A Popular Sovereignty Without the People's Consent:
The Imposition of Democracy in the 1776 Pennsylvania Constitution

Original in the John Carter Brown Library at Brown University

A harbor in Philadelphia as depicted by German artist Balthazar Frederic Leizelt in 1776. (Courtesy of the John Carter Brown Library at Brown University.)

Matthew E. Dardet
Professor Gienapp | Tanner Allread
HIST 150A: *Colonial & Revolutionary America*
November 15, 2020

Pennsylvania's 1776 Constitution[1] inaugurated a radical departure from the forms of government that preceded it. Consisting of two key portions—a "declaration of the rights of the inhabitants of the commonwealth" and a "plan or frame of government for the commonwealth"—the Pennsylvania Constitution firmly implanted notions of popular sovereignty into the mechanics of state government.[2] The Constitution was the product of several months of debate and deliberation by the leading radical Pennsylvanian patriots who composed the Provincial Convention of 1776, which met about a month after a similar group of patriots had formally dissolved the commonwealth's ties to the British Empire during the Provincial Conference earlier that June. The Pennsylvanian framers, in accordance with their rebellious ideals and motivations, had produced a document that was, at its heart, unorthodox and revolutionary. "[T]he people," according to the first sentence of the Constitution's preamble, would "have a right, by common consent to change [the government], and take such measures as to them may appear necessary, to promote their safety and happiness."[3] The Pennsylvania Constitution provided for a unicameral legislature, a plural executive, near-universal suffrage for tax-paying males over the age of 21, freedom of speech, and nominal freedom of religion. However, despite this novel dispersion of power throughout the Pennsylvanian citizenry, and in many regards because of it, the backlash to the ratification of the Pennsylvania Constitution was swift and intense.

This paper seeks to comprehend more thoroughly the dismay that occurred after the ratification of the Constitution by understanding the ways in which divergent political factions thought about how governments imbued with popular sovereignty should operate. Evidence from

[1] Hereafter referred to as "the Pennsylvania Constitution" or "the Constitution."
[2] "Constitution of Pennsylvania—1776," in *Federal and State Constitutions, Colonial Charters, and Other Organic Laws of the States, Territories, and Colonies Now or Heretofore Forming the United States of America*, ed. Thorpe Francis Newton. (Washington, D.C.: U.S. Government Printing Office, 1909): 3082, 3084.
[3] *Ibid.*, 3081.

newspapers and pamphlets that appeared during and immediately following the Provincial Convention supports the conclusion that many opponents to the Constitution thought that it was much too democratic. Additionally, an examination of the minutes of the Provincial Convention finds that Pennsylvanian radicals were able to hypocritically impose the form of democracy favored by a minority onto the state as a whole through the forced administration of oaths and the obstruction of popular commentary on the proposed frame of government.

Popular representation at the time of the Provincial Conference could be divided into two factions: moderates—led by John Dickinson, Dr. Benjamin Rush, James Wilson, Robert Morris, and others—and radicals—led by George Bryan, Thomas Paine, Benjamin Franklin, and David Rittenhouse, among others.[4] Of course, these two groups excluded the Loyalists or Tories, many of whom were Quakers and Germans, who constituted a significant political force within the "official" Pennsylvania Assembly.[5] Moderates, who seem to have held the allegiance of a majority of the non-Tory Pennsylvanian electorate, differed starkly from radicals in that they still desired reconciliation with Great Britain. Radicals, who held a minority of support from the Pennsylvanian electorate yet the majority of support from key players in the newly formed Continental Congress, zealously desired independence from Britain and extremely egalitarian democratic institutions.[6] Both groups believed in variations on popular sovereignty, as evidenced by some of the main pamphlets party leaders wrote in order to propagate their preferred governmental frameworks.

