

Antifederalist No. 85

Concluding Remarks: Evils under Confederation Exaggerated; Constitution must Be Drastically Revised Before Adoption

By Melancthon Smith (a "Plebeian").

. . . . It is agreed, the plan is defective -- that some of the powers granted are dangerous -- others not well defined -- and amendments are necessary why then not amend it? Why not remove the cause of danger, and, possible, even the apprehension of it? The instrument is yet in the hands of the people; it is not signed, sealed, and delivered, and they have power to give it any form they please.

But it is contended, adopt it first, and then amend it. I ask, why not amend, and then adopt it? Most certainly the latter mode of proceeding is more consistent with our ideas of prudence in the ordinary concerns of life. If men were about entering into a contract respecting their private concerns it would be highly absurd in them to sign and seal an instrument containing stipulations which are contrary to their interests and wishes, under the expectation, that the parties, after its execution, would agree to make alteration agreeable to their desire. They would insist upon the exceptionable clause being altered before they would ratify the contract. And is a compact for the government of ourselves and our posterity of less moment than contract between individuals? Certainly not. But to this reasoning, which at first view would appear to admit of no reply, a variety of objections are made, and number of reasons urged for adopting the system, and afterwards proposing amendments. Such as have come under my observation, I shall state, in a remark upon.

It is insisted, that the present situation of our country is such, as not to admit of a delay in forming a new government, or of time sufficient to deliberate and agree upon the amendments which are proper, without involving ourselves in a state of anarchy and confusion.

On this head, all the powers of rhetoric, and arts of description, are employed to paint the condition of this country, in the most hideous and frightful colors. We are told, that agriculture is without encouragement trade is languishing; private faith and credit are disregarded, and public credit is prostrate; that the laws and magistrates are condemned and set at naught; that a spirit of licentiousness is rampant, and ready to break over every bound set to it by the government; that private embarrassments and distresses invade the house of every man of middling property, and insecurity threatens every man in affluent circumstances: in short, that we are in a state of the most grievous calamity at home, and that we are contemptible abroad, the scorn of foreign nations, and the ridicule of the world. From this high wrought picture, one would suppose that we were in a condition the most deplorable of any people upon earth. But suffer me, my countrymen, to call your attention to a serious and sober estimate of the situation in which you

are placed, while I trace the embarrassments under which you labor, to their true sources, What is your condition? Does not every man sit under his own vine and under his own fig-tree, having none to make him afraid? Does not every one follow his calling without impediments and receive the reward of his well-earned industry? The farmer cultivates his land, and reaps the fruit which the bounty of heaven bestows on his honest toil. The mechanic is exercised in his art, and receives the reward of his labor. The merchant drives his commerce, and none can deprive him of the gain he honestly acquires; all classes and callings of men amongst us are protected in their various pursuits, and secured by the laws in the possession and enjoyment of the property obtained in those pursuits. The laws are as well executed as they ever were, in this or any other country. Neither the hand of private violence, nor the more to be dreaded hand of legal oppression, are reached out to distress us.

It is true, many individuals labor under embarrassments, but these are to be imputed to the unavoidable circumstances of things, rather than to any defect in our governments. We have just emerged from a long and expensive war. During its existence few people were in a situation to increase their fortunes, but many to diminish them. Debts contracted before the war were left unpaid while it existed, and these were left a burden too heavy to be home at the commencement of peace. Add to these, that when the war was over, too many of us, instead of resuming our old habits of frugality, and industry, by which alone every country must be placed in a prosperous condition, took up the profuse use of foreign commodities. The country was deluged with articles imported from abroad, and the cash of the country has been sent to pay for them, and still left us laboring under the weight of a huge debt to persons abroad. These are the true sources to which we are to trace all the private difficulties of individuals. But will a new government relieve you from these? ... Your present condition is such as is common to take place after the conclusion of a war. Those who can remember our situation after the termination of the war preceding the last, will recollect that our condition was similar to the present, but time and industry soon recovered us from it. Money was scarce, the produce of the country much lower than it has been since the peace, and many individuals were extremely embarrassed with debts; and this happened although we did not experience the ravages, desolations, and loss of property, that were suffered during the late war.

