



Speech of James Wilson (October 6, 1787)

Mr. Chairman and Fellow Citizens: Having received the honor of an appointment to represent you in the late convention, it is perhaps my duty to comply with the request of many gentlemen whose characters and judgements I sincerely respect, and who have urged that this would be a proper occasion to lay before you any information which will serve to explain and elucidate the principles and arrangements of the constitution that has been submitted to the consideration of the United States....

It will be proper ... to mark the leading discrimination between the State constitutions and the constitution of the United States. When the people established the powers of legislation under their separate governments, they invested their representatives with every right and authority which they did not in explicit terms reserve; and therefore upon every question respecting the jurisdiction of the House of Assembly, if the frame of government is silent, the jurisdiction is efficient and complete. But in delegating federal powers, another criterion was necessarily introduced, and the congressional power is to be collected, not from tacit implication, but from the positive grant expressed in the instrument of the union. Hence, it is evident, that in the former case everything which is not reserved is given; but in the latter the reverse of the proposition prevails, and everything which is not given is reserved.

This distinction being recognized, will furnish an answer to those who think the omission of a bill of rights a defect in the proposed constitution; for it would have been superfluous and absurd to have stipulated with a federal body of our own creation, that we should enjoy those privileges of which we are not divested, either by the intention or the act that has brought the body into existence. For instance, the liberty of the press, which has been a copious source of declamation and opposition --- what control can proceed from the Federal government to shackle or destroy that sacred palladium of national freedom? If, indeed, a power similar to that which has been granted for the regulation of commerce had been granted to regulate literary publications, it would have been as necessary to stipulate that the liberty of the press should be preserved inviolate, as that the impost should be general in its operation. With respect likewise to the particular district of ten



miles, which is to be made the seat of federal government, it will undoubtedly be proper to observe this salutary precaution, as there the legislative power will be exclusively lodged in the President, Senate, and House of Representatives of the United States. But this could not be an object with the Convention, for it must naturally depend upon a future compact to which the citizens immediately interested will, and ought to be, parties; and there is no reason to suspect that so popular a privilege will in that case be neglected. In truth, then, the proposed system possesses no influence whatever upon the press, and it would have been merely nugatory to have introduced a formal declaration upon the subject --- nay, that very declaration might have been construed to imply that some degree of power was given, since we undertook to define its extent.

Another objection that has been fabricated against the new constitution, is expressed in this disingenuous form --- "The trial by jury is abolished in civil cases." I must be excused, my fellow citizens, if upon this point I take advantage of my professional experience to detect the futility of the assertion. Let it be remembered then, that the business of the Federal Convention was not local, but general --- not limited to the views and establishments of a single State, but co-extensive with the continent, and comprehending the views and establishments of thirteen independent sovereignties. When, therefore, this subject was in discussion, we were involved in difficulties which pressed on all sides, and no precedent could be discovered to direct our course. The cases open to a trial by jury differed in the different States. It was therefore impracticable, on that ground, to have made a general rule. The want of uniformity would have rendered any reference to the practice of the States idle and useless; and it could not with any propriety be said that, "The trial by jury shall be as heretofore," since there has never existed any federal system of jurisprudence, to which the declaration could relate. Besides, it is not in all cases that the trial by jury is adopted in civil questions; for cases depending in courts of admiralty, such as relate to maritime captures, and such as are agitated in courts of equity, do not require the intervention of that tribunal. How, then was the line of discrimination to be drawn? The Convention found the task too difficult for them, and they left the business as it stands, in the fullest confidence that no danger could possibly ensue, since the proceedings of the Supreme Court are to be regulated by the Congress, which is a faithful representation of the people; and the oppression of government is effectually barred, by declaring that in all criminal cases the trial by jury shall be preserved.

This constitution, it has been further urged, is of a pernicious tendency, because it tolerates a standing army in the time of peace. This has always been a topic of popular declamation; and yet I do not know a nation in the world which has not found it necessary and useful to maintain the appearance of strength in a season of the most profound tranquility. Nor is it a novelty with us; for under the present articles of confederation, Congress certainly possesses this reprobated power, and the exercise of that power is proved at this moment by her cantonments along the banks of the Ohio. But what would be our national situation were it otherwise? Every principle of policy must be subverted, and the government must declare war, before they are prepared to carry it on. Whatever may be the provocation, however important the object in view, and however necessary dispatch and secrecy may be, still the declaration must precede the preparation, and the enemy will be informed of your intention, not only before you are equipped for an attack, but even before you are fortified for a defence. The consequence is too obvious

to require any further delineation, and no man who regards the dignity and safety of his country can deny the necessity of a military force, under the control and with the restrictions which the new constitution provides.