Perhaps the most prominent differentiation between Pennsylvanian moderates and radicals regarding the implementation of a popular government revolved around whether the legislature

---

[4] J. Paul Selsam, *The Pennsylvania Constitution of 1776: A Study in Revolutionary Democracy*. (Philadelphia, PA: University of Pennsylvania Press, 1936): 248.
[5] Paul Leicester Ford, "The Adoption of the Pennsylvania Constitution of 1776," *Political Science Quarterly* 10, no. 3 (1895): 452-455.
[6] As one historian put it, "The old idea that the year 1776 was a period of almost universal patriotic enthusiasm had no foundation in fact." Selsam, *The Pennsylvania Constitution of 1776*, 257.

should be unicameral or bicameral. In the anonymous *An Essay of a Frame of Government for Pennsylvania*, widely attributed to the moderate John Dickinson, the author offers a conservative assessment of the legislative branch by asserting that "[t]he vesting of the Supreme Legislature in three different bodies, has a great tendency to give maturity and precision to acts of legislation… by preventing measures from being too much influenced by sudden passions."[7] Dickinson's conception of a proper government was one in which the "PEOPLE are their Sovereigns"[8] and their "sovereignty [was] to be verified in an Assembly, a Senate, and a Council."[9] The pamphlet further specified that each house would propose bills that needed to be verified and accepted by the others in order to be codified into law. This moderate stance on popular sovereignty was capped with an affirmation of liberty for all Pennsylvanian constituents, advising that "[n]o person hereafter coming to, or born in this country, [should] be held in Slavery under any pretence whatever."[10] After the ratification of the Pennsylvania Constitution on September 28, many moderate Whigs like John Dickinson and Tories would form a party of Republicans who were opposed to the radical frame of government.

Pennsylvanian radicals, of course, contrasted with the moderates and exhibited more variation in their idealized visions of popular government. In the pamphlet *Four Letters on Interested Subjects*, widely attributed to the radical Thomas Paine, the author begins by declaring that the "forms of government are numerous and perhaps simplest is the best."[11] Paine justified this assertion by providing his opinion on the nature of separation of powers: "GOVERNMENT is generally distinguished into three parts, Executive, Legislative and Judicial; but … the distinction

---

[7] John Dickinson, *An Essay of a Frame of Government for Pennsylvania*. (Philadelphia, PA: Printed by James Humphreys, Jr., 1776): i.; Ford, "The Adoption of the Pennsylvania Constitution of 1776," 463.
[8] *Ibid.*
[9] *Ibid.*, 6.
[10] *Ibid*., 16.
[11] Paine, Thomas, *Four Letters on Interesting Subjects*. (Philadelphia, PA: Printed by Styner and Cist, in Second-Street, 1776). The pages of this pamphlet are not enumerated.

is perplexing."[12] He continues to make the case for unicameralism by stating that the "notion of checking by having different houses, has but little weight in it, … and in all cases it tends to embarrass and prolong business."[13] Furthermore, in Paine's view, "were there a large, equal and annual representation in one house *only*, the different parties, by being thus blended together, would hear each others arguments."[14] This firm adherence to unicameralism was not shared by all Pennsylvanian radicals. Another pamphlet, *The Genuine Principles of the Ancient Saxon, or English Constitution*, penned by George Bryan under the alias of Demophilus, advocated for a radical form of government by referencing the "history" of the ancient British constitution. While Thomas Paine dismissed colonial attachments to the British constitution,[15] Bryan averred that the basis of the British constitution lay in the fact that "… our Saxon forefathers had no kings in their own country, but lived in tribes or small communities, governed by laws of their own making, and magistrates of their own electing."[16] Bryan additionally differed from Paine in promoting bicameralism, specifically arguing that, "[s]ome are strenuous for only one legislative body namely, the house of representatives: but a council will be found necessary."[17] Whereas the Pennsylvanian political factions present at the Provincial Conference did not agree on the best mechanical structure for the legislature, they were all attempting, as Bryan put it, to ensure that "the supreme power [would be] in its *only* safe repository *the hands of* THE PEOPLE."[18]

Ideological differences notwithstanding, the radicals were able to wrest control of the Provincial Convention and, by corollary, the constitutional framing process in Pennsylvania. This

---

[12] *Ibid.*
[13] *Ibid.*
[14] *Ibid.*
[15] In *Four Letters on Interesting Subjects*, he states that "[t]he truth is, the English have no fixed Constitution." *Ibid.*
[16] Demophilus, *The Genuine Principles of the Ancient Saxon, or English Constitution. Carefully Collected from the Best Authorities with Some Observations, on Their Peculiar Fitness, for the United Colonies in General, and Pennsylvania in Particular*. (Philadelphia, PA: Printed by Robert Bell, in Third-Street, 1776): 9.
[17] *Ibid.*, 36.
[18] *Ibid.*, 38.

