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Minutes  
OF THE  
Council of Censors.

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1783-1784.

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A VIEW OF THE PROCEEDINGS OF THE FIRST SESSION  
OF THE COUNCIL OF CENSORS, CONVENED AT PHILA-  
DELPHIA, ON MONDAY, THE 10th DAY OF NOVEMBER,  
ONE THOUSAND SEVEN HUNDRED AND EIGHTY-  
THREE.

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MONDAY, November 10, 1783.

Pursuant to the 47th section of the constitution of this com-  
monwealth, a number of gentlemen elected as censors for the  
city and several counties, met at the state house, in Philadel-  
phia, but a quorum not appearing, they adjourned from day  
to day, until

THURSDAY, November 13, 1783.

The council met, and the returns of the elections held in the  
city of Philadelphia, and the several counties of this state,  
were transmitted by the supreme executive council, and read,  
and it appeared that the following gentlemen were elected:

For the city of Philadelphia.

Samuel Miles,\* Thomas Fitzsimons.

For the county of Philadelphia.

Frederick A. Muhlenberg, Arthur St. Clair,

For the county of Bucks.

Joseph Hart, Samuel Smith.

For the county of Bedford.

David Espy, Samuel Davidson.

For the county of Chester.

Anthony Wayne, John Evans.†

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\* Samuel Miles, resigned his seat on the 8th of June, 1784, and George  
Bryan was elected in his room, who took his seat June 24, 1784.

† James Moore, was elected in the room of John Evans, deceased, and  
took his seat on the 30th December, 1783.

For the county of Lancaster.

John Whitehill,                      Stephen Chambers,

For the county of York.

Thomas Hartley,                      Richard M'Allister.

For the county of Westmoreland.

John Smiley,                      William Finley.

For the county of Cumberland.

James M'Lene,                      William Irvine.

For the county of Berks.

James Read,                      Baltzer Gehr.

For the county of Northampton.

John Arndt,                      Simon Dreisbach.

For the county of Washington.

James Edgar,                      John M'Dowell.

For the county of Northumberland.

Two different returns.—It was decided by the council, on the 26th November, 1783, that William Montgomery and Samuel Hunter,† were duly elected.

The council proceeded to the election of a president, and the ballots being taken, it appeared that the honorable Frederick Augustus Muhlenberg, Esq. was unanimously elected.

The council then proceeded to business; officers were elected, rules for conducting the business of the council were appointed, &c.

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† James Potter, was elected in the room of Samuel Hunter, deceased. and took his seat on the 7th July, 1784.

WEDNESDAY, November 19, 1783.\*

Ordered, That Mr. Fitzsimons, Mr. Wayne, Mr. Smiley, Mr. Irvine and Mr. Read be a committee to enquire and report, whether the constitution has been preserved inviolate in every part.†

THURSDAY, December 4, 1783.

Resolved, That the council will on Monday, the 15th instant, resolve itself into a committee of the whole, to consider whether there is a necessity for amending any article of the constitution, which may be defective; explaining such as may be thought not clearly expressed, and of adding such as are necessary for the preservation of the rights and happiness of the people.

WEDNESDAY, December 17, 1783.

Ordered, That the committee appointed November 19, to enquire whether the constitution has been preserved inviolate, in every part, be instructed to enquire whether the legislative and executive branches of government have performed their duty, as guardians of the people, or assumed to themselves, or exercised other or greater powers than they are entitled to by the constitution.

THURSDAY, January 1, 1784.

The council resolved itself into a committee of the whole, Mr. M'Allister in the chair, to consider whether the constitution of this state is perfect in all its parts, or whether the same requires any amendment or alteration.

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\* On the 19th of November, two petitions signed by sundry inhabitants of the city and county of Philadelphia, were presented, setting forth that the freedom of the election, and the laws and constitution of the commonwealth had been violated at the last election, and praying to be heard in support of the facts alleged, and that the election in the said city and county be declared null and void.

This petition was referred to a committee, on the 21st November, and the examination of the case occupied much of the time and attention of the council. On the 31st December the report of the committee, that there appeared no just ground or legal cause for setting aside the election, was adopted.

† On the 20th January, 1784, Mr. M'Allister and Mr. Finley, were added to this committee. On the 24th June, 1784, Mr. Bryan and Mr. Moore, were added to the committee. On the 7th July, 1784, Mr. Potter was added to the committee. On the 14th July, 1784, Mr. M'Lene was added to the committee.

After some time the president resumed the chair, and the chairman delivered in a report, which was read and laid on the table.

FRIDAY, January 2, 1784.

The report of the committee of the whole was read, and the following resolution was adopted.

Resolved, That some articles of the constitution of this commonwealth, are materially defective, and absolutely require alteration and amendment.

