

Windsor Attorney Addresses Tea Party Chapter, Daughters Of The American Revolution

(Editor's Note: The following speech was given on Wednesday of last week before the Tea Party Chapter, Daughters of the American Revolution, by Steve Burch, Windsor attorney and native of Chowan County. This is Constitution Week, therefore, we are printing the speech in its entirety.)

Most relevant in point of time and gender is the proposed Equal Rights for Women Amendment to the U. S. Constitution. No one knows what the consequences will be if ratified, either legally, socially or in the home. You have come a long way since the law regarded women as chattels. The old common law, recognizing the fact that wives needed beatings, did protect women by restricting the size of the stick to the width of the husband's thumb. Unfortunately, now and then, we have a client who on Saturday night forgets this law was changed.

The Equal Right Amendment has passed the Congress and has been ratified by 20 states, but not by North Carolina.

Sen. Sam Erwin, the amendment's greatest opponent during the long Senate fight, upon passage, wearily sighed, "Forgive them, Father,

they know not what they do." Did our founding fathers really know what they were doing when they bequeathed to us the Federal Constitution? Let us examine this question.

During the spring and early summer of 1787, carriages piled high with buckskin trunks rolled into the city of Philadelphia. They came from north and south bringing men wearing knee breeches, three cornered hats and buckled shoes. Ships and sails were bringing other men to the Philadelphia docks. Each had been selected in his own state to attend the convention at Philadelphia.

Among the delegates traveling to Philadelphia was Dr. Hugh Williamson of Edenton. Dr. Williamson had been educated at the College of Philadelphia and was a friend of Benjamin Franklin. Surely, this was an important task. I wonder what thoughts passed through the mind of this able and dedicated statesman. It is interesting to know at this time Edenton had 150 homes and a population of 1,600, of which 1,000 were Negro slaves.

He realized that the articles of confederation, while helping the 13 colonies grow

into a nation, had proved inadequate. Dr. Williamson knew that the central government must be stronger and have power to carry out its laws and the money to operate and pay debts incurred during the revolution.

Surely Dr. Williamson had sensed the feeling of Edenton's citizenry before his departure. Mr. Samuel Johnson, selected by the governor of North Carolina, shared Dr. Williamson's convictions, as did Judge Iredell. Chowan leaders such as Charles Johnson, Nathaniel Allen, Michael Payne, Lemuel Creecy and John Mare advised Dr. Williamson to exert his influence in the formation of a stronger union with real strength in its governing body.

One can visualize these gentlemen in Egan's or Horniblow's Tavern, sitting in Windsor chairs at tavern tables discussing the important question of the day. Each smoking his white clay pipe and wearing a newly curled, white wig and nodding in approval, for it was agreed that the mutual interest of each lay in obtaining a strong central government.

Dr. Williamson was in the shipping business and readily saw that merchants could not prosper in a nation where each state had wide discretion in its policies of import, export and currency. His thoughts were that a common currency among the states would be more convenient than each state printing its own money.

Each delegate meeting in Philadelphia knew that a statement of laws and principles for governing the nation had to be written. One of the first orders of business for the group who assembled in a building now known as Independence Hall was to elect a president of the convention. The natural chairman for the office was Gen. George Washington. He was widely admired and knew the problems of a young nation.

The delegates decided that the Articles of Confederation were insufficient and that a new document should be written. Day after day for three and one-half months, they met and debated. Their work was important. James Wilson, a delegate from Pennsylvania, wrote, "We should consider that we are providing a constitution for future generations and not merely for the

particular circumstances of the moment." People waited for the convention to finish. They were eager and anxious. The summer was hot and no one but the delegates knew what progress was being made. They worked day and night and armed guards carried food to their door. Outside the building, the cobbled street had been covered with earth to muffle the noise of passing horses and wagons.

On September 17, 1787, the work was finished. Thirty-nine delegates signed the new Constitution of the U. S. Now the separate states would have to decide whether to accept or reject the work of the convention.