was done, in the words of one historian, by first "throw[ing] open the franchise in favor of their own party by voting that in the coming elections every associator of twenty-one years of age, who had been in the colony and had paid or been rated for taxes, should be entitled to vote."[19] Secondly, the minutes from the Provincial Conference reveal that the radicals removed moderate opposition by making all representatives swear an oath mandating that they "will steadily and firmly at all times, promote the most effectual means … to oppose the tyrannical proceedings of the king and parliament of Great Britain," and to "support a government in this province, on the authority of the people only."[20] Thus, Quakers, those who were loyal to King George III, those who believed in the original colonial charter, and moderate patriots like John Dickinson who still wished for British North America to remain part of the Empire were effectively barred from participation. The Provincial Conference formally operated around one of Paine's other judgements, namely that "Whigs and Tories cannot unite; they *must* separate; and the sooner this separation takes place the better."[21] Moderate Whigs seem to have been opposed to oath-taking in general, as evidenced by Dickinson's governmental recommendation, "nor shall any person conscientiously scrupulous of taking an oath, be obliged or required by any law or ordinance whatever … to take an oath … according to the ancient, legal and laudable usage in this colony."[22] Finally, even though many in Pennsylvania, including George Bryan, desired that the Constitution be published and circulated for a period of several months before being ratified, the Provincial Convention proposed and

[19] Ford, "The Adoption of the Pennsylvania Constitution of 1776," 459-460.
[20] *The Proceedings Relative to Calling the Conventions of 1776 and 1790: The Minutes of the Convention that Formed the Present Constitution of Pennsylvania, Together with the Charter to William Penn, the Constitutions of 1776 and 1790, and a View of the Proceedings of the Convention of 1776, and the Council of Censors.* (Harrisburg, PA: Printed by John S. Wiestling, 1825): 39.
[21] Paine, *Four Letters on Interesting Subjects*.
[22] Dickinson, *An Essay of a Frame of Government for Pennsylvania*. 13.

ratified the Constitution in little over two weeks in September 1776.[23] This move essentially isolated the radicalism of the proposed constitution from being tempered by sentiments of moderation from the lay populace.

Having removed any potential moderate or conservative opposition via political maneuvering, the Pennsylvanian radicals were able to implement their optimal version of the Constitution. This version codified many natural rights including a radical freedom of religion, stating "[t]hat all men have a natural and unalienable right to worship Almighty God, according to the dictates of their own consciences and understanding."[24] Throughout, the Constitution inculcated enlightened notions of popular sovereignty, avowing "[t]hat all power being originally inherent in, and consequently derived from the people; therefore, all officers of the government … [are] at all times accountable to them."[25] In a repudiation of the desires of the moderate factions within Pennsylvania, the Constitution vested power in a unicameral "house of representatives of the freemen of the commonwealth or state of Pennsylvania," and expanded the franchise to the same population of young and rebellious country-dwellers who generated the bulk of radical sentiment in the commonwealth.[26] A final notable, radical inclusion in the Constitution mirrored Thomas Paine's advice that "[n]ext to forming a good Constitution, is the means of preserving it. If once the legislative power breaks in upon it, the effect will be the same as if a kingly power did it;"[27] the Constitution explicitly stated that "the members of the house of representatives … shall

[23] John N. Schaeffer, "Public Consideration of the 1776 Pennsylvania Constitution." *The Pennsylvania Magazine of History and Biography* 98, no. 4 (1974): 416.; *The Proceedings Relative to Calling the Conventions of 1776 and 1790*, 52-64.
[24] "Constitution of Pennsylvania—1776," 3082.
[25] *Ibid.*
[26] The text of the Constitution stated, "Every freeman of the age of twenty-one years, having resided in this state for the space of one whole year next before the day of the election for representatives, and paid public taxes during that time, shall enjoy the right of an elector: Provided always, that sons of freeholders of the age of twenty-one years shall be entitled to vote, although they have not paid taxes." *Ibid*., 3084.
[27] Paine, *Four Letters on Interesting Subjects*.

have no power to add to, alter, abolish or infringe any part of this constitution."[28] The radicals' Constitution imposed a novel and expansive form of democracy onto a Pennsylvanian electorate that itself espoused highly variegated ideas about how popular sovereignty should be integrated into a new frame of government.