With regard to our public and national concerns, what is there in our condition that threatens us with any immediate danger? We are at peace with all the world; no nation menaces us with war; nor are we called upon by any cause of sufficient importance to attack any nation. The state governments answer the purposes of preserving the peace, and providing for present exigencies. Our condition as a nation is in no respect worse than it has been for several years past. Our public debt has been lessened in various ways, and the western territory, which has been relied upon as a productive fund to discharge the national debt has at length been brought to market, and a considerable part actually applied to its reduction. I mention these things to show, that there is nothing special, in our present situation, as it respects our national affairs, that should induce us to accept the proffered system, without taking sufficient time to consider and amend it. I do not mean by this, to insinuate, that our government does not stand in need of reform. It is admitted by all parties, that alterations are necessary in our federal constitution, but the circumstances of our case do by no means oblige us to precipitate this business, or require that we should adopt a system materially defective. We may safely take time to deliberate and

amend, without in the meantime hazarding a condition, in any considerable degree, worse than the present.

But it is said that if we postpone the ratification of this system until the necessary amendments are first incorporated, the consequence will be a civil war among the states. . . . The idea of [New York] being attacked by the other states, will appear visionary and chimerical, if we consider that tho' several of them have adopted the new constitution, yet the opposition to it has been numerous and formidable. The eastern states from whom we are told we have most to fear, should a civil war be blown up, would have full employ to keep in awe those who are opposed to it in their own governments. Massachusetts, after a long and dubious contest in their convention, has adopted it by an inconsiderable majority, and in the very act has marked it with a stigma in its present form. No man of candor, judging from their public proceedings, will undertake to say on which side the majority of the people are. Connecticut, it is true, have acceded to it, by a large majority of their convention; but it is a fact well known, that a large proportion of the yeomanry of the country are against it. And it is equally true, that a considerable part of those who voted for it in the convention, wish to see it altered. In both these states the body of the common people, who always do the fighting of a country, would be more likely to fight against than for it. Can it then be presumed, that a country divided among themselves, upon a question where even the advocates for it, admit the system they contend for needs amendments, would make war upon a sister state? . . . The idea is preposterous. . .

The reasonings made use of to persuade us, that no alterations can be agreed upon previous to the adoption of the system, are as curious as they are futile. It is alleged, that there was great diversity of sentiments in forming the proposed constitution; that it was the effect of mutual concessions and a spirit of accommodation, and from hence it is inferred, that further changes cannot be hoped for. I should suppose that the contrary inference was the fair one. If the convention, who framed this plan, were possessed of such a spirit of moderation and condescension, as to be induced to yield to each other certain points, and to accommodate themselves to each other's opinions, and even prejudices, there is reason to expect, that this same spirit will continue and prevail in a future convention, and produce an union of sentiments on the points objected to. There is more reason to hope for this, because the subject has received a full discussion, and the minds of the people much better known than they were when the convention sat. Previous to the meeting of the convention, the subject of a new form of government had been little thought of, and scarcely written upon at all. It is true, it was the general opinion, that some alterations were requisite in the federal system. This subject had been contemplated by almost every thinking man in the union. It had been the subject of many well-written essays, and it was the anxious wish of every true friend to America. But it was Never in the contemplation of one in a thousand of those who had reflected on the matter, to have an entire change in the nature of our federal government -- to alter it from a confederation of states, to that of one entire government, which will swallow up that of the individual states. I will venture to say, that the idea of a government similar to the one proposed, never entered the minds of the legislatures who appointed the convention, and of but very few of the members who composed it, until they had assembled and heard it proposed in that body: much less had the people any conception of such a plan until after it was promulgated, While it was agitated, the debates of the convention were kept an impenetrable secret, and no opportunity was given for well informed men to offer their sentiments upon the subject. The system was therefore never publicly discussed, nor indeed

could be, because it was not known to the people until after it was proposed. Since then, it has been the object of universal attention -- it has been thought of by every reflecting man -- been discussed in a public and private manner, in conversation and in print; its defects have been pointed out, and every objection to it stated; able advocates have written in its favor, and able opponents have written against it. And what is the result? It cannot be denied but that the general opinion is, that it contains material errors, and requires important amendments. This then being the general sentiment, both of the friends and foes of the system, can it be doubted, that another convention would concur in such amendments as would quiet the fears of the opposers, and effect a great degree of union on the subject? -- An event most devoutly to be wished. But it is further said, that there can be no prospect of procuring alterations before it is acceded to, because those who oppose it do not agree among themselves with respect to the amendments that are necessary. To this I reply, that this may be urged against attempting alterations after it is received, with as much force as before; and therefore, if it concludes anything, it is that we must receive any system of government proposed to us, because those who object to it do not entirely concur in their objections. But the assertion is not true to any considerable extent. There is a remarkable uniformity in the objections made to the constitution, on the most important points. It is also worthy of notice, that very few of the matters found fault with in it, are of a local nature, or such as affect any particular state; on the contrary, they are such as concern the principles of general liberty, in which the people of New Hampshire, New York and Georgia are equally interested.

