

Richard Henry Lee to George Mason, Chantilly, 7 May 1788

Your son delivered me the letter that you were pleased to write me on the 30th instant, and I have promoted his views, as far as it is in my power at present, by directing the tobacco I had intended to sell in the country, to be put on board his vessel. I am inclined to think, for the reasons assigned by him, that the French market will be as good a one, at least, as any that we can send to.

Give me leave now, dear sir, to make a few observations on the important business that will call you to Richmond next month. It seems pretty clear at present, that four other States, viz. North Carolina, New York, Rhode Island, and New Hampshire, will depend much upon Virginia for their determination on the Convention project of a new constitution; therefore it becomes us to be very circumspect and careful about the conduct we pursue, as, on the one hand, every possible exertion of wisdom and firmness should be employed to prevent danger to civil liberty, so, on the other hand, the most watchful precaution should take place to prevent the foes of union, order, and good government, from succeeding so far as to prevent our acceptance of the good part of the plan proposed. I submit to you, sir, whether, to form a consistent union of conduct, it would not be well for six or eight leading friends to amendments to meet privately, and, having formed the best possible judgment of the members' sentiments from knowledge of the men, to see how far it may be safe to press either for modes of amendment or the extent of amendments, and to govern accordingly. But, certainly, the firmest stand should be made against the very arbitrary mode that has been pursued in some states, that is, to propose a question of absolute rejection or implicit admission. For though it is true that the convention plan looks something like this, yet I think every temperate man must agree that neither the convention, nor any set of men upon earth, have or had a right to insist upon such a question of extremity. To receive the good and reject the bad is too necessary and inherent a right to be parted with. As some subtle managers will be upon the convention, I believe you will find entrapping questions proposed at first as a ground-work of proceeding, which will hamper, confine, and narrow all attempts to proper investigation or necessary amendment, and this will be done under the plausible pretext of losing all by attempting *any* change. I judge that it will be so here, because I observe a similar conduct has been pursued in other places, as in Maryland and Pennsylvania. I trust that such uncandid and dangerous stratagems will be opposed and prevented in the convention of Virginia, and a thorough, particular, and careful examination be first made into all its parts as a previous requisite to the formation of any question upon it. During this process a tolerable judgment may be formed of the sentiments of the generality, and a clue furnished for forming successful propositions for amendment, as the candid friends to this system admit that amendments may be made to improve the plan, but say that these amendments ought to be made, and may be obtained from the new Congress without endangering a total loss of the proposed constitution. I say that those who talk thus, if they are sincere, will not object to this plan, which, as I propose it, [is] something like the proceeding of the convention parliament in 1688, in the form of ratification, insert plainly and strongly such amendments as can be agreed upon, and say, that the people of Virginia do claim, demand, and insist upon these as their undoubted rights and liberties which they mean not to part with; and if these are not obtained and secured by the mode pointed out in the fifth article

of the convention plan, in two years after the meeting of the new Congress, that Virginia shall, in that case, be considered as disengaged from this ratification. Under this proposition a development will be made of the sincerity of those who advocate the new plan, the beneficial parts of it retained, and a just security given to civil liberty. In the fifth article it is stated that two-thirds of Congress may propose amendments, which, being approved by three-fourths of the legislatures, become parts of the constitution. By this mode, the new Congress may obtain our amendments without risking the convulsion of conventions, and the friends of the plan will be gratified in what they say is necessary; the putting the government in motion, when, as they again say, amendments may and ought to be obtained. By this mode, too, in all probability, the undetermined States may be brought to harmonize, and the formidable minorities, in the assenting states, may be quieted. By this friendly and reasonable accommodation, the perpetual distrust and opposition, that will inevitably follow the total adoption of the plan, from the state legislatures, may be happily prevented, and friendly united exertions take place. Much reflection has convinced me that this mode is the best that I have had an opportunity of contemplating. I have, therefore, taken the liberty of recommending it to your serious and patriotic attention; in the formation of these amendments, *localities* ought to be avoided as much as possible.

The danger of monopolized trade may be prevented by calling for the consent of three-fourths of the United States on regulations of trade. The trial by jury, in this state, to be insisted on, as it [is] used under our present government, and confining the supreme federal court to the jurisdiction of *law* excluding *fact*. The Massachusetts amendments, except the second, and extending the seventh to foreigners as well as citizens of other States, appear to me to be very good, and for their adoption the aid of that powerful state may be secured. The freedom of the press is, by no means, sufficiently attended to by Massachusetts, nor have they remedied the want of responsibility by the impolitic combination of president and senate. It does appear to me, that, in the present temper of America, if the Massachusetts amendments, with those suggested by me, being added, and inserted in our ratification as before stated, we may easily agree, and I verily believe that the most essential good consequences would be the result. Affectionately yours,

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