

James Bowdoin in the Massachusetts Ratification Convention, 23 January 1788

Hon. Mr. BOWDOIN. Mr. President. On the subject of government, which admits of so great a variety in its parts and combinations, a diversity of opinions is to be expected: And it was natural to suppose, that in this Convention, respectable for its numbers, but much more so for the characters which compose it, there would be a like diversity concerning the federal Constitution, that is now the subject of our consideration. In considering it, every gentleman will reflect, how inadequate to the purposes of the union the confederation has been. When the plan of the Confederation was formed, the enemy were invading us; and this inspired the several States with such a spirit of union, and mutual defence, that a mere requisition or recommendation of Congress was sufficient to procure the needful aids, without any power of coercion: And for that reason, among others, no such power was given by the confederation. But since that reason has ceased, and the idea of danger being removed by the peace, the requisitions of Congress, have in most of the States, been little regarded: notwithstanding they solemnly pledged their faith to comply with them.

This non-compliance has compelled Congress to encrease the foreign debt of the union, by procuring further loans, to pay the interest and instalments due on former loans; and in that way to preserve the publick faith, which had been pledged to foreign powers. It has compelled them in order to prevent the consequences of a breach of faith, as relative to those powers, to enter repeatedly into those ruinous negociations, by which "the United States jointly, and each of them in particular, together with all their lands, chattels, revenues and products, and also the imposts and taxes already laid and raised in the same, or in time to come, to be laid and raised, are for the whole," mortgaged for the re-payment of those loans by instalments, and for payment of the interest on them annually. These debts must be paid bona fide according to contract; or be further increased by procuring, if procurable, further loans: which, ruinous as the measure is, must be continued, unless the States empower Congress to raise money for the discharging those debts. It will not be in the power of the United States, and I am sure it will not be in their inclination, to rid themselves of those debts in the same base and ignominious manner, in which a faction, in one of them, are endeavouring to get rid of their's. To the same cause (a non-compliance with Congressional requisitions) are owing the repeated but necessary breaches of publick faith in regard to the payment of the federal domestick debt. And hence, as relative to the joint consolidated debt, the inefficiency of the publick finances, and the bankrupt state of the federal treasury: which can never be remedied without empowering Congress to levy adequate duties and taxes. Without such a power, the accumulating debt will never be paid, but by a forcible collection, which our foreign creditors know how, and are able to apply, if unhappily it should be necessary. The several loans, which by contract are to be paid by instalments, will, in case of the failure of any of the stipulated payments, become the whole of them, immediately payable; and any of the property of any of the States,

whether publick or private, that can be most easily come at, will in that case be seized and applied for that purpose.

This mode of reimbursement or reprisal will be upon the trade and navigation of the United States; and in proportion as our's of this state may be larger and more extensive, than the trade and navigation of other states, we shall be the greatest sufferers. This ruin of our trade will involve in it, not only the ruin of the mercantile part of the state, and of the numerous body of mechanicks dependent upon it, but will most essentially affect every other class of citizens; and operate most extensively to the injury of the commonwealth.

These are some of the consequences, certain and infallible, that will flow from the denial of that power to Congress. Shall we then, we of this state, who are so much interested in this matter, deny them that power—a power so essential to our political happiness?

But if we attend to our trade, as it is at present we shall find, that the miserable state of it is owing to a like want of power in Congress. Other nations prohibit our vessels from entering their ports, or lay heavy duties on our exports carried thither; and we have no retaliating or regulating power over their vessels and exports to prevent it. Hence, a decrease of our commerce and navigation, and of the duties and revenue arising from them.—Hence, an insufficient demand for the produce of our lands, and the consequent discouragement of agriculture. Hence, the inability to pay debts, and particularly taxes, which by that decrease are enhanced. And hence, as the necessary result of all these, the emigration of our inhabitants. If it be asked, how are these evils, and others that might be mentioned, to be remedied? The answer is short; by giving Congress proper and adequate power. Whether such power be given by the proposed constitution, it is left with the Conventions from the several states, and with us, who compose one of them to determine.