It has been objected too that the new system . . . is calculated to and will effect such a consolidation of the States, as to supplant and overturn the state governments....

It has been said that the representation in the general legislature is too small to secure liberty, or to answer the intention of representation. In this there is an union of sentiments in the opposers.

The constitution has been opposed, because it gives to the legislature an unlimited power of taxation both with respect to direct and indirect taxes, a right to lay and collect taxes, duties, imposts and excises of every kind and description, and to any amount. In this there has been as general a concurrence of opinion as in the former.

The opposers to the constitution have said that it is dangerous, because the judicial power may extend to many cases which ought to be reserved to the decision of the State courts, and because the right of trial by jury is not secured in the judicial courts of the general government, in civil cases. All the opposers are agreed in this objection.

The power of the general legislature to alter and regulate the time, place and manner of holding elections, has been stated as an argument against the adoption of the system. The opposers to the constitution universally agree in this objection. . .

The mixture of legislative, judicial, and executive powers in the Senate; the little degree of responsibility under which the great officers of government will be held; and the liberty granted by the system to establish and maintain a standing army without any limitation or restriction, are also objected to the constitution; and in these there is a great degree of unanimity of sentiment in the opposers. . . .

You have heard that both sides on this great question, agree, that there are in it great defects; yet the one side tell you, choose such men as will adopt it, and then amend it -- while the other say, amend previous to its adoption. I have stated to you my reasons for the latter, and I think they are unanswerable. Consider, you the common people, the yeomanry of the country, for to such I principally address myself, you are to be the principal losers, if the constitution should prove oppressive. When a tyranny is established, there are always masters as well as slaves; the great and well-born are generally the former, and the middling class the latter. Attempts have been made, and will be repeated, to alarm you with the fear of consequences; but reflect there are consequences on both sides, and none can be apprehended more dreadful, than entailing on ourselves and posterity a government which will raise a few to the height of human greatness and wealth, while it will depress the many to the extreme of poverty and wretchedness. Consequences are under the control of that all-wise and all-powerful being, whose providence conducts the affairs of all men. Our part is to act right, and we may then have confidence that the consequences will be favorable. The path in which you should walk is plain and open before you; be united as one man, and direct your choice to such men as have been uniform in their opposition to the proposed system in its present form, or without proper alterations. In men of this description you have reason to place confidence, while on the other hand, you have just cause to distrust those who urge the adoption of a bad constitution, under the delusive expectation of making amendments after it is acceded to. Your jealousy of such characters should be the more excited, when you consider that the advocates for the constitution have shifted their ground. When men are uniform in their opinions, it affords evidence that they are sincere. When they are shifting, it gives reason to believe, they do not change from conviction. It must be recollected, that when this plan was first announced to the public, its supporters cried it up as the most perfect production of human wisdom, It was represented either as having no defects, or if it had, they were so trifling and inconsiderable, that they served only, as the shades in a fine picture, to set off the piece to the greater advantage. One gentleman in Philadelphia went so far in the ardor of his enthusiasm in its favor, as to pronounce, that the men who formed it were as really under the guidance of Divine Revelation, as was Moses, the Jewish lawgiver. Their language is now changed; the question has been discussed; the objections to the plan ably stated, and they are admitted to be unanswerable. The same men who held it almost perfect, now admit it is very imperfect; that it is necessary it should be amended. The only question between us, is simply this, shall we accede to a bad constitution, under the uncertain prospect of getting it amended, after we have received it, or shall we amend it before we adopt it? Common sense will point out which is the most rational, which is the most secure line of conduct. May heaven inspire you with wisdom, union, moderation and firmness, and give you hearts to make a proper estimate of your invaluable privileges, and preserve them to you, to be transmitted to your posterity unimpaired, and may they be maintained in this our country, while Sun and Moon endure.

A PLEBEIAN