Dr. Williamson set his signature to the new document and returned to Edenton; however, his work was just beginning. On November 8, he addressed the citizens of Edenton explaining the new Constitution and urging its adoption. The town's federalists element adopted Judge Iredell's resolution calling for Chowan citizens to "use their utmost efforts to obtain a resolution of the General Assembly appointing the choice and meeting of representatives of the people in a state convention in order to deliberate on the new constitution proposed."

Judge Iredell published essays in support of the new Constitution. Edenton's newspapers, the Intelligence and the State Gazette, gave strong support to the federalist view; however, the feeling throughout the state was not unanimous.

Farmers and many interior citizens feared too strong a government. Hadn't they just fought a war to gain their freedom? Hadn't they come to this new world seeking freedoms? These were not to be taken lightly. The state convention met in 1788 in Hillsborough and rejected the Constitution.

Eleven of the 13 states had ratified the Constitution when the second state convention was held at Fayetteville. On November 21, 1789, North Carolina adopted the Federal Constitution. Samuel Johnson and James Iredell worked hard to convince the anti-federalists that North Carolina could not stay out of the Union. They made speech after speech and circulated pamphlets. Johnson was president of the assembly and his influence greatly contributed to the success.

This brought great joy to Edenton and they celebrated by hoisting Union flags, displaying colors on vessels and fired salutes. The federalists gathered at Egan's Tavern and drank toasts to their leaders. The cupola on the courthouse was illuminated and bonfires roared on the edge of town.

Still there were many citizens in North Carolina and other states who were not satisfied with the Constitution. They asked "Where in this document do you find anything to prevent the national government from interfering with the liberties which we revolted? Where are our freedoms of speech, of press, of religion? Many shook their heads and claimed that the Constitution failed to protect the very rights proclaimed in the Declaration of Independence. They asked "Why had

a statement of our fundamental rights been left out? Were the proponents of the Constitution assuming too much when they assumed that fundamental liberties were probated? James Iredell's thoughts were later reflected in his dissent after he was appointed to the U. S. Supreme Court in Chishom vs. Georgia when he wrote that the states were sovereigns as to all powers which they had not specifically delegated to the federal government.

Thus the Constitution received its first challenge and withstood it well.

Dr. Williamson and the authors of the Constitution had made promises for amendments. One of the very first acts of the new government after ratification was to add the Bill of Rights to the new Constitution guaranteeing basic human rights to each citizen.

We were bequeathed a Constitution that is more than a

working plan for a great federation of states under representative government. There is embedded in it the vital principles of the American system of liberty, a system based upon certain inalienable freedoms and protections. Among others, the freedom of worship, freedom of speech and press, right of peaceable assembly such as this meeting here today, equality before the law, just and fair trial for crime, freedom from unreasonable search, and security from being deprived of life, liberty or property without due process of law. These are the principles that distinguish our civilization. These principles are the invisible soldiers which guard the door of every home from invasion of coercion of intimidation and fear. In these principles lie the expression of the spirit of men and women who would be forever free.

Article III of our Constitution provides that the judicial power of the U. S. shall be vested in one Supreme Court and in such inferior courts as the Congress may from time to time ordain and establish.

From the time of John Marshall to today, the court has added to its power by slow accretion until today its influence affects every aspect of American life. Troops have been deployed, great corporations dissolved and little children marched past angry mobs to school because nine black robed justices in Washington discovered new meanings to our old and hallowed Constitution.

The court has added to, deleted from, and interpreted the Constitution which has endured because of its flexibility. The founding fathers of our Constitution, I think, really expected the Supreme Court to preserve, rather than change the Constitution for they gave us a power to

amend it. The court under the system of checks and balances, was to keep an eye on the Congress. Alexander Hamilton in the Federalist Papers wrote, "The courts were designed to be an intermediate body between the people and the legislature, in order, among other things, to keep

the latter within the limits assigned to their authority."

In practice, it has not worked out this way.

True the court has protected the Constitution against illegal acts of Congress and

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