On motion, Resolved, That a committee be appointed to report those articles of the constitution, which are materially defective and absolutely require alteration and amendment, agreeable to the foregoing resolution. The members chosen, were Mr. Miles, Mr. Fitzsimons, Mr. St. Clair, Mr. Hartley and Mr. Arndt.

SATURDAY, January 3, 1784.

Resolved, That it be an instruction to the committee appointed to report those articles of the constitution, which are materially defective, and absolutely require alteration and amendment, to report the alterations and amendments.

SATURDAY, January 17, 1784.

The committee appointed to enquire, whether the constitution has been preserved inviolate in every part, and whether the legislative and executive branches of government have performed their duty as guardians of the people, or assumed to themselves, or exercised other or greater powers than they are entitled to by the constitution, delivered in a report, in part, which was read and ordered to lie on the table.

The committee appointed the 2d instant, to report those articles of the constitution which are materially defective and absolutely require alteration and amendment, and who were instructed to report the alterations and amendments, delivered in a report, which was read and laid on the table.

MONDAY, January 19, 1784.

The council proceeded to consider the report of the committee on the defects and alterations of the constitution, and

the same was read the second time, by paragraphs, considered, amended and adopted, and is in the following words, viz: \*

Your committee, to whom it was referred to report those articles of the constitution which are defective and alterations and amendments, beg leave to report.

That by the constitution of the state of Pennsylvania, the supreme legislative power is vested in one house of representatives, chosen by all those who pay public taxes. Your committee humbly conceive, the said constitution to be in this respect materially defective.

1. Because if it should happen that a prevailing faction in that one house was desirous of enacting unjust and tyrannical laws, there is no check upon their proceedings.
2. Because an uncontrolled power of legislation will always enable the body possessing it, to usurp both the judicial and the executive authority, in which case no remedy would remain to the people but by a revolution.

That by the said constitution the supreme executive power is delegated to a council. Your committee conceive the said constitution to be in this respect materially defective.

1. Because the constant sitting of a council is expensive and burthensome.
2. Because a numerous body of men, though possessed of wisdom necessary for deliberation, will never possess the decision necessary for action on sudden emergencies.
3. Because where a council act either weakly or wickedly, there is no individual so accountable to the public, as every man ought to be in such cases.
4. Because a single man would never be able of himself to do such acts as he may persuade a majority of his council to concur in, and support by their numbers.
5. Because the election of the president being by joint ballot of the council and assembly, if a prevailing faction should

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\* The yeas and nays were taken upon the adoption of the several paragraphs, and the votes upon every question, were as follows:

#### YEAS.

Samuel Miles,  
Thomas Fitzsimons,  
Fredk A. Muhlenberg,  
Arthur St. Clair,

Anthony Wayne,  
James Moore,  
Stephen Chambers,  
Thomas Hartley,

Richard M'Allister,  
William Irvine,  
John Arndt,  
David Espy.

#### NAYS.

Joseph Hart,  
Samuel Smith,  
John Whitehill,

Baltzer Gehr,  
Simon Dreisbach,  
John Smiley,

William Finley,  
James Edgar,  
John M'Dowell.

ever happen in the assembly, so as to lead a considerable majority, the president thus chosen, will have nothing to fear from the legislature, and by influencing the council, would possess exorbitant authority, without being properly accountable for the exercise of it.

That by the said constitution the judges of the supreme court are to be commissioned for seven years only, and are removable (for misbehaviour) at any time, by the general assembly. Your committee conceive the said constitution to be in this respect materially defective.

1. Not only because the lives and property of the citizens must in a great degree depend upon the judges, but the liberties of the state are evidently connected with their independence.
2. Because if the assembly should pass an unconstitutional law, and the judges have virtue enough to refuse to obey it, the same assembly could instantly remove them.
3. Because at the close of seven years, the seats of the judges must depend on the will of the council; wherefore the judges will naturally be under an undue bias, in favor of those upon whose will their commissions are to depend.

That great care is taken by the said constitution to establish a rotation of sundry offices, which your committee humbly conceive to be unprovident.

1. Because the hope of re-appointment to office, is among the strongest incentives to the due execution of the trust it confers.
2. Because the state is thereby necessarily deprived of the service of useful men for a time, and compelled to make experiment of others, who may not prove equally wise and virtuous.
3. Because the check intended by such principle of rotation, can be of no good effect to repress inordinate ambition, unless it were extended so as to preclude a man from holding any office whatever.
4. Because the privilege of the people in elections, is so far infringed as they are thereby deprived of the right of choosing those persons whom they would prefer.

Your committee having thus briefly stated the leading objections to the constitution, proceed with all possible deference, to point out the articles they recommend to be struck out, and to propose the amendments. And first,

In the bill of rights, section 9; that there be added after the



words, "judgment of his peers," of the vicinage. Because the verification, of the facts in the vicinity where they happen, is one of the greatest securities to life, liberty and happiness.

