

George Mason to John Lamb , Richmond, 9 June 1788

I have had the Honor to receive your Letter dated the 18th. of May, in behalf of the fœderal republican Committee of New York, upon the Subject of the Government proposed by the late Convention to the respective States for their Adoption; and have communicated it to several respectable Gentlemen of the Convention now met in this City, who are opposed to the Adoption without previous Amendments:

They receive, with pleasure, the proposition of your Committee for a free Correspondence on the Subject of Amendments, and have requested me to transmit to your committee such as we have agreed on as necessary for previous Adoption.

Although there is a general Concurrence in the Convention of this State that Amendments are necessary, yet, the Members are so equally divided with respect to the Time and Manner of obtaining them, that it cannot now be ascertained whether the Majority will be on our Side or not; if it should be so, I have no doubt but that an official Communication will immediately take place between the Conventions of this State and yours.

As the Amendments proposed by the Convention of Massachusetts are the first which have been offered to the public, and contain in them many things that are necessary, it is deemed proper to make them the Basis of such as may finally be agreed on; and it may also be proper to observe, that an executive Council will be necessary; because Power and Responsibility are two things essential to a good Executive; the first of which cannot be safely given, nor the latter insured, where the Legislative Senate form a part of the Executive.

The Judiciary, the exclusive Legislative Power over the ten Miles square, and the Militia, are Subjects to which our Attention will next be turned, and we shall communicate the Result of our Deliberations with all possible Dispatch.

The Nature of the Opposition here is such that it has not yet taken any particular form, being composed only of Members of the Convention who meet to prepare such Amendments as they deem necessary to be offered to the Convention: If it should hereafter become necessary to assume one, it is hoped that System and Order will every where appear suitable to the Importance and Dignity of the Cause. In the mean Time, it is recommended to us, to communicate with you under cover to Capt. Jacob Reed jr. of Queen-Street, New York, 33 in Order to prevent any Interruption that Curiosity might give. We approve of the Precaution; and also advise that Mr. George Fleming Mercht. of this City be made the Instrument of safe Conveyance on your part.

[Enclosure]

Amendments to the New Constitution of Government.

That there be a Declaration or Bill of Rights, asserting and securing from Encroachment, the Essential and unalienable Rights of the People, in some such Manner as the following.—

1. That all Freemen have certain essential inherent Rights, of which they cannot by

any Compact, deprive or divest their Posterity; among which are the Enjoyment of Life and Liberty, with the means of acquiring, possessing and protecting Property, and pursuing and obtaining Happiness and Safety.

2. That all Power is naturally vested in, and consequently derived from the People; that Magistrates therefore are their Trustees and Agents, and at all Times amenable to them.

3. That Government ought to be instituted for the Common Benefit, Protection and Security of the People; and that whenever any Government shall be found inadequate or contrary to these purposes, a Majority of the Community hath an indubitable unalienable and indefeasible Right to reform, alter or abolish it, and to establish another, in such manner as shall be judged most conducive to the public Weal; and that the Doctrine of non-resistance against arbitrary Power and Oppression is absurd, slavish and destructive of the good and Happiness of Mankind.

4. That no man or Set of Men are entitled to exclusive or separate public Emoluments or privileges from the Community, but in Consideration of public Services; which not being descendable neither ought the Offices of Magistrate, Legislator or Judge, or any other public Office, to be hereditary.

5. That the Legislative, Executive and Judicial powers of Government should be separate and distinct; and that the Members of the Two first may be restrained from Oppression, by feeling and participating [in] the public Burthens, they should, at fixed periods, be reduced to a private Station, return into the Mass of the people, and the Vacancies be supplied by certain and regular Elections, in which all, or any part of the Former Members to be eligible or ineligible, as the Rules of the Constitution of Government and the Laws shall direct.

6. That the Right of the People to participate in the Legislature is the best Security of Liberty, and the Foundation of all Free Governments; for this purpose Elections ought to be free and frequent; and all men having sufficient Evidence of permanent common Interest with, and Attachment to the Community, ought to have the Right of Suffrage: 35 And no Aid, Charge, Tax or Fee can be set, rated or levied upon the People without their own Consent, or that of their Representatives so elected; nor can they be bound by any Law to which they have not in like manner assented for the Public Good.

7. That all power of suspending Laws, or the Execution of Laws by any Authority, without Consent of the Representatives of the People in the Legislature, is injurious to their Rights, and ought not to be exercised.

8. That in all Capital or Criminal Prosecutions, a Man hath a Right to demand the Cause & Nature of his Accusation, to be confronted with the Accusers and Witnesses, to call for Evidence and be admitted Counsel in his Favor, and to a fair and speedy Trial by an impartial Jury of his Vicinage, without whose unanimous Consent he cannot be found guilty, (except in the Government of the Land and Naval Forces in Time of actual War, Invasion or Rebellion) nor can he be compelled to give Evidence against himself.

9. That no Freeman ought to be taken, imprisoned, or desseized of his Freehold, Liberties, Privileges or Franchises, or outlawed or exiled, or in any manner destroyed, or deprived of his Life, Liberty or Property, but by the Law of the Land.

10. That every Freeman restrained of his Liberty is entitled to a Remedy, to enquire

into the Lawfulness thereof, and to remove the same if unlawful, and that such Remedy ought not to be denied or delayed.

11. That in Controversies respecting Property, and in Suits between Man and Man, the ancient Trial by Jury of Facts, where they arise, is one of the greatest Securities to the Rights of a Free people, and ought to remain sacred and inviolable.

