

## John Smilie in the Pennsylvania Ratification Convention, 28 November 1787

JOHN SMILIE: I am happy, Mr. President, to find the argument placed upon the proper ground, and that the honorable member from the city [James Wilson] has so fully spoken on the question, whether this system proposes a consolidation or a confederation of the states as that is, in my humble opinion, the source of the greatest objection which can be made to its adoption. I agree likewise with him, sir, that it is, or ought to be, the object of all governments to fix upon the intermediate point between tyranny and licentiousness; and therefore, it will be one of the great objects of our inquiry to ascertain how far the proposed system deviates from that point of political happiness. For my part, I will readily confess that it appears to be well guarded against licentiousness, but I am apprehensive it has deviated a little on the left hand and rather invites, than guards against, the approaches of tyranny. I think however, Mr. President, it has been clearly argued that the proposed system does not directly abolish the governments of the several states because its organization, and, for some time perhaps, its operations, naturally presuppose their existence. But, sir, it is not said, nor is [it] thought, that the words of this instrument expressly announce that the sovereignty of the several states, their independency, jurisdiction, and power are at once absorbed and annihilated by the general government. To this position, and to this alone, the arguments of the honorable gentlemen can effectually apply, and there they must undoubtedly hold as long as the forms of state government remain, or, at least, till a change takes place in the Federal Constitution. It is, however, upon other principles that the final destruction of the individual governments is asserted to be a necessary consequence of their association under this general form. For, sir, it is the silent but certain operation of the powers, and not the cautious, but artful tenor of the expressions contained in this system that can excite terror or generate oppression. The flattery of language was indeed necessary to disguise the baneful purpose, but it is like the dazzling polish bestowed upon an instrument of death; and the visionary prospect of a magnificent, yet popular government was the most specious mode of rendering the people accessory to the ruin of those systems which they have so recently and so ardently labored to establish. Hence, sir, we may trace that passage which has been pronounced by the honorable delegate [James Wilson] to the late Convention with exultation and applause; but when it is declared that "We the people of the United States do ordain and establish this Constitution" is not the very foundation a proof of a consolidated government by the manifest subversion of the principle that constitutes a union of states, which are sovereign and independent except in the specific objects of confederation? These words have a plain and positive meaning which could not be misunderstood by those who employed them and therefore, sir, it is fair and reasonable to infer that it was in the contemplation of the framers of this system to absorb and abolish the efficient sovereignty and independent powers of the several states in order to invigorate and aggrandize the general government. The plan before us, then, explicitly proposes the formation of a new Constitution upon the original authority of the people and not an association of states upon the authority of their respective governments. On that ground, we perceive that it contains all the necessary parts of a complete system of government, the executive, legislative, and judicial establishments; and when two separate governments are at the same time in operation, over the same people, it will be difficult indeed to provide for each the means of

safety and defense against the other, but if those means are not provided, it will be easily foreseen that the stronger must eventually subdue and annihilate the weaker institution. Let us then examine the force and influence of the new system and inquire whether the small remnant of power left to the states can be adequate even to the trifling charge of its own preservation. Here, sir, we find the right of making laws for every purpose is invested in the future governors of America, and in this is included the uncontrolled jurisdiction over the purses of the people. The power of raising money is indeed the soul, the vital prop of legislation, without which legislation itself cannot for a moment exist. It will, however, be remarked that the power of taxation, though extended to the general government, is not taken from the states individually. Yes, sir! But it will be remembered that the national government may take from the people just what they please, and if anything should afterwards remain, then indeed the exigencies of the state governments may be supplied from the scanty gleanings of the harvest. Permit me now, sir, to call your attention to the powers enumerated in the 8th section of the first Article, and particularly to that clause which authorizes the proposed Congress "to lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defence and general welfare of the United States." With such powers, Mr. President, what cannot the future governors accomplish? It will be said, perhaps, that the treasure, thus accumulated, is raised and appropriated for the general welfare and the common defense of the states; but may not this pretext be easily perverted to other purposes since those very men who raise and appropriate the taxes are the only judges of what shall be deemed the general welfare and common defense of the national government? If then, Mr. President, they have unlimited power to drain the wealth of the people in every channel of taxation, whether by imposts on our commercial intercourse with foreign nations or by direct levies on the people, I repeat it, that this system must be too formidable for any single state, or even for a combination of the states, should an attempt be made to break and destroy the yoke of domination and tyranny which it will hereafter set up. If, indeed, the spirit of men, once inflamed with the knowledge of freedom, should occasionally blaze out in remonstrance, opposition, and force, these symptoms would naturally excite the jealousy of their rulers and tempt them to proceed in the career of usurpation till the total destruction of every principle of liberty should furnish a fit security for the exercise of arbitrary power. The money which has been raised from the people may then be effectually employed to keep them in a state of slavish subjection. The militia, regulated and commanded by the officers of the general government, will be warped from the patriotic nature of their institution, and a standing army, that most prevailing instrument of despotism, will be ever ready to enforce obedience to a government by which it is raised, supported, and enriched. If, under such circumstances, the several states should presume to assert their undelegated rights, I ask again, what balance remains with them to counteract the encroachment of so potent a superior? To assemble a military force would be impracticable for the general government, foreseeing the attempt would anticipate the means, by the exercise of its indefinite control over the purses of the people; and, in order to act upon the consciences as well as the persons of men, we find it is expressly stipulated that every officer of the state government shall be sworn to support the Constitution of the United States. Hence likewise, sir, I conclude that in every point of rivalry, in every contention for power on the one hand, and for freedom on the other, the event must be favorable to the views and pretensions of a government gifted with so decisive a