Perhaps there never was a charge made with less reasons than that which predicts the institution of a baneful aristocracy in the federal Senate. This body branches into two characters, the one legislative and the other executive. In its legislative character it can effect no purpose, without the co-operation of the House of Representatives, and in its executive character it can accomplish no object without the concurrence of the President. Thus fettered I do not know any act which the Senate can of itself perform, and such dependence necessarily precludes every idea of influence and superiority. But I will confess that in the organization of this body a compromise between contending interests is discernible; and when we reflect how various are the laws, commerce, habits, population and extent of the confederated States, this evidence of mutual concession and accommodation ought rather to command a generous applause, than to excite jealousy and reproach. For my part, my admiration can only be equalled by my astonishment in beholding so perfect a system formed from such heterogeneous materials.

The next accusation I shall consider is that which represents the federal constitution, as not only calculated, but designedly framed, to reduce the State governments to mere corporations and eventually to annihilate them. Those who have employed the term corporation upon this occasion are not perhaps aware of its extent. In common parlance, indeed, it is generally applied to petty associations for the ease and convenience of a few individuals; but in its enlarged sense, it will comprehend the government of Pennsylvania, the existing union of the States, and even this projected system is nothing more than a formal act of incorporation. But upon what pretence can it be alleged that it was designed to annihilate the State governments? For I will undertake to prove that upon their existence depends the existence of the Federal plan. For this purpose, permit me to call your attention to the manner in which the President, Senate and House of Representatives are proposed to be appointed. The President is to be chosen by electors, nominated in such manner as the legislature of each State may direct; so that if there is no legislature there can be no electors, and consequently the office of President cannot be supplied.

The Senate is to be composed of two Senators from each State, chosen by the Legislature; and, therefore, if there is no Legislature, there can be no Senate. The House of Representatives is to be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature; unless, therefore, there is a State Legislature, that qualification cannot be ascertained, and the popular branch of the federal constitution must be extinct. From this view, then, it is evidently absurd to suppose that the annihilation of the separate governments will result from their union; or, that having that intention, the authors of the new system would have bound their connection with such indissoluble ties. Let me here advert to an arrangement highly advantageous, for you will perceive, without prejudice to the powers of the Legislature in the election of Senators, the people at large will acquire an additional privilege in returning members to the House of Representatives; whereas, by the present confederation, it is the Legislature alone that appoints the delegates to Congress. The power of direct taxation has likewise been treated as an improper delegation to the federal

government; but when we consider it as the duty of that body to provide for the national safety, to support the dignity of the union, and to discharge the debts contracted upon the collected faith of the States for their common benefit, it must be acknowledged that those upon whom such important obligations are imposed, ought in justice and in policy to possess every means requisite for a faithful performance of their trust. But why should we be alarmed with visionary evils? I will venture to predict that the great revenue of the United States must, and always will, be raised by impost, for, being at once less obnoxious and more productive, the interest of the government will be best promoted by the accommodation of the people. Still, however, the objects of direct taxation should be within reach in all cases of emergency; and there is no more reason to apprehend oppression in the mode of collecting a revenue from this resource, than in the form of an impost, which by universal assent, is left to the authority of the federal government. In either case, the force of civil institutions will be adequate to the purpose; and the dread of military violence, which has been assiduously disseminated, must eventually prove the mere effusion of a wild imagination or a factious spirit. But the salutary consequences that must flow from thus enabling the government to receive and support the credit of the union, will afford another answer to the objections upon this ground. The State of Pennsylvania particularly, which has encumbered itself with the assumption of a great proportion of the public debt, will derive considerable relief and advantage, for, as it was the imbecility of the present confederation which gave rise to the funding law, that law must naturally expire, when a competent and energetic federal system shall be substituted --- the State will then be discharged from an extraordinary burthen, and the national creditor will find it to be his interest to return to his original security.

After all, my fellow-citizens, it is neither extraordinary or unexpected that the constitution offered to your consideration should meet with opposition. It is the nature of man to pursue his own interest in preference to the public good, and I do not mean to make any personal reflection when I add that it is the interest of a very numerous, powerful and respectable body to counteract and destroy the excellent work produced by the late convention. All the officers of government and all the appointments for the administration of justice and the collection of the public revenue which are transferred from the individual to the aggregate sovereignty of the States, will necessarily turn the stream of influence and emolument into a new channel. Every person, therefore, who enjoys or expects to enjoy a place of profit under the present establishment, will object to the proposed innovation; not, in truth, because it is injurious to the liberties of his country, but because it affects his schemes of wealth and consequence. I will confess, indeed, that I am not a blind admirer of this plan of government, and that there are some parts of it which, if my wish had prevailed, would certainly have been altered. But when I reflect how widely men differ in their opinions, and that every man (and the observation applies likewise to every State) has an equal pretension to assert his own, I am satisfied that anything nearer to perfection could not have been accomplished. If there are errors, it should be remembered that the seeds of reformation are sown in the work itself and the concurrence of two-thirds of the Congress may at any time introduce alterations and amendments. Regarding it, then, in every point of view, with a candid and disinterested mind, I am bold to assert that it is the best form of government which has ever been offered to the world.