In determining on this question, every gentleman will doubtless consider the importance of cultivating a spirit of union among ourselves, and with the several states. This spirit procured our emancipation from British tyranny; and the same spirit, by uniting us in the necessary means, must secure to us our dear-bought, blood-purchased liberty and independence—and deliver us from evils, which unless remedied, must end in national ruin. The means for effecting these purposes are within our reach; and the adoption of the proposed constitution will give us the possession of them. Like all other human productions, it may be imperfect, but most of the imperfections imputed to it, are ideal and unfounded; and the rest are of such a nature that they cannot be certainly known, but by the operation of the constitution: And if in its operation it should, in any respect be essentially bad, it will be amended in one of the modes prescribed by it. I say, will be amended, because the constitution is constructed on such principles, that its bad effects, if any such should arise from it, will injure the members of Congress equally with their constituents; and therefore both of them must be equally induced to seek for and effectuate the requisite amendments.

There have been many objections offered against the constitution: and of these the one most strongly urged has been, the great power vested in Congress. On this subject, I beg

leave to make a few general observations, which ought to be attended to, as being applicable to every branch of that power.

It may therefore be observed, that the investiture of such power, so far from being an objection, is a most cogent reason for accepting the constitution. The power of Congress, both in the legislative and executive line, is the power of the people, collected through a certain medium, to a focal point; at all times ready to be exerted for the general benefit, according as circumstances or exigencies may require. If you diminish or annihilate it, you diminish or annihilate the means of your own safety and prosperity: which means if they were to be measured like mathematical quantities, would be in exact proportion, as the power is greater or less. But this is not the case: for power that does not reach, or is inadequate to the object, is worse than none. An exertion of such power would increase the evil it was intended to remove, and at the same time create a further evil, which might be a very great one—the expense of a fruitless exertion.

If we consider the objects of the power, they are numerous and important; and as human foresight cannot extend to many of them; and all of them are in the womb of futurity, the quantum of the power cannot be estimated. Less than the whole, as relative to federal purposes, may, through its insufficiency, occasion the dissolution of the union, and a subjugation or division of it among foreign powers. Their attention is drawn to the United States; their emissaries are watching our conduct, particularly upon the present most important occasion; and if we should be so unhappy as to reject the federal constitution proposed to us, and continue much longer our present weak unenergetick federal government, their policy will probably induce them to plan a division or partition of the states among themselves; and unite their forces to effect it. But however that may be, this is certain, that the respectability of the United States among foreign nations, our commerce with them on the principles of reciprocity, and our forming beneficial treaties with them on those principles, their estimation of our friendship and fear of losing it, our capacity to resent injuries, and our security against interior as well as foreign attacks, must be derived from such a power. In short, the commercial and political happiness, the liberty and property, the peace, safety and general welfare, both internal and external, of each and all the States, depend on that power: which as it must be applied to a vast variety of objects, and to cases and exigencies beyond the ken of human prescience, must be very great; and which cannot be limited without endangering the publick safety.

It will be and has been said, this great power may be abused; and instead of protecting, may be employed by Congress in oppressing their constituents. A possibility of abuse, as it may be affirmed of all delegated power whatever, is by itself no sufficient reason for withholding the delegation. If it were a sufficient one, no power could be delegated; nor could government of any sort subsist. The possibility however, should make us careful, that in all delegations of importance, like the one contained in the proposed constitution, there should be such checks provided, as would not frustrate the end and intention of delegating the power: But would, as far as it could be safely done, prevent the abuse of it: And such checks are provided in the constitution. Some of them were mentioned the last evening by one of my worthy colleagues: But I shall here exhibit all of them in one view.

The two capital departments of government, the legislative and executive, in which the delegated power resides, consisting of the President, Vice-President, Senate and Representatives, are directly, and by their respective legislatures and delegates, chosen by the people.

The President, and also the Vice-President, when acting as President, before they enter on the execution of the office, shall each “solemnly swear or affirm, that he will faithfully execute the office of President of the United States, and will to the best of his ability, preserve, protect and defend the Constitution of the United States.”

“The senators and representatives before mentioned, and the members of the several state legislatures, and all executive and judicial officers, both of the United States, and of the several states, shall be bound by oath or affirmation, to support this Constitution.”