As might be expected from a minoritarian movement being imposed upon a majority, the Pennsylvanian Constitution was met with dismay and resistance. An overall air of hypocrisy surrounded the new Constitution, as the radicals simultaneously promoted an extreme form of democracy while also doing all in their power to suppress popular democracy within the ratification process. As one Pennsylvanian historian wrote, "[t]he constitution was greeted with almost universal protest. The papers were filled with attacks upon it, and resolutions opposing it were adopted in many public meetings."[29] Moderate colonial elites and supporters of bicameralism like John Adams disdained Paine's work and the Pennsylvania Constitution more broadly. Writing to Abigail Adams, John Adams lamented that "[t]his Writer seems to have very inadequate Ideas of what is proper and necessary to be done, in order to form Constitutions for single Colonies, as well as a great Model of union for the whole."[30] Many moderates and conservatives, having been politically outmaneuvered through "obnoxious test oaths,"[31] simply withdrew from the Assembly, allowing for the continued predominance of radicals in local and regional government.[32] However, as would be seen in newspapers throughout Pennsylvania almost immediately after the ratification of the Pennsylvania Constitution, the public—"the people" for whom popular sovereignty should

[28] "Constitution of Pennsylvania—1776," 3085.
[29] Ford, "The Adoption of the Pennsylvania Constitution of 1776," 465.
[30] "John Adams to Abigail Adams, 19 March 1776," *Founders Online*, National Archives, https://founders.archives.gov/documents/Adams/04-01-02-0235.
[31] Ford, "The Adoption of the Pennsylvania Constitution of 1776," 466.
[32] John Dickinson himself was quoted complaining that "[t]he behavior of some persons on that day … induced me to decline any further opposition to the constitution, and I retired from the Assembly." *Ibid.*, 467.

hypothetically hold the most value—quickly caught on to the radical nature of the Constitution as well as to the undemocratic means by which it was established.

Even in the *Pennsylvania Evening Post,* a radical paper that had long written in support of colonial independence and self-government, the reaction to the Pennsylvania Constitution was mixed at best.[33] Some letters included in the newspaper lauded the "sagacity and depth of some of our leading men,"[34] and dismissed popular resistance to the Constitution by writing, "[t]his wise, this necessary, preservative against tyranny has given very great offence to some of our gentry, who regard you as their property, their beasts of burden, born only to be ruled by these Lords of Creation."[35] Both the *Evening Post* and the *Pennsylvania Ledger*, a Tory paper, printed a manufactured dialogue between "Peter Easy," a Constitutional detractor, and "Orator Puff," a Constitutional supporter, in which Puff explains away many of Peter's fears.[36] One of Puff's more significant arguments was made in support of unicameralism, undermining the "checks-and-balances" argument in favor of bicameralism by questioning: "*Great-Britain* has two such checks, and yet what advantage?—The only real use of it is to keep all power in the hands of a few great men, while the people seem to have a share in it."[37] A general trend across the arguments made by supporters of the Constitution can be seen in the attempt to portray the opposition as elitists who preferred more limited forms of democracy—even monarchy or aristocracy—as a means of hoarding power amongst themselves. Yet, these arguments were undermined by the fact that the many of strongest condemnations of the Constitution came from the mass public rather than powerful governmental or mercantile figures.

---

[33] Selsam, *The Pennsylvania Constitution of 1776*, 259.
[34] *Pennsylvania Evening Post*, October 17, 1776.
[35] *Pennsylvania Evening Post*, October 15, 1776.
[36] *The Pennsylvania Ledger*, November 2, 1776.; *Pennsylvania Evening Post*, October 19, 1776.
[37] *Pennsylvania Evening Post*, October 19, 1776.