That as there is no clause in the bill of rights, to prevent retrospective laws being passed, your committee submit the following:

Laws made to punish for actions done before the existence of such laws, are unjust, tyrannical and oppressive, and inconsistent with the fundamental principles of a free government: nor ought any citizen in any case, to be declared guilty of treason or felony by the legislature.

That sections 1 and 2, of the constitution be left out, and the following substituted:

The supreme legislative power within this commonwealth shall be vested in two separate and distinct bodies of men; the one to be called the legislative council, the other to be called the assembly of the commonwealth of Pennsylvania; who shall meet once, at least, in every year, for the despatch of public business, and shall be stiled the general assembly of Pennsylvania.

In lieu of section 3, we submit the following:

There shall be a principle executive magistrate, who shall be stiled the governor of the commonwealth of Pennsylvania.

That section 5 be altered and stand amended as follows:

The freemen of this commonwealth and their sons shall be trained and armed for its defence, under such regulations, restrictions and exceptions as the general assembly shall by law direct.

Because an uniformity in the constitution and discipline of the militia throughout the United States may be essential to its usefulness, and

Because the general assembly being the representatives of the people, will, in a point so essential to their security and happiness, make the law conformable to the opinion of their constituents, and to the interest of the commonwealth.

That in section 6, two years' residence be inserted instead of one year.

In the room of section 7, the following is submitted:

The general assembly of this commonwealth shall consist of persons most noted for wisdom and virtue, to be chosen by the freemen of every city and county therein respectively, and no person shall be elected unless he shall have resided in the city or county for which he shall be chosen, one year immediately before the said election: Nor shall any member,

while he continues such, hold any other office, except in the militia.

Section 8 to be left out, for the reasons given on the principle of rotation.

The members of the general assembly shall be chosen annually, by ballot, by the freemen of this commonwealth, on the second Tuesday in October for ever, and shall meet on the fourth Monday of the same month. They shall be styled the assembly of the commonwealth of Pennsylvania; shall have power to choose their speaker, their other necessary officers, and the treasurer of the state; they shall judge of the elections and qualifications of their own members; may expel a member, but not a second time for the same cause; they may administer oaths or affirmations, on examination of witnesses; impeach state criminals, and may prepare bills to be passed into laws. All money bills shall originate in the assembly only, but they shall not on any occasion annex to or blend with a money bill any matter, clause or thing not immediately relating thereto, and necessary for imposing, assessing, levying or applying the taxes or supplies to be raised for the support of government, or the current expenses of the state, but shall have all other powers, necessary for one branch of the legislature of a free state or commonwealth.

In section 10, a quorum of the assembly shall consist of two-thirds of the whole number of members elected, but a smaller number shall have power to adjourn from day to day.

And add to the section the following clause,

The members of the legislative council and of the assembly, shall each of them (after they have chosen their president and speaker, and before they proceed to other business) take and subscribe the oath or affirmation of fidelity and allegiance, and the declaration directed to be taken by the members of assembly, in the 10th section of the constitution:

That section 11 stand amended as follows:

Delegates to represent this commonwealth in congress, shall be chosen by the joint ballot of the future general assembly, at their first meeting, annually, for ever. Any delegate may be superseded at any time by the general assembly, appointing another in his stead. No man shall sit in congress more than three years in any term of six years; and no person, while he holds any office in the gift of congress, shall hereafter be elected to represent this commonwealth in congress.

Section 12, being provided for by section 10, to be left out.

Section 13, instead of "the doors of the house," to insert "the doors of each house."

That section 14 be altered, and stand amended as follows:

The votes and proceedings of the general assembly shall be printed weekly during their sitting, with the yeas and nays on any question, vote or resolution, when any two members require it, except when the vote is taken by ballot. We propose that the remainder of the section be left out.

Because we conceive the entering the dissent on the minutes, with reasons, only tends to foment party disputes, weaken the force of the laws, and impede their execution.

Section 15, we humbly conceive, was always delusory, and if a second branch is agreed to, will be rendered unnecessary.

That section 16 be altered and stand amended as follows:

The stile of the laws of this commonwealth shall be, Be in enacted, and it is hereby enacted by the general assembly of the commonwealth of Pennsylvania, and by the authority of the same.

That section 17 be altered as follows:

Whereas representation in proportion to the number of taxable male inhabitants is the best principle which can at all times secure liberty, and make the voice of the people the law of the land: Therefore the general assembly shall cause complete lists of the taxable male inhabitants, in the city and each county of the commonwealth respectively, to be taken, and returned to them on or before the last meeting of the general assembly, which shall be elected in the year , who shall in the year appoint a representation in the general assembly, in proportion to the number of taxables in such returns, in the ratio of 1250 taxables for each representative in assembly, and of 2500 taxables for each representative in the legislative council, which representation shall continue for the ensuing seven years, at the end of which term a new return of the taxable male inhabitants shall be made, and a representation agreeably thereto appointed by the said general assembly, and in like manner septennially for ever.

