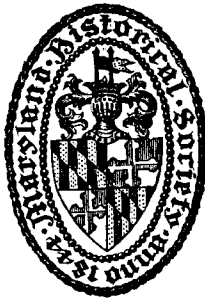


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power equal to 36,000 lbs., exclusive of the material, engine, &c. As all air vessels must depend upon their buoyancy and the weight of the atmosphere by which they are surrounded, for their efficacy, it is but fair to infer that with such buoyant power we shall be able to make the vessel a practically useful one, and that at no very distant day, verify the following prophetic lines by Darwin :¹

“Soon shall thy arm, unconquered steam, afar
 Drag the slow barge or drive the rapid car ;
 Or on wide waving wings expanded bear,
 The flying chariot through the fields of air !
 Fair crews triumphant, leaning from above,
 Shall wave their fluttering 'kerchiefs as they move ;
 Or warrior bands alarm the gaping crowd,
 And armies shrink beneath the shadowy cloud.”

[In view of the present rapid development of aerial navigation, this paper of sixty-eight years ago is of especial interest. The following endorsements indicate that it is the original paper presented to the Congress. “John H. Pennington, To petition The Congress of the United States, Mar. 1842. March 29, 1842, Refd. to the Committee on Military affairs. July 8th, 1842, Refd. to Comtee on Patents. Ask to be discharged & referred to Com. On Patents Dec. 3, 1842. Goggin 4 dis. & patents. Kennedy of Md.”]

LUTHER MARTIN'S SPEECH TO THE HOUSE OF DELEGATES, 1788.

(Contributed by Bernard C. Steiner.)

In the December number of the *Magazine* (Vol. IV, No. 4) was printed for the first time Dr. McHenry's speech to the Maryland House of Delegates upon the Federal Constitution. Luther Martin's speech on the same occasion was elaborated and revised by him and published contemporaneously, and republished in the first volume of Elliot's *Debates*. The draft of the speech as delivered came somehow into the possession of John Leeds Bozman, the historian, and was purchased, recently, with his other papers by the Library of Congress. This draft differs

¹ Erasmus Darwin, *The Botanic Garden*, 1791.

sufficiently from the published version to be worthy of publication and is now printed, through the kind permission of Mr. Gaillard Hunt, Chief of the Division of Manuscripts in the Congressional Library. The paper is endorsed: "Mr. Martin's speech to the House of Delegates" and reads as follows:

Mary Land, Novr. 29th, 1787.

Mr. Speaker.

When I joined the Convention I found that Mr. Randolph had laid before that Body certain propositions for their consideration, and that Convention had entered into many Resolutions, respecting their manner of conducting the Business one of which was that seven States might proceed to Business and therefore four States composing a majority of seven might eventually give the Law to the whole Union. Different instructions were given to Members of different States the Delegates from Delaware were instructed not to infringe their Local Constitution others were prohibited from assent to any duty in Commerce. Convention enjoined all to secrecy; so that we had no opportunity of gaining information by a Correspondence with others; and what was still more inconvenient extracts from their Journals were prohibited even for our own information.—It must be remembered that in forming the Confederation the State of Virginia proposed, and obstinately contended (though unsupported by any other) for representation according to Numbers: and the second resolve now brought forward by an Honourable Member from that State was formed in the same spirit that characterized its representatives in their endeavours to increase its powers and influence in the Federal Government. These Views in the larger States did not escape the observation of the lesser and meetings in private were formed to counteract them: the subject however was discussed with coolness in Convention, and hopes were formed that it might in some points be brought to Yield to reason, or if not, that at all events the lesser States were not precluded from introducing a different System; and particular Gentlemen were industriously employed in forming such a System at those periods in which Convention were not sitting.