Around October 22, 1776, "a meeting of a large and respectable number of the citizens of Philadelphia"[38] who were disappointed and angry about the Pennsylvania Constitution took place. Many of the group's grievances were clearly articulated in the following resolutions:

> "2. That the said Convention assumed and exercised powers with which they were not intrusted by the people.
> 3. That in the Constitution formed by the said Convention, the CHRISTIAN religion is not treated with proper respect…
> 5. [T]hat the people did not desire such strange innovations, but only that the kingly, parliamentary, and proprietary powers should be totally abolished… so that a well-formed government might be established solely on the authority of the people…
> 13. That … the late Convention did not allow time to the people of this state to take into consideration the proposed Frame of Government.
> 14. That the late Convention did not know, that the said Frame of Government would be agreeable to the people…
> 17. That it is the sense of this meeting, that the people are generally and greatly dissatisfied with the said Constitution."[39]

Overall, these grievances highlighted a dual trend that rendered the public wary of the new Constitution—on one hand, the document was too democratic and innovative, and, on the other hand, the Provincial Convention acted beyond the authority given to it by the people and did not allow them to participate more directly in the ratification process. Another newspaper commentator fretted over the expansion of the franchise, writing that "Jews or Turks may become in time not only our greatest landholders … [and would] render it not only uncomfortable but unsafe for Christians."[40] The radical Constitution, regardless of the rights and representation it gave to the public, left many citizens greatly concerned about its lack of precedence, highly democratic institutions, and potential ramifications for the future.

Ultimately, much like support for the American Revolution itself, belief in popular sovereignty and the best way in which to structure a popular government took on many forms in

---

[38] *Pennsylvania Evening Post*, October 22, 1776.
[39] *Ibid*.
[40] *Pennsylvania Evening Post*, September 24, 1776.

Pennsylvania around 1776. At the time of the ratification of the Pennsylvania Constitution, the majority of the regional population comprised Tories, Quakers, Germans, and moderate Whigs who had very different ideas about how the people should exercise their power in a government legitimized by their authority. Namely, many moderate Whigs believed in bicameralism, in the separation of powers, and in the hazardous nature of mandatory oath-taking. Further, the radical representatives to the Provincial Convention utilized crafty political measures—namely the expansion of the franchise to politically useful subpopulations and the exclusion of opposing representatives via the same loyalty oaths so despised by moderates—to pass their version of the Constitution. This ratification was aided by the limitation of public commentary and debate on the proposed frame of government. Consequently, the public, who caught on both to the extreme democracy inherent to the Constitution as well as to the antidemocratic methods employed by the Provincial Convention to ratify it, largely resented and dissented to the document. The next Pennsylvania Constitution, ratified in 1790, "undid much of the work of the early framers;"[41] in multiple articles establishing a bicameral legislative branch, a singular executive, a separate judiciary, and a clear process for "Alterations and Amendments," the updated frame of government symbolized a reaction against the radicalism of its predecessor.[42] As attested to by the 1790 Constitution's comparatively longer run as the supreme law of the commonwealth, popular sovereignty had been once again unified with popular consent.

[41] Selsam, *The Pennsylvania Constitution of 1776*, 259.
[42] "Constitution of Pennsylvania—1790," in *Federal and State Constitutions*: 3102.

Bibliography of Works Cited

"Constitution of Pennsylvania—1776." In *Federal and State Constitutions, Colonial Charters, and Other Organic Laws of the States, Territories, and Colonies Now or Heretofore Forming the United States of America*, edited by Thorpe Francis Newton. 3081-3092. Washington, D.C.: U.S. Government Printing Office, 1909.

"Constitution of Pennsylvania—1790." In *Federal and State Constitutions, Colonial Charters, and Other Organic Laws of the States, Territories, and Colonies Now or Heretofore Forming the United States of America*, edited by Thorpe Francis Newton. 3092-3103. Washington, D.C.: U.S. Government Printing Office, 1909.

"John Adams to Abigail Adams, 19 March 1776," *Founders Online*, National Archives, https://founders.archives.gov/documents/Adams/04-01-02-0235. [Original source: *The Adams Papers, Adams Family Correspondence*, vol. 1, December 1761–May 1776, ed. Lyman H. Butterfield. Cambridge, MA: Harvard University Press, 1963, pp. 362–364.]