And in order to prevent a too numerous representation, which would be expensive and burthensome, the representatives in assembly shall never exceed 100 in the whole; nor shall the representatives in the legislative council ever exceed 50; to prevent which, the ratio shall be altered from time to time, as the number of taxables increase, so as to preserve an equal representation in proportion to the taxable male inhabitants.

That section 18 be altered as follows:

In order that the freemen of this commonwealth may enjoy the benefit of election as equally as may be, they shall meet annually at such convenient place or places within the city and each county respectively, as the law may hereafter direct, and there choose their representatives and other elective officers; and no inhabitant of this state shall have more than one annual vote for representatives in the assembly and in the legislative council; nor shall any person be admitted to vote except in the city or county in which he shall be an inhabitant.

That section 19 be struck out, and the following substituted:

To the end that the blessings of free and equal government may be extended and secured to the good people of this commonwealth, and that the laws may be more maturely considered, there shall be a legislative council, which for the present and until a return is taken as heretofore directed, shall consist of twenty-nine persons, who shall be chosen by ballot and at the time and at the places appointed for holding the elections for members of assembly, and in the following proportions, that is to say:

The freemen of the city of Philadelphia shall elect 2	} persons.
county of Philadelphia, ✓ 3	
Chester, 3	
Bucks, 2	

To serve for three years respectively.

The freemen of the county of Lancaster shall elect 4	} persons.
York, 3	
Cumberland, 3	
Berks, 2	

To serve for two years respectively.

The freemen of the county of Northampton shall		
elect	2	} persons.
Bedford,	1	
Northumberland	1	
Westmoreland,	1	
Washington,	1	
Fayette,	1	

To serve for one year respectively.

And at the expiration of the time for which each councillor is chosen to serve, the freemen of the city of Philadelphia and of each county shall respectively elect the same number of

councillors for the city and each county respectively, as is herein directed to serve for three years, and so on every third year. Provided, however, that the general assembly shall not be precluded from altering the present number of representatives, agreeably to the principle already laid down in the constitution, with respect to the election of members of assembly, in proportion to the number of male taxables in the city and each county. The legislative council shall be the first branch of the legislature; shall have power to choose a president, and their other necessary officers. The president shall have a casting vote on all questions in that body, but no other vote except when given by ballot. All bills (except money bills) may originate in the legislative council or assembly, and may be altered, amended or rejected by either. They shall sit on their own adjournments, but neither the legislative council or assembly shall have power to adjourn themselves for a longer time than two days, unless by mutual consent. They shall judge of the election and qualifications of their own members; may expel a member, but not a second time for the same cause. They shall be a court with full authority to hear and determine all impeachments against any officer or officers of the government, for misconduct or mal-administration in their offices, either when in office or otherwise, (provided the impeachment shall be prosecuted within one year after their resignation or removal,) and shall take to their assistance (for advice only) the judges of the supreme court; but previous to the trial of every impeachment, the members shall be respectively sworn, duly and impartially to try and determine the cause, according to the evidence; nor shall their judgment extend farther than to removal from office, and disqualification from holding or enjoying any place of honor, trust or profit under the commonwealth; but the party so convicted shall nevertheless be liable to indictment, trial, judgment and punishment, according to the laws of the land.

Not less than two-thirds of the legislative council shall be a quorum to do business, but a smaller number may adjourn from day to day. All vacancies which may happen by death, resignation or otherwise, in the legislative council or assembly, shall be filled up by writ from the president of the one and speaker of the other, directed to the sheriff of the proper county or counties.

The legislative council shall meet at the same time and place with the assembly, and shall have and enjoy all the powers necessary for a distinct branch of a free legislature.

The treasurer of the state, trustees of the loan office, naval officers, collectors of customs or excise, or any part of the public revenue, judge of the admiralty, attorney-general, sheriffs and prothonotaries shall not be capable of a seat in the general assembly or continental congress.

That section 20 be left out, and the following inserted:

The governor shall be chosen annually by the freemen of this commonwealth, qualified as is required to entitle persons to vote for members of assembly, at the same time and place or places, which shall be directed for the choosing of their representatives in the general assembly, where they shall give in their votes by ballot, and elect some fit person, who shall be a freeholder and shall have resided at least seven years in the state next before the time of his election; which votes shall be sorted, cast up and counted, and fair lists, containing the names of the persons voted for, and of the number of votes for each, made by the sheriffs, judges and inspectors, in the same manner as is or may be directed by law for ascertaining the members elected for the general assembly: which lists, signed and sealed by the said sheriffs, judges and inspectors shall be returned by the sheriffs into the office of the secretary of this commonwealth,                      days at least before the time appointed by the constitution for the meeting of the general assembly, and the said secretary shall, on the first day of the session, lay before the general assembly the said returns, and the two branches together shall forthwith proceed to examine the said returns, and the person having the greatest number of votes shall be by them declared and published to be governor; but if no person shall have a majority of votes, the general assembly shall by joint ballot elect one person out of the two who had the highest number of votes, or if it should so happen that more than two persons had an equal and highest number of votes, then they shall elect one person from the whole of those that have such equal and highest number of votes, and the person so elected shall by them be declared and published to be the governor.