At length the Committee of Detail brought forward their Reso-

lutions which gave to the larger States the same inequality in the Senate that they now are proposed to have in the House of Representatives. Virginia, Pennsylvania and Massachusetts would have one half—all the Officers and even the President were to be chosen by the Legislature so that these three States might have usurped the whole power. The President would always have been from one of the larger States and so chosen as to have an absolute negative, not only on the Laws of Congress, but also on the Laws of each respective State in the Union. Should the representation from the other States be complete; and by a Miracle ten States be so united as upon any occasion to procure a Majority; yet the President by his Negative might defeat the best intentions for the public good. Such a Government would be a Government by a Junto and bind hand and foot all the other States in the Union. On this occasion, the House will please to remember that Mr. Bo (sic)¹ was in the Chair, and General Washington and the Venerable Franklin on the floor, and led by State influence, neither of them objected to this System, but, on the Contrary, it seemed to meet their warm and cordial approbation. I revere those worthy Personages as much as any man can do, but I could not compliment them by a sacrifice of the trust reposed on me by this State by acquiescing in their opinion. Then it was, Mr. Speaker, that those persons who were labouring for the general good, brought forward a different System.—The absence of Mr. McHenry unhappily left Maryland with only two representatives, and they differed. New Hampshire Delegates were also absent. Mr. Patterson from New Jersey introduced this new system, by which it was proposed that the Laws of the Confederacy should be the Laws of each State and therefore the State Judiciaries to have Cognizance in the first instance and the Federal Courts to have an appellant Jurisdiction only.

The first measure that took place on the Jersey System was to pass a vote not to receive it. Three parties now appeared in Convention; one were for abolishing all the State Governments; another for such a Government as would give an influence to

¹ The printed speech says Mr. Gorham.

particular States and a third party were truly Federal, and acting for general Equality.—They were for considering, reforming, and amending the Federal Government, from time to time as experience might point out its imperfections, 'till it could be made competent to every exigence of State, and afford at the same time ample security to Liberty and general Welfare. But this scheme was so opposite to the views of the other two, that the Monarchical party finding little chance of succeeding in their wishes joined the others and by that measure plainly shewed they were endeavouring to form such a Government as from its inequality must bring in time their System forward, or at least much nearer in practice than it could otherwise be obtained. When the principles of opposition were thus formed and brought forward by the 2d S. respecting the manners of representation, it was urged by a Member of Pennsylvania that nothing but necessity had induced the larger States to give up in forming the Confederacy, the Equality of Representation according to numbers. That all governments flowed from the people and that their happiness being the end of governments they ought to have an equal Representation. On the contrary it was urged by the unhappy Advocates of the Jersey System that all people were equally Free, and had an equal Voice if they could meet in a general Assembly of the whole. But because one Man was stronger it afforded no reason why he might injure another, nor because ten leagued together, they should have the power to injure five; this would destroy all equality. That each State when formed, was in a State of Nature as to others, and had the same rights as Individuals in a State of Nature.—If the State Government had equal Authority, it was the same as if Individuals were present, because the State Governments originated and flowed from the Individuals that compose the State, and the Liberty of each State was what each Citizen enjoyed in his own State and no inconvenience had yet been experienced from the inequality of representation in the present Federal Government. Taxation and representation go hand in hand, on the principle alone that none should be taxed who are not represented. But as to the Quantum, those who possess the property pay only in proportion to the protection they receive.

The History of all Nations and Sense of Mankind shew, that in all former Confederacies every State had an equal voice. Moral History points out the necessity that each State should vote equally. In the Cantons of Switzerland those of Berne and Lucerne have more territory than all the others, yet each State has an equal voice in the General Assembly. The Congress in forming the Confederacy adopted this rule on the principle of Natural right. Virginia then objected. This Federal Government was submitted to the consideration of the Legislature of the respective States and all of them proposed some amendments; but not one thought this point should be altered. Hence we are in possession of the General Voice of America on this subject.

When baffled by reason the larger States positively refused to yield the lesser refused to confederate, and called on their opponents to declare what security they could give to abide by any plan or form of Government that could now be devised. The same reasons that now exist to abolish the old, might be urged hereafter to overthrow the New Government, and as the methods of reform prescribed by the former were now utterly disregarded, as little ceremony might be used in discarding the latter. It was further objected that the large States would be continually increasing in numbers, and consequently their influence in the National Assembly would increase also. That their extensive Territories were guaranteed and we might be drawn out to defend the enormous extent of those States, and increase and establish that power intended in time to enslave ourselves. Threats were thrown out to compel the lesser States to confederate, they were told this would be the last opportunity that might offer to prevent a Dissolution of this Union, that once dissolve that Band which held us together and the lesser States had no security for their existence, even for a moment the lesser States threatened in their turn that they would not lay under the imputation of refusing to confederate on equitable conditions: they threatened to publish their own offers and the demands of others, and to appeal to the World in Vindication of their Conduct.