Demophilus. *The Genuine Principles of the Ancient Saxon, or English Constitution. Carefully Collected from the Best Authorities [Allan Ramsey's Historical Essay on the English Constitution] with Some Observations, on Their Peculiar Fitness, for the United Colonies in General, and Pennsylvania in Particular*. Philadelphia, PA: Printed by Robert Bell, in Third-Street, 1776. Evans 14734.

Dickinson, John. *An Essay of a Frame of Government for Pennsylvania*. Philadelphia, PA: Printed by James Humphreys, Jr., 1776. Evans 14748.

Ford, Paul Leicester. "The Adoption of the Pennsylvania Constitution of 1776." *Political Science Quarterly* 10, no. 3 (1895): 426-459.

Paine, Thomas. *Four Letters on Interesting Subjects*. Philadelphia, PA: Printed by Styner and Cist, in Second-Street, 1776. Evans 14759.

Pennsylvania Evening Post (Philadelphia, Pennsylvania) II, no. 262, September 24, 1776: 475. *Readex: America's Historical Newspapers.* https://infoweb-newsbank-com.stanford.idm.oclc.org/apps/readex/doc?p=EANX&docref=image/v2%3A109C466E6AFD7A58%40EANX-109F04120AC93718%402369998-109F041217CA3D90%400.

Pennsylvania Evening Post (Philadelphia, Pennsylvania) II, no. 271, October 15, 1776. *Readex:*

America's Historical Newspapers. https://infoweb-newsbank-com.stanford.idm.oclc.org/apps/readex/doc?p=EANX&docref=image/v2%3A109C466E6AFD7A58%40EANX-109F041C8DCD3400%402370019-109F041C9BBC99E8%400.

Pennsylvania Evening Post (Philadelphia, Pennsylvania) II, no. 272, October 17, 1776. *Readex: America's Historical Newspapers.* https://infoweb-newsbank-com.stanford.idm.oclc.org/apps/readex/doc?p=EANX&docref=image/v2%3A109C466E6AFD7A58%40EANX-109F041E57B0D990%402370021-109F041E67027EF8%400.

Pennsylvania Evening Post (Philadelphia, Pennsylvania) II, no. 273, October 19, 1776. *Readex: America's Historical Newspapers.* https://infoweb-newsbank-com.stanford.idm.oclc.org/apps/readex/doc?p=EANX&docref=image/v2%3A109C466E6AFD7A58%40EANX-109F041F814A94E8%402370023-109F041F8DFC3EF8%400.

Pennsylvania Evening Post (Philadelphia, Pennsylvania) II, no. 274, October 22, 1776. *Readex: America's Historical Newspapers*. https://infoweb-newsbank-com.stanford.idm.oclc.org/apps/readex/doc?p=EANX&docref=image/v2%3A109C466E6AFD7A58%40EANX-109F04208320B090%402370026-109F0420C7CCAC70%402.

Selsam, J. Paul. *The Pennsylvania Constitution of 1776: A Study in Revolutionary Democracy.* Philadelphia, PA: University of Pennsylvania Press. 1936.

Shaeffer, John N. "Public Consideration of the 1776 Pennsylvania Constitution." *The Pennsylvania Magazine of History and Biography* 98, no. 4 (1974): 415-437.

The Pennsylvania Ledger: or the Virginia, Maryland, Pennsylvania, & New-Jersey Weekly Advertiser (Philadelphia, Pennsylvania), no. XCIII, November 2, 1776. *Readex: America's Historical Newspapers.* https://infoweb-newsbank-com.stanford.idm.oclc.org/apps/readex/doc?p=EANX&docref=image/v2%3A10E6143DCBBF1480%40EANX-10EF6ED61B27D3F8%402370037-10EF6ED6245266A0%400.

The Proceedings Relative to Calling the Conventions of 1776 and 1790: The Minutes of the Convention that Formed the Present Constitution of Pennsylvania, Together with the Charter to William Penn, the Constitutions of 1776 and 1790, and a View of the Proceedings of the Convention of 1776, and the Council of Censors. Harrisburg, PA: Printed by John S. Wiestling, 1825.