The governor shall be, in virtue of his office, general and commander in chief of the militia and all the forces of the commonwealth, and admiral of the navy of the same: He shall have power to convene the general assembly on extraordinary occasions, and, at his discretion, to grant reprieves and pardons to persons convicted of crimes, other than those that may be convicted on impeachment, or of treason or murder, in which cases he may suspend the execution of the sen-

tence, until it shall be reported to the legislature at their subsequent meeting, and may direct him to pardon, grant further reprieves, or carry the sentence or sentences into execution: He shall have power to appoint and commissionate the judges of the supreme court and the judges of the court of common pleas, naval officers, judge of the admiralty, the attorney general, and all other officers civil or military, except such as shall be appointed by the general assembly, or chosen by the people, agreeably to the constitution, whom he shall nevertheless commissionate.

It shall be his duty to inform the general assembly, at every session, of the condition of the commonwealth, as far as respects his department, and to recommend such matters to their consideration as he shall think conducive to its welfare. He shall correspond with the continental congress and with the other states, and transact the business of the state with the officers of government, civil and military. He shall take care that the laws be duly executed, and shall expedite such measures as may be resolved upon by the general assembly.

In case of absence, resignation, removal from office or death of the governor, the president of the legislative council shall execute all the powers vested in the governor, until another governor shall be chosen, or until the governor absent or impeached shall return or be acquitted; and in such case the legislative council shall choose by ballot one of their body to supply the place of the president during the time he shall exercise the authority of the governor.

All bills which passed the legislative council and assembly shall, before they become laws, be presented to the governor for his revisal, and if, upon revision, he approves thereof, he shall signify his approbation by signing the same; but if he objects to the passing of such bill, he shall return it, together with his objections in writing, to the council or assembly in whichsoever it has originated, who shall enter the said objections at large upon their records, and proceed to reconsider the said bill. But if, after such reconsideration, two-thirds of the legislative council or assembly shall, notwithstanding the said objections, agree to pass the same, it shall, together with the objections, be sent to the other branch of the legislature, where it shall also be reconsidered, and if approved by two-thirds of the members present, it shall have the force of a law, but in all such cases, the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for or against the said bill, shall be entered on their

records; and in order to prevent unnecessary delays, if any bill shall not be returned by the governor within days after it shall have been presented, the same shall be law, unless the general assembly shall by an adjournment render a return within days impracticable, in which case the bill shall be returned on the first day of the meeting of the legislature, after the expiration of the said days.

A secretary shall be elected by the joint ballot of the legislative council and assembly, and shall be commissioned by the governor for the time being. He shall be keeper of the seals of the state, and shall under the direction of a committee of both branches of the legislature, affix the seal to the laws when the same shall be enacted: He shall countersign all commissions signed by the governor, and all orders drawn by him on the treasury of the state, for monies appropriated, as well as all marriage and tavern licenses, and perform the other duties which may be enjoined on him by the constitution or laws of this commonwealth. He shall keep fair records of his proceedings, to be laid before either house of the legislature, when called for, and shall attend the governor or either house when required.

That section 21 be altered, and stand amended as follows:

All commissions shall be in the name of the commonwealth of Pennsylvania, sealed with the state seal, signed by the governor or the person exercising the powers of government for the time, and attested by the secretary.

That section 22 be altered as follows:

Every officer of this commonwealth, whether judicial or executive, shall be liable to impeachment by the assembly, either in office, or at any time within twelve months after removal or resignation, for maladministration; and all impeachments shall be before the legislative council, who shall hear and determine the same.

The judges of the supreme court of the respective courts of common pleas, shall have fixed salaries; shall be appointed and commissioned by the governor, and shall hold their appointments and salaries during good behaviour; they may be removed by the governor, upon the address of the general assembly, provided that two-thirds of each house agree to such address; they shall not be capable of sitting in the continental congress or general assembly, nor to hold any other office, civil or military, nor shall they take or receive any fees or perquisites of any kind.



That section 30 be altered as follows:

Justices of the peace shall be elected by the freeholders of each city and county respectively, that is to say, two or more persons may be chosen for each ward, township or district, as the law shall hereafter direct, and their names shall be returned to the governor, who shall commissionate one or more of them for each ward, township or district so returning, for seven years, removable by the governor on the address of the general assembly; but if any city or county, ward, township or district in this commonwealth, shall hereafter incline to change the manner of appointing their justices of the peace, as settled in this article, the general assembly may make laws to regulate the same agreeable to the desire of a majority of the freeholders of the city or county, ward, township or district so applying. No justice of the peace shall sit in the general assembly, unless he first resign his commission, nor shall he be allowed to take any fees nor any allowance or salary, except such as are or may hereafter be granted by law.\*

That in section 31, "governor" be inserted in the room of "president and council."