At this period there were eleven States represented in Convention on the question respecting the manner of appointing

Delegates to the House of Representatives. Massachusetts, Pennsylvania, Virginia, North Carolina, South Carolina and Georgia adopted it as now handed to the consideration of the People. Georgia now insignificant, with an immense Territory looked forward to future power and Aggrandizement. Connecticut, New York, Jersey and Delaware were against the Measure and Mary Land was unfortunately divided. On the same question respecting the Senate, perceiving the lesser States would break up Convention altogether, if the influence of that branch was likewise carried against them, the Delegates of Georgia differed in sentiment not on principle but on expediency, and fearing to lose everything if they persisted, they did not therefore vote being divided. Massachusetts, Pennsylvania, Virginia, North Carolina and South Carolina were in the affirmative; and New York, Connecticut, Jersey, Delaware & Mary Land were in the Negative. Everything was now at a stand and little hopes of agreement, the Delegates of New York had left us determined not to return, and to hazard every possible evil rather than to Yield in that particular; when it was proposed that a conciliating Committee should be formed of one member from each State—some Members positively refused to lend their names to this measure others compromised, and agreed that if the point [were] relinquished by the larger States as to the Senate they would sign the proposed Constitution and did so, not because they approved it but because they thought something ought to be done for the Public. Neither General Washington nor Franklin shewed any disposition to relinquish the superiority of influence in the Senate. I now proposed Convention should adjourn for consideration of the subject and requested leave to take a Copy of their proceedings, but it was denied, and the Avenue thus shut to information and reflection.

ARTICLE 1ST.

S. 1st. A Government consisting of two Branches advocated by some was opposed by others. That a perfect Government necessarily requiring a check *over them* did not require it over *States* and History could furnish no instance of such a second

branch in Federal Governments. The separate States are competent to the Government of Individuals and a Government of *States* ought to be Federal, and which [was] the object of calling Convention, and not to establish a *National* Government. It begins We the People and the powers are made to flow from them in the first instance. That in Federal Governments an equal voice in each State is essential as being all in a *State of Nature* with respect to each other. Whereas the only figure in this Constitution that has any resemblance to a federal one, is the equality of Senate but the 4th Section gives the power to Congress to strike out, at least to render nugatory this, the most valuable part of it. It cannot be supposed that any State would refuse to send Representatives, when they would be bound whether they sent Deputies or not, and if it was intended to relate to the cases of Insurrection or Invasion, why not by express words confine the power to these objects.

S. 6. By this Article the Senators when elected are made independent of the State they represent. They are to serve six years, to pay themselves out of the General Treasury, and are not paid by the State, nor can be recalled for any misconduct or sacrifice of the Interest of their State that they make before the expiration of that period. They are not only Legislative but make a part of the Executive, which all wise Governments have thought it essential to keep separated. They are the National Council; and none can leave their private concerns and their Homes for such a period and consent to such a service, but those who place their future views on the emoluments flowing from the General Government. Tho' a Senator cannot be appointed to an office created by himself, He may to any that has been antecedently established; and by removing *Old Officers to new Offices*, their places may be occupied by themselves and thus the Door opened to evade and infringe the Constitution. When America was under the British Dominion every matter was conducted within a narrow Circle in the Provincial Government, greatly to the ease and convenience of the people. The Habits thus acquired are opposed to extensive Governments and the extent of this, as a National one, cannot possibly be ever carried into effect.

S. 2. Slaves ought never to be considered in Representation because they are property. They afford a rule as such in Taxation; but are Citizens intrusted in the General Government, no more than Cattle, Horses, Mules or Asses, and a Gentleman in Debate very pertinently observed that he would as soon enter into Compacts with the Asses, Mules, or Horses of the Ancient Dominion as with their Slaves. When there is power to raise a revenue by direct Taxation, each State ought to pay an equal Ratio; whereas by taxing Commerce some States would pay greatly more than others.

