

New York 7 Jan'y 1787

Dear Sir



They who regard the public good with more attention & attachment than they do mere personal concerns, must feel and confess the force of such sentiments as are expressed in your letter to me by Col. Humphreys last fall. The situation of our affairs calls not only for Reflection and Prudence but for Operation. What is to be done? is a common Question, but it is a Question not easy to answer.

would the giving any further Degree of Power to Congress do the Business? I am inclined to think it would not. For among other Reasons

It is natural to suppose there will always be Members who will find it convenient to make their Votes subservient to partial & personal Purposes; and they who may be able and willing to concert and promote useful and national Measures, will seldom be unembarrassed by the Ignorance, Prejudices, Fears or interested Views of others.

In so large a Body Secrecy and Disputes will be too uncommon; and Foreign as well as local Influence will frequently oppose and sometimes frustrate the wisest Measures.

Large assemblies often misunderstand or neglect the obligations of Character Honor and Dignity; and will collectively do or omit Things which individual Gentlemen in private Capacities would not approve. as the many divide Blame and also divide Credit, too little a Portion of either falls to each Mans Share to affect him strongly; even in Cases where the whole Blame or the whole Credit must be national. It is not easy for those to think and feel as Sovereigns, who have always been accustomed to think and feel as Subjects.

The executive Business of Sovereignty depending on so many Wills, and those Wills moved by such a Variety of contradictory Motives and Inducements, can in general be but feebly done.

Such a Sovereign however theoretically responsible, cannot be effectually so in its Departments and Officers, without adequate Judicatories.

I therefore promise myself nothing very desirable from any Change which does not divide the Sovereignty into its proper Departments - Let Congress legislate, let others execute, let others judge.

Shall we have a King? not in my opinion, while other Expedients remain untried. might we not have a Governor General limited in his Prerogative and Duration? might not Congress be divided into an upper and a lower House? the former appointed for life, the latter annually; and let the Governor General (to preserve the Balance) with the advice of a Council formed, for that only purpose of the great judicial Officers, have a Negative on their acts. our Government should in some Degree be suited to our manners and Circumstances, and they you know are not strictly Democratical.

What Powers should be granted to the Government so constituted is a Question which deserves much Thought - I think the more the better the States retaining only so much as may be necessary for domestic Purposes; and all their principal Officers civil and military being commissioned and removable by the national Government.

These are short Hints - Details would exceed the limits of a Letter, and to you be superfluous.

a convention is in contemplation, and I am glad to find your Name among those of its intended Members.

To me the Policy of such a Convention appears questionable. Their authority is to be derived from acts of the State Legislatures. ^{authorized} are the State Legislatures, either by themselves or others, to alter Constitutions? I think not. They who hold Commissions can by virtue of them, neither retrench nor extend the Powers conveyed by them. Perhaps it is intended that this Convention shall not ordain, but only recommend - if so - there is Danger that their Recommendations will produce endless Discussions, and perhaps Jealousies and party Heats.

would it not be better, for Congress plainly and in strong Terms to declare, that the present federal Government is inadequate to the Purposes for which it was instituted - that they forbear to point out its particular Defects, or to ask for an Extension of any particular powers, lest improper Jealousies should thence arise; but that ~~in~~ in their opinion it would be expedient for the People of the States without Delay to appoint State Conventions (in the way they chuse their General Assemblies) with the sole and express power of appointing Deputies to a general Convention; who on the majority of whom should take into Consideration the articles of Confederation, & make such alterations amendments and additions thereto as to them should appear necessary and proper; and which being by them ordained and published should have the same force & Obligation which all or any of the present articles now have - ~~no~~ no alterations in the Government should I think be made, nor if attempted will easily take place, unless deducible from the only Source of just authority. The People.

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accept my dear Sir my warmest and most cordial wishes
for your Health and Happiness, and believe me to be with
greatest Respect and Esteem

Your most ob^d. Serv^t J. H. Smith

Esq. U.S. Marshal



U.S. Marshal Washington

Ms. A. 9. 2. 1787
The Hon. Secy. of War
Washington D.C.