That in section 33 the following words be struck out, "unless altered or abolished by the future legislature."

Because in our opinion the restriction should be absolute, and not subject to the will of any future general assembly.

That in section 34, instead of "president and council," "governor" be inserted.

That in section 40 the words "as established by the convention," be left out.

That section 42 be amended as follows:

Every foreigner of good character, who comes to settle in this state, having first taken an oath or affirmation of allegiance to the same, may purchase or by other just means acquire, hold and transfer land or other real estate; and after two years' residence shall be deemed a free denizen thereof, except that he shall not be capable of being elected a representative in assembly or in the legislative council, or of being

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\* In the report as made by the committee, the following was the proposed substitute for the 30th section:

"Justices of the peace shall be elected by the freeholders of each city and county respectively, as the law shall hereafter direct, and their names shall be returned to the governor, who shall commissionate one or more of them for each ward, town or district so returning, for seven years, removable by the governor for misbehavior in office, on the address of the general assembly. No justice of the peace shall be allowed to take any fees, salary or allowance, except such as are granted by law." This was negatived in council, and the above was agreed to.

elected or appointed to any office of trust until he has resided in the state five years.

That section 47 be left out.

Your committee beg leave to add, that the confused manner in which the constitution is thrown together, is justly exceptionable; at the same time to remark, that their report will be liable to the same objections, because they have thought it their duty to follow the constitution in the order in which it stands, and to propose the alterations and amendments to each in the same order.

### DISSENTIENT.

1. Because the report is a manifest violation of the 47th section of the constitution under which we are appointed We think it a duty we owe to ourselves and our constituents, to state fully and circumstantially the proceedings of this council, previously to the decision of the present question, in order that our own characters may stand acquitted and that our constituents, whose happiness, together with our own, is so intimately connected with it, may be enabled to form a proper judgment.

On the 4th December last, the council resolved itself into a committee of the whole, to consider "whether there is a necessity of amending any article of the constitution, which may be defective, explaining such as may be thought not clearly expressed, and of adding such as are necessary for the preservation of the rights and happiness of the people." On the 1st of January, instant, the committee of the whole made report: "That some articles of the constitution of this commonwealth are materially defective, and absolutely require amendment." Which was read the first time, and ordered to lie on the table. On the 2d of January, the above report was taken up for the second reading, when it was fully debated, and previously to the question being put on it, a member who voted against, and another who voted for the report, expressly and repeatedly declared (which the whole council acquiesced in) "That the decision of this question was to determine absolutely whether a convention was to be called or not." Upon the question being put, it appeared that of all the members elected there were but twelve for adopting the report, and ten who were present, against it; and although the minutes of the council say it was carried in the affirmative, yet, as the constitution expressly requires two thirds at least, of all the censors elected, which is eighteen, to concur in proposing

changes in the frame of government; we are warranted in saying, it was determined by more than the number required, that there does not exist a necessity for making any alterations. Therefore, we consider the appointment of a committee, after this, to bring in propositions for altering the form of government, and all the subsequent proceedings of the council on the subject, as factious, illegal and establishing an alarming precedent. We cannot suppose than an appeal to the people at large is again intended, for this council is authorized to deliberate and determine upon the propriety of making changes. Besides, that appeal has been repeatedly made, and as often decided with unexampled unanimity in favor of the constitution. It is also inconsistent with the idea of representation, and subversive of all legal and orderly government. If, however, this appeal be intended from the council to its constituents, we wish it to be so stated; if to the convention, we have already decided by the constitutional number, that no convention is to be called. Should good order and government be unhinged by this step, we persuade ourselves, that we have as little to fear as those who so violently urge the present measure.

2. Because we consider it as an essential principle in every constitution, that it shall not be lightly changed. Clogs and difficulties have therefore, with great wisdom been thrown in the way of all attempts to change fundamental principles. In ours, the spirit of the constitution requires, that in the course of seven years faults of so alarming a tendency, should be discovered, as to induce two thirds at least, of all the censors elected, to concur in propositions for a change. This we conceive to be a principle essential to the preservation of any constitution whatever; without it, we shall be subject to continual fluctuations, and we fear fall into anarchy or tyranny.

3. Because we are convinced, that the same departure from the rule, which is prescribed by the constitution, for the calling of a convention, will be perverted to authorise that convention, when assembled (by whatever means) to proceed to further and more extravagant innovations (if possible) than any of those which have been hitherto proposed, or at least avowed. If we suffer ourselves to be carried away by the tide of the party prevailing in the place where we happen at present to convene, we fear that the state may be plunged into irretrievable destruction. We may be happy in the preservation of a free constitution; we tremble for the consequences of so wild a de-

parture from the very principles which many of us have sworn to observe, and all of us profess to obey.

