principle I allude to will be found among the reasonings offered against the amendment rendering the Senate in a greater degree responsible to their constituents than they now are. It will be remembered that it was alledged it would render them too dependent upon the will of the Legislatures of the States and that they might be influenced from pursuing the public good by the local views, passions and prejudices of their Constituents. I will only observe that these sentiments will not apply to a deliberative body and that it must appear that they are in every point of view contrary to the principles of a free representative government for if the representative is not to be subject to the will of his Constituents, lest he might be influenced to do wrong, but is in his Representative capacity to express his own not their will, then it is evident that the will of a few must become the law, and this is the essence of Tyranny.

The Committee I trust will pardon me for this digression from the point in question. I shall now proceed to make some objections more particularly applicable to the question now before the Committee—

The motion on which the question arises is for postponing one previously made (the purport of which is to procure an unconditional adoption of the Constitution) and to introduce a different plan of adoption—The principal question that has been raised upon this subject, is whether the last mode will be such an adoption as that Congress can receive us into the union—

This matter has been so fully and ably debated by Gentlemen on both sides of the House, that it would be vain in me to attempt to offer any new arguments, as it is fairly exhausted—That doubts may be raised and supported with a great degree of plausibility upon almost any political subject is certain—that in all questions of this kind, where the matter might depend upon the

will of a public who are perhaps as frequently if not more so governed by motives of political expediency than other considerations, the issue must be attended with a degree of uncertainty—I have weighed with care and attention the arguments offered on both sides—I do not pretend to be capable of forming a perfect judgment upon the subject—but as far as my reasoning and reflection go, to me it appears that Congress may without a violation of the Constitution, receive the states on the terms of ratification proposed into the union—nay, I believe if they do not that their denial will not arise from the want of power. I believe I may venture to say that a refusal on this ground will be a more rigid adherence to compact and that too upon more refined constructive reasoning & metaphysical distinctions than ever a body of this kind adhered to before. I am persuaded there is not a State in the Union nay I question if there is in the world, who have not upon less interesting occasions made greater departure from the fundamental principles of the Government than this will be if it can be called a departure at all.

I would ask whether in the establishment of this new Government, we find such a religious adherence to Compact—Has it not originated and grown into what it is from motives of political expediency? Has it not been submitted to upon this consideration alone? Have not all the measures that have introduced it and that are now bringing into action been in the face of compact, in direct violation of solemn plighted faith?¹ Can this govt. ever be consistently with compact put into operation without the consent of every state in the Union? Why then should we suppose upon this occasion that the states who have acceded to it contrary to original compact, should hesitate to receive us when only justified in a refusal by refined and subtle distinctions? Would not this be indeed like swallowing a Camel and choking with a gnat?

But by one Gentlman. arguments have been alledged to show that it would not be the interest of the other States to receive us into the union—Let us examine the matter upon this ground. I will not take up the Honble. Gentmns. reasoning with respect to the increase or decrease of influence it might occasion to the greater or smaller states—these might have weight if the Govt. was fairly and firmly established and brought into operation—but I humbly conceive they can have none in the present situation of affairs. I beg Gentm. to reflect upon the real situation of the U. S. as to this Govt. Let them coolly and calmly reflect whether it is probable that they will be able to establish and support it—against the will of so large a proportion of the Community from one end of the Continent to the other unless essential amendments take place and in the mean time a suspension of the exercise of certain powers most obnoxious to the people?

It has been observed by an Honble. Gentm. that it has had 11 verdicts in its favor, the Convention at Philadelphia and 10 other states and that therefore we ought to acquiesce in it.—That Gentn. well knows it is essential to a verdict that the Jury be unanimous and in this view it will be found to have but very few verdicts indeed, and if we apply the evidence that may be drawn from the arguments to which we allude it affords the strongest testimony[,] the testimony of its warmest friends and advocates that it is dangerously and radically defective, since they have recommended essential amends.

Have Gentm. the smallest hope that the question will be carried on the motion—have they not the most convincing proofs to the contrary? Will not a negative be a rejection? Have they any reason to suppose it will promote the peace and harmony of the State? I entreat Gentlemen to reflect what will be the consequences if this proposal should be rejected and [the] question taken upon the original motion. We have been told of the necessity there is for a spirit of concil-

iation and unanimity upon this important point—An honble. Gentn. has in the most lively and pathetic manner pointed out the calamities that would ensue [from] our rising divided upon this subject—I will not repeat what has been said upon this occasion because I conceive that many of the observations that were thrown out by the Honble. Gentn. were highly indiscreet and improper—I wish they may never be repeated out of these walls—I verily believe they will tend to occasion the evils which I hope they were intended to prevent. Gentlemen ought to consider that the Country is divided upon this question that they have made up decidedly their sentiments and are warmly engaged in the support of them—that from the most conclusive testimony, a large majority of the people are opposed to the unconditional adoption of the system—some respect ought surely to be paid to their opinions it cannot be reasonably supposed that they will yield to [a] minority without the least concessions on the part of the latter—and if we reason rightly I believe we will be convinced that the danger will chiefly be in a deviation from the will of a majority.

Mr. Chairman

altho' I have as I before mentioned heard nothing in the Committee to change my opinion of the Constitution yet I shall be in favor of the present motion that I may have an opportunity of yielding my assent to the proposition made by the Honble. Gentn. from Dutchess. I think it my duty at the same time to declare that I could only be induced to this from a strong attachment to the union—from a spirit of conciliation and an earnest desire to promote peace and harmony among the Citizens of the states to forward the interest and happiness of whom I am bound by ties uncommonly strong.

I shall conclude sir by just observing that I think the proposition is a reasonable one, that it contains nothing that can give offence or that can prevent its being accepted—its object is barely to prevent the immediate operation of powers the most odious to our Constituents until they can be considered by the people of America to whose decision we declare our willingness to submit—There is nothing in the Proposition that can prevent the Government's going into full Operation and having full effect as to all essential National Concerns—The Conditions go only as to the Mode of changing the Government's Operations in the few instances mentioned in the Propositions—

I am convinced Sir, we have gone even beyond the will of our Constituents upon this occasion—but I have hopes that the reasons which have influenced us so to do will be satisfactory to them—

I will only add that the earnestness which has been discovered in this Committee to support most of the Clauses included among those termed conditional is with me an additional reason for holding them up in a conspicuous point of view as objects most wanting amendts.

Because I know most certainly that they are those which have given greatest Discontent—

1. Article XIII of the Articles of Confederation provided for the adoption of amendments when approved by Congress and all of the state legislatures.

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