preeminence. Let us, however, regard this subject in another light. What, Mr. President, will be the feelings and ideas of the people when by the operation of the proposed system they are exposed to such accumulated expense for the maintenance of the general government? Is it not easy to foresee that however the states may be disposed individually to preserve the parade of independence and sovereignty, the people themselves will become indifferent, and at last, averse to the continuance of an expensive form, from which they derive no advantage? For, sir, the attachment of citizens to their government and its laws is founded upon the benefits which they derive from them, and it will last no longer than the duration of the power to confer those benefits. When, therefore, the people of the respective states shall find their governments grown torpid and divested of the means to promote their welfare and interests, they will not, sir, vainly idolize a shadow nor disburse their hardened wealth without the prospect of a compensation. The constitutions of the states having become weak and useless to every beneficial purpose will be suffered to dwindle and decay, and, thus if the governors of the Union are not too impatient for the accomplishment of unrivalled and absolute dominion, the destruction of state jurisdiction will be produced by its own insignificance. Having now, Mr. President, shown that eventually this system will establish a consolidated government, though the intention is not expressly avowed, I will take some notice of the honorable member's [James Wilson] principle culled from the mode of election which is here prescribed. Sir, we do not upon this occasion contend for forms which it is certain may exist long after the substance has forever perished. It is well remembered that the Roman senate continued to meet in all its ceremonies long after they had lost their power and the liberty of Rome had been sacrificed to the most horrid tyranny. Such, sir, must be the case with the state legislatures, which will necessarily degenerate into a mere name, or, at most, settle in a formal board of electors periodically assembled to exhibit the servile farce of filling up the federal representation. [Dallas' Debates, Pennsylvania Herald, 19 December]

Smilie: This Constitution goes too far in favor of tyranny. We admit that the form of the state governments must subsist, but their efficiency and power must be destroyed by the superabundant power of the general government.

It is not a federal government—not a confederation. It is a [complete?] government—legislative, judicial, executive. Its powers extend to almost all legislative acts, to taxes; and leave only to the states what they please. Article I, section 8: “collect Taxes” —“to make all Laws necessary &c.” Who are to be the judges of what is necessary for the welfare of United States?

The state governments cannot make head against the general government. Power will not lessen. A power of appropriating money, raising armies, and commanding the militia. Could the state governments oppose this?

There will be a rivalry between the general and state governments. On each side they will endeavor to increase their power. Oaths to be taken to the general government. The state governments will lose the attachment of their citizens by losing their power. The people will not support them; but will suffer them to dwindle to nothing. The forms of government may subsist after the substance is gone as in the senate of Rome. The state elections will be ill-attended. The state governments will be mere electors. Will one consolidated government be a proper one for the United States? [Wilson's Notes, PHI]

Smilie: The federal government does not immediately abolish the state governments but eventually it will produce it. Instead of the word “People” in the Preamble, it should be “State.” This shows the Convention intended to destroy the state governments. The general government have such extensive powers in point of taxation, that the states can do but little—they can only tax the little that is left, if anything. The power of raising armies, the power of Congress over the militia of each state, is formidable to liberty. If state governments cannot raise money enough to pay their officers, they will not serve those governments without salaries. The forms of government may subsist when the substance is gone as in the case of ancient Rome. [Yeates’s Notes, PHi]

Smilie: This Constitution has fully guarded against licentiousness, but it had gone to the left hand, i.e., in favor of tyranny. It is a complete system of government in itself and not a confederation.

The powers of levying taxes, etc. takes away all power on that head from the state legislatures (8th section, 1 Article, vide the first and last paragraphs). If they have the power of laying and collecting taxes, they leave nothing to the state governments. The forms of government may exist after, long after, the liberties of the people are done away. Instance the Roman Republic when the senate were but a name—the senate—were hereditary or by the appointment of the prince. [Wayne’s Notes, Cox Collection]

Answer: Who are the members that constitute this body—the people or their representatives? Can they do any act that they themselves are not bound by; and if they lay excessive taxes, the people will have it in their power to return other men (vide section 7th of 1st [Article] for the originating of revenue bill).

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