4. Because we recollect the present constitution was formed with great harmony, at the most auspicious period of time, when the flame of patriotism shone brightest, when the good people of the state were impressed with no other idea than that of acquiring and maintaining to themselves and their posterity, equal liberty, when no factions were formed with ambitious or mercenary motives. We have seen it support the safety and happiness of the state against a most formidable enemy without, with every embarrassment of a most indefatigable and insidious party within. We hoped, as the constitution had pointed out an orderly mode of reconsidering every part of our proceedings at the end of seven years, that peace and harmony would have prevailed in the review. If we are disappointed, we must ascribe it to those who have undertaken to propose articles for alteration, when no legal body is constituted for making those alterations, and when it has been already decided, upon the principles of the constitution, that a convention shall not be called.

5. Because the present constitution, with all the pretended faults and imperfections, which have been so industriously searched out and ascribed to it by men who wanted an excuse for real disaffection or factious views, has stood the test of the most arduous trial, at a time when vigor and energy were indispensably necessary in the execution of measures essential to our safety, among a people of whose purity, in some parts of the state, we cannot boast.

6. Because the alterations proposed will introduce a form of government much more expensive, burthensome and complicated. But what we dread more than expense and delay, they tend to introduce among the citizens new and aristocratic ranks, with a chief magistrate at their head, vested with powers exceeding those which fall to the ordinary lot of kings. We are sufficiently assured, that the good people of Pennsylvania, most ardently love equal liberty, and that they abhor all attempts to lift one class of citizens above the heads of the rest, and much more the elevating any one citizen to the throne of royalty; and herein we are confident we speak not only the language of our constituents, but that we proclaim also the voice of God and nature.

7. Because we have been taught to believe, that many free constitutions have been destroyed for want of the means of reducing them at fixed periods to their first principles. This has been constantly recommended by the greatest and best

political writers, is fully established in the 14th section of our bill of rights, and has been wisely provided for by the 47th section of our frame of government. This salutary provision, among others, is now attempted to be destroyed, so that no guard may remain against innovations, no check may be left against the encroachments of power. Hereafter, if the present attempt should succeed, no constitutional mode can be appealed to, upon the most atrocious and alarming abuses of government. Nothing will remain to the people but the dreadful appeal to arms, to which so many before us have been reduced to the necessity of supplying: An appeal frequently unsuccessful, and always dangerous; dangerous even in case of victory, because the conquerors, even under the standard of liberty have so often proved tyrants. A legal mode is infinitely to be preferred, and we think ought always to be preserved.

Joseph Hart,	John Smiley,
Samuel Smith,	William Finley,
John Whitehill,	James Edgar,
Simon Dreisbach,	John M'Dowell.
Baltzer Gehr,	

WEDNESDAY, January 21, 1784.

The following resolution was adopted, yeas 13, nays 9.

Whereas the dissentients to the report of the committee appointed to propose alterations and amendments in the constitution, have among other things, stated that on the 2d of January, when the report of a former committee on the constitution was under consideration, "A member who voted against, and another who voted for the report, expressly and repeatedly declared (which the council assented in) that the decision of this question was to determine absolutely whether a convention was to be called or not." Therefore,

Resolved, That the council did not then, nor at any time since, acquiesce or agree in the opinion, that the vote of the 2d of January, determined the question as to calling a convention.

The following address was then presented to the chair, and on motion, the same was read the second time and adopted, viz:

Friends and fellow citizens,

Agreeably to the trust reposed in us, we have met and seriously deliberated upon those matters submitted to our consideration, by the constitution of this state.

The most weighty subject that has come before us, is the

constitution itself. To that therefore, whilst we have not neglected the others, we have principally directed our attention. We have examined it with candor; we have compared it with the constitutions of other states; we have discovered some of its defects; we have suggested the necessity of abolishing such parts of it as are expensive and burthensome, and dangerous to your liberties, and have with great deference thrown out, for your consideration, such alterations as appear to us to be best calculated to secure to you the blessings of free and equal government.

By the report of our committee which accompanies this address, you will perceive that though the majority of this council approve of the alterations, considering them essential to your existence as a free people, it is not yet met with the concurrence of two-thirds of our whole number, which the constitution has made necessary to enable us to call a convention. We are strangers to the motives of the minority, for refusing to give you an opportunity to judge upon a matter, you and we, and all our posterity are so deeply interested in, while by their silence upon the subject of the report, they have confessed that the constitution wants amendment. By refusing to indulge you in a convention for that purpose, they hold up consequences from that meeting that are dishonorable to freemen. They have indeed had the power to prevent it for the present, in the manner pointed out by the constitution:— But their sullen no in this council cannot rob you of your birthright.