S. 7. It was contended that the Senate derived their powers from the People and therefore ought to have equal priviledges to the Representatives. That it would remove all ground for contest about originating Money Bills, what Bills were so or not, and how far amendments might be made, but nothing more could be obtained from the power of the larger States on that subject than what appears in the proposed Constitution. In Great Britain the King having Hereditary rights, and being one of three Estates that compose the Legislature has obtained a Voice in the passage of all Acts that bear the title of Laws. But the Executive here have no distinct rights, nor is their President likely to have more understanding than the two Branches of the Legislature. Additional weight is thus unnecessarily given to the large States who voting by numbers will cohere to each other, or at least among themselves, and thus easily carry or defeat any measure that requires a Majority of two thirds.

S. 8. By the word Duties in this Section is meant Stamp Duties. This power may be exercised to any extent, but it has likewise this dangerous tendency it may give the Congress power, by establishing duties on all Contracts to decide on cases of that nature and ultimately draw the decision of the Federal Courts, which will have sufficient occupation by the other powers given in this Section. They are extensive enough to open a sluice to draw the very blood from your Veins. They may lay direct Taxes by assessment, Poll Tax, Stamps, Duties on Commerce, and excise everything else, all this to be collected under the direction of their own Officers, and not even provided that

they shall be Inhabitants of the respective States where they are to act and which for many reasons will not be the case, and should any Individual dare to dispute the conduct of an Excise Man, ransacking his Cellars he may be hoisted into the Federal Court from Georgia to vindicate his just right, or be punished for his impertinence. In vain was it urged that the State Court ought to be competent to the decision of such cases. The advocates of this System thought State Judges would be under State influence and therefore not sufficiently independent. But this is not all they would either trust your Juries (sic) for all matters of Fact are triable by Juries in the Inferior Courts. The Judges of the Supreme Court on *appeal* are to decide on *Law* and *fact both*. In this manner Mr. Speaker our rights are to be tried in all disputes between the Citizens of one State and another, between the Citizens and Foreigners, and between the Citizens and Foreigners (sic), and between the Citizens and these Revenue Officers of the General Government as to other cases the Constitution is silent, and it is very doubtful if we are to have the Priviledge of Tryal by Jury at all, where the cause originates in the Supreme Court.

Should the power of these Judiciaries be incompetent to carry this extensive plan into execution, other, and more certain Engines of power are supplied by the Standing Army unlimited as to number or its duration, in addition to this Government has the entire Command of the Militia, and may call the whole Militia of any State into Action, a power, which it was vainly urged ought never to exceed a certain proportion. By organizing the Militia Congress have taken the whole power from the State Governments and by neglecting to do it and increasing the Standing Army, their power will increase by those very means that will be adopted and urged as an ease to the People.

Nothing could add to the mischeivous tendency of this system more than the power that is given to suspend the Act of Ha: Corpus. Those who could not approve of it urged that the power over the Ha: Corpus ought not to be under the influence of the General Government. It would give them a power over Citizens of particular States who should oppose their enroach-

ments, and the inferior Jurisdictions of the respective States were fully competent to Judge on this important privilege; but the Allmighty power of deciding by a call for the question silenced all opposition to the measure as it too frequently did to many others.

S. 9. By this Article Congress will obtain unlimited power over all the Ports in the Union and consequently acquire an influence that may be prejudicial to the general Liberty. It was sufficient for all the purposes of General Government that Congress might lay what Duties they thought proper and those who did not approve the extended power here given, contended that the Establishment of the Particular ports ought to remain with the Government of the respective States; for if Mary Land for instance should have occasion to oppose the Encroachments of the General Government Congress might direct that all Vessels coming into the Bay, to enter and clear at Norfolk and thereby become as formidable to the State by an exercise of this power, as they could by the Military Arrangements or Civil Judiciaries. That the same reason would not apply in prohibiting the respective States from laying a Duty on Exports, as applied to that regulation being exercised by Congress: in the latter case a revenue would be drawn from the productive States to the General Treasury to the ease of the unproductive, but particular States might be desirous by this method to contribute to the support of their Local Government or for the Encouragement of their Manufactures.

ARTICLE 2ND.

S. 1st. A Variety of opinion prevailed on this Article Mr. Hamilton of New York wanted the President to be appointed by the Senate, others by both Branches, others by the People at large, others that the States as States ought to have an equal voice. The larger States wanted the appointment according to numbers those who were for one Gen'l Government and no State Governments, were for a choice by the People at large, and the very persons who would not trust the Legislature to vote by States in their Choice, from a fear of Corruption, yet contended

nevertheless for a Standing Army and before this point was finally adjusted I had left the Convention.