“The President, Vice-President and all civil officers of the United States, shall be removed from office, on impeachment for, and conviction of, treason, bribery or other high crimes or misdemeanours.”

“No senator or representative shall, during the time for which he was elected, be appointed to any civil office—which shall have been created, or the emoluments whereof shall have been increased during such time: And no person holding any office under the United States, shall be a member of either House, during his continuance in office.”

“No title of nobility shall be granted by the United States, or by any particular state: And no person holding any office of profit or trust under the United States, shall, without the consent of the Congress, accept of any present, emolument, office or title, of any kind whatever, from any king, prince, or foreign state.”

“The United States shall guarantee to every state in this union, a republican form of government, and shall protect each of them against invasion, and domestick violence.” To these great checks may be added several other very essential ones: as—the negative, which each House hath, upon the acts of the other—the disapproving power of the president, which subjects those acts to a revision by the two Houses, and to a final negative, unless two thirds of each House shall agree to pass the returned acts, notwithstanding the President’s objections—the printing the journals of each House, containing their joint and respective proceedings—and the publishing from time to time a regular statement and account of the receipts and expenditures of all publick money; none of which shall be drawn from the treasury, but in consequence of appropriations made by law.

All these checks and precautions, provided in the Constitution, must, in a great measure, prevent an abuse of power, at least in all flagrant instances, even if Congress should consist wholly of men, who were guided by no other principle than their own interest. Under the influence of such checks, this would compel them to a conduct, which in the general, would answer the intention of the Constitution. But the presumption is, and if the people duly attend to the objects of their choice, it would be realized, that the President of the United States, and the members of Congress would, for the most part, be men, not only of ability, but of a good moral character: In which case an abuse of

power is not to be apprehended; nor any error in the government, than such as every human institution is subject to.

There is a further guard against the abuse of power, which though not expressed, is strongly implied in the federal Constitution, and indeed in the constitution of every government, founded on the principles of equal liberty—and that is, that those who make the laws, and particularly laws for the levying of taxes, do in common with their fellow citizens, fall within the power and operation of those laws.

As then the individuals of Congress will all share in the burthens they impose, and be personally affected by the good or bad laws they make for the union, they will be under the strongest motives of interest to lay the lightest burthens possible; and to make the best laws: or such laws as shall not unnecessarily affect either the property, or the personal rights of their fellow-citizens.

With regard to rights, the whole constitution is a declaration of rights, which primarily and principally respect the general government intended to be formed by it. The rights of particular states and private citizens not being the object or subject of the Constitution, they are only incidentally mentioned. In regard to the former, it would require a volume to describe them, as they extend to every subject of legislation, not included in the powers vested in Congress: and in regard to the latter, as all government is founded on the relinquishment of personal rights in a certain degree, there was a clear impropriety in being very particular about them. By such a particularity the government might be embarrassed, and prevented from doing what the private, as well as the publick and general good of the citizens and states might require.

The publick good, in which private is necessarily involved, might be hurt by too particular an enumeration; and the private good could suffer no injury from a deficient enumeration, because Congress could not injure the rights of private citizens without injuring their own; as they must in their publick as well as private character, participate equally with others in the consequences of their own acts. And by this most important circumstance, in connection with the checks above-mentioned, the several states at large, and each citizen in particular, will be secured, as far as human wisdom can secure them, against the abuse of the delegated power.

In considering the Constitution, we shall consider it in all its parts, upon these general principles, which operate through the whole of it, and are equivalent to the most extensive bill of rights that can be formed.

These observations, which are principally of a general nature, but will apply to the most essential parts of the Constitution, are, with the utmost deference and respect, submitted to your candid consideration: with the hope, that as they have influenced my own mind, decidedly in favour of the Constitution, they will not be wholly unproductive of a like influence on the minds of the gentlemen of the Convention.

If the Constitution should be finally accepted and established, it will complete the temple of American liberty: and like the key stone of a grand and magnificent arch, be the bond of union to keep all the parts firm, and compacted together. May this temple, sacred to liberty and virtue—sacred to justice, the first and greatest political virtue, and built upon the broad and solid foundation of perfect union, be dissoluble only by the

dissolution of nature: And may this Convention have the distinguished honour of erecting one of its pillars on that lasting foundation.

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