Is it that they were concerned in the framing of the constitution, and therefore cannot bear that any fault should be found with it? This fondness for the productions of the brain, is a weakness mankind is subject to. But in so momentous a concern, passion and prejudice should, as far as human nature is capable of it, be laid aside, and the arguments offered, weighed with that cool deliberation the subject deserves. Nor can it be in any case, much less in the intricate science of government, upon which so few have had either leisure or opportunity to turn their thoughts, an impeachment of any man's judgment, to say he is mistaken. If errors then they have crept in, they ought to be corrected; if there are ambiguities, they should be explained, and if the system itself is wrong it should be altered.

One cannot hesitate a moment in declaring that all these were naturally to be expected from the time and circumstances under which the present constitution was formed. Our politi-

cal knowledge was in its infancy. The passions of the state were unusually agitated. A large body of militia were busy in preparing to march to another state to oppose the progress of the British army. Another body of citizens to the amount of five thousand were absent, on the same service, in the continental army. Amidst the din of arms and the dread of invasion, and when many wise and able men were necessarily absent, whose advice and assistance would have been of great use, was it reasonable to expect that a constitution could be formed proper for a great and growing state? And if an improper one was formed, which is our decided opinion, shall it not be altered or amended?

Let it not be said, that the constitution has carried us triumphantly through a perilous war; this is far from being the case. We owe all the exertions of Pennsylvania to the virtue of the people. In times of danger, it is well known, the constitution forsook us, and the will of our rulers became the only law. It is well known likewise, that a great part of the citizens of Pennsylvania, from a perfect conviction that political liberty could never long exist under such a frame of government, were opposed to the establishment of it, and that when they did submit to it, a solemn engagement was entered into by its then friends, that after seven years should be expired, and the enemy driven from our coasts, they would concur with them in making the wished for amendments. The seven years have elapsed, and our country now enjoys a peace, favorable to the most temperate deliberations on the subject of government; but a minority in this council, which by the absurdity of its constitution, can in this instance bind the majority, say it is unnecessary. We appeal to your common sense, whether such a conduct is calculated to restore order and mutual confidence. It may be proper here to remark, that this very minority, although near one half of the members present in this council, do not represent one third of you; so that the voice of more than two thirds of the people, if the majority speak your sense, is sunk entirely; and, contrary to all principles, the lesser number binds the greater. What do these men fear from a convention? are they afraid to trust you with the exercise of the inestimable power of choosing a government for yourselves? You cannot, you will not injure yourselves in this business. If the constitution in its present form is most agreeable, you have only to instruct your representatives in the convention to adopt it in all its parts. You are the sovereigns of Pennsylvania. All the power of the state

is derived from your votes. Nothing can be obligatory on you which is contrary to your inclinations, or repugnant to your happiness. We do not quote any part of the bill of rights to prove to you that you may call a convention, when and in what manner you please. This privilege is your birth right and no power on earth can deprive you of it. We appeal to you, therefore, to decide the great question, whether Pennsylvania shall continue unhappy and distracted under her present constitution, or whether by calling a convention, and amending it, you will restore harmony amongst yourselves and dignity to your government.

We recommend to your serious consideration, the report of our committee, which has been adopted by this council and has become one of its acts. Weigh the reasons upon which it is founded with coolness and deliberation, and suffer not yourselves to be imposed upon, or your passions inflamed by artful men, or by words without meaning. We can have no interest separate from yours; and as to our political principles, when you recollect that all have been the constant opposers of our British foes, and most of us have risked our lives and fortunes, during the whole of the contest, you can entertain no doubt about them. The proposed alterations are not experiments, but are founded on reason and the experience of our sister states. The future welfare of your country is in your hands. If you give her a good government she will be great and free. If you mistake in this point, the die will be cast, and you are sealed up to insignificance or misery.

We have not the most distant prospect, that the gentlemen in the minority will concur in calling a convention to amend the constitution, which we have thought, we hope not improperly, the most important part of our business; and it is that you might have an opportunity to instruct them on that subject, that we have at present suspended our deliberations.

On motion, that the president sign the address, and that it be published with the report, the yeas and nays were as follows:

#### YEAS.

Samuel Miles,  
Thomas Fitzsimons,  
Fredk. A. Muhlenberg,  
Arthur St. Clair,  
Anthony Wayne,  
James Moore,

Stephen Chambers,  
Thomas Hartley,  
Richard M'Allister,  
William Irvine,  
John Arndt,  
David Espy.



## NAYS.

Joseph Hart,	James Read,
Samuel Smith,	John Smiley,
John Whitehill,	William Finley,
Baltzer Gehr,	James Edgar,
Simon Dreisbach,	John M'Dowell.

The convention then adjourned until 3 o'clock on Tuesday,  
the 1st of June, next, P. M.