As to the Vice President the larger States have a manifest influence and will always have him of their choice. The power given to these persons over the Army and Navy, is in truth formidable, but the power of pardon is still more dangerous, as in all acts of Treason, the very offence on which prosecution would possibly arise, would most likely be in favour of the President's own power. Some would gladly have given the appointment of Ambassadors and Judges to the Senate, some were for vesting this power in the Legislature by joint ballot, as being most likely to know the Merit of Individuals over this extended empire. But as the President is to nominate, the person chosen must be ultimately his choice and he will thus have an army of civil officers as well as Military. If he is guilty of misconduct and impeached for it by the first Branch of the Legislature he must be tried in the second, and if he keeps an interest in the large States, he will always escape punishment. The Impeachment can rarely come from the second branch who are his Council and will be under his influence.

S. 3rd. It was highly reasonable that Treasons against the United States should be defined; resistance in some cases is necessary and a Man might be a Traitor to the General Government in obeying the Laws of his own State, a Clause was therefore proposed that when ever any State entered into contest with the General Government that during such Civil War, the general Law of Nations, as between Independent States should be the governing rule between them; and that no Citizen in such case of the said State should be deemed guilty of Treason, for acting against the General Government in Conformity to the Laws of the State of which he was a member: but this was rejected.

ARTICLE 6TH.

The ratification of this Constitution is so repugnant to the Terms on which we are all bound to amend and alter the former that it became a matter of surprise to many that the proposition

could meet with any countenance or support. Our present Constitution expressly directs that all the States must agree before it can be dissolved; but on the other hand it was contended that a Majority ought to govern. That a dissolution of the Federal Government did not dissolve the State Constitutions which were paramount to the Confederacy. That the Federal Government being formed out of the State Governments the People at large have no power to interfere in the *Federal Constitution* nor has the *State or Federal Government* any power to confirm a new Institution. That this Government if ratified and Established will be *immediately* from the *People* paramount [to] the *Federal Constitution* and operate as a dissolution of it.

Thus Mr. Speaker I have given to the Honorable House such information, as my situation enabled me to do, on the Subject of the proposed Constitution. If I have spoke with freedom, I have done no more than I did in Convention. I have been under no influence from the expectation of ever enjoying any Office under it; and would gladly yield what little I have saved by Industry, and the Emoluments of my profession to have been able to present it to the Public in [a] different form. I freely o [wn that it did not] meet my approbation a [wanting] this House will do [wanting] [I] believe that I have Conducted myself [wanting] freeman and a faithful servant of the [wanting] to the best of my Judgement for the Gen [wanting].

GENERAL SAMUEL SMITH TO THOMAS W. GRIFFITH.

ACCOUNT OF THE PLAN BY WHICH THE COMMITTEE OF
SAFETY AT BALTIMORE, INTENDED MAKING
GOVERNOR EDEN PRISONER,
IN 1776.¹

[From the Society's Collection of mss.]

Washington 31 Dec^r 1821.

Sir—

Agreeably to your request I will give you a detail of the occurrence on which you wish information.

On the 3 Jan^r 1776, Commissions issued to raise a Regiment for the service of the State of Maryland under the command of Col. Smallwood, three Companies of that Regiment under Major Gist were stationed at Baltimore, one of which I commanded. In May or June I received an order from Major Gist to embark with my Company on board a Sloop prepared to receive me and proceed to Annapolis, and there take such measures as I might deem proper to prevent the Escape of Governor Eden, and then to land and deliver a letter from Samuel Purviance (chairman of the Committee of Safety of Baltimore) to Thomas Johnson (President of the Council of Safety). I proceeded stationed the sloop and gave orders to my Lieutenant to prevent any Vessel or Boat from going out of the harbour until my return. I then landed and delivered the letter to M^r Johnson, the Council of Safety assembled & I was told that my services would not be necessary any longer, and that I must return forthwith, which order I obeyed. I understood afterwards that the letter conveyed information from General Charley Lee then at Charleston that a letter from Gov^r Eden had been intercepted, recommending that

¹See "Proceedings of the Conventions of Maryland," pp. 126-152, and Griffith, *Annals of Baltimore*, p. 67.