12. That every Freeman ought to find a certain Remedy, by Recourse to the Laws, for all Injuries or Wrongs he may receive in his person, property or Character: He ought to obtain Right and Justice freely, without sale, compleatly and without Denial, promptly and without Delay; and that all Establishments or Regulations contravening these Rights are oppressive and unjust.

13. That excessive Bail ought not to be required, nor excessive Fines imposed, nor cruel and unusual Punishments inflicted.

14. That every Freeman has a Right to be secure from all unreasonable Searches and Seizures of his Person, his papers, and his property; all Warrants therefore to search suspected places, or to seize any Freeman, his Papers or property, without Information upon Oath (or Affirmation of a person religiously scrupulous of taking an Oath) of legal and sufficient Cause, are grievous and Oppressive; and all General Warrants to search suspected Places, or to apprehend any suspected Person, without specially naming or describing the Place or Person, are dangerous and ought not to be granted.

15. That the People have a Right peaceably to assembly together to consult for their common Good, or to instruct their Representatives, and that every Freeman has a Right to petition or apply to the Legislature for Redress of Greivances.

16. That the People have a Right to Freedom of Speech, and of writing and publishing their Sentiments; that the Freedom of the Press is one of the great Bulwarks of Liberty, and ought not to be violated.

17. That the People have a Right to keep and to bear Arms; that a well regulated Militia, composed of the Body of the People, trained to arms, is the proper, natural, and safe Defence of a free State; that Standing Armies in Time of Peace are dangerous to Liberty, and therefore ought to be avoided as far as the Circumstances and Protection of the Community will admit; and that in all Cases, the Military should be under strict Subordination to, and governed by the Civil Power.

18. That no Soldier in Time of Peace ought to be quartered in any House without the Consent of the Owner; and in Time of War, only by the civil Magistrate in such Manner as the Laws direct.

19. That any Person religiously scrupulous of bearing Arms ought to be exempted upon payment of an Equivalent to employ another to bear Arms in his stead.

20. That Religion or the Duty which we owe to our Creator, and the Manner of discharging it, can be directed only by Reason and Conviction, not by Force or Violence, and therefore all Men have an equal, natural, and unalienable Right to the free Exercise of Religion according to the Dictates of Conscience, and that no particular Religious Sect or Society of Christians ought to be favored or established by Law in preference to others.

That each State in the Union shall retain its Sovereignty, Freedom and Independence, and every Power, Jurisdiction and Right which is not by this Constitution expressly delegated to the Congress of the United States.

That there shall be one Representative for every Thirty Thousand Persons according to the Enumeration or Census mentioned in the Constitution until the whole Number of Representatives amounts to Two Hundred.

That Congress shall not exercise the Powers respecting the Regulation of Elections, vested in them by the Fourth Section of the First Article of the Constitution, but in Cases when a State neglects or refuses to make the Regulations therein mentioned, or shall make Regulations subversive of the Rights of the People to a free and equal Representation in Congress agreeably to the Constitution, or shall be prevented from making Elections by Invasion or Rebellion; and in any of these Cases, such Powers shall be exercised by the Congress only until the Cause be removed.

That the Congress do not lay direct Taxes, nor Excises upon any Articles of the Growth, or manufactured from the Growth of any of the American States, but when the Monies arising from the Duties on Imports are insufficient for the public Exigencies; nor then until the Congress shall have first made a Requisition upon the States, to assess, levy and pay their respective Proportions of such Requisitions according to the Enumeration or Census fixed in the Constitution, in such Way and Manner as the Legislature of the State shall judge best; and if any State shall neglect or refuse to pay its proportion pursuant to such Requisition, then Congress may assess and levy such States' proportion, together with Interest thereon, at the Rate of Six ~~Per~~ er Centum per Annum, from the Time of Payment prescribed in such Requisition.

That the Members of the Senate and House of Representatives shall be ineligible to, and incapable of holding any Office under the Authority of the United States, during the Time for which they shall respectively be elected.

(a) That there shall be a constitutional responsible Council, to assist in the Administration of Government, with the Power of chusing out of their own Body, a President, who in case of the Death, Resignation or Disability of the President of the United States, shall act, pro tempore, as Vice President instead of a Vice President elected in the Manner prescribed by the Constitution; and that the Power of making Treaties, appointing Ambassadors, other public Ministers or Consuls, Judges of the Supreme Courts, and all other Officers of the United States, whose appointments are not otherwise provided for by the Constitution, and which shall be established by Law, be vested in the president of the United States with the Assistance of the Council so to be appointed. But all Treaties so made or entered into, shall be subject to the Revision of the Senate and House of Representatives for their Ratification. And no Commercial Treaty shall be ratified without the Consent of Two-Thirds of the Members present in both Houses; nor shall any Treaty ceding, contracting, restraining or suspending the Territorial Rights or Claims of the United States, or any of them, or their or any of their Rights or Claims to fishing in the American Seas, or navigating the American Rivers be ratified without the Consent of Three-Fourths of the Whole Number of the Members of

both Houses.

No Navigation Law, or Law for regulating Commerce, shall be passed without the Consent of Two-Thirds of the Members present in both Houses.

No Standing Army or Regular Troops shall be raised or kept up in Time of Peace without the Consent of Two-Thirds of the Members of both Houses.

Neither the president, nor Vice President of the United States, nor any Member of the Council, shall command the Army or Navy of the United States in person, without the Consent of Two-Thirds of the Members of both Houses.

No Soldier shall be enlisted for a longer Term than four Years, except in Time of War, and then for no longer Term than the Continuance of the War.

No Mutiny Act shall be passed for any longer Term than Two Years.

The President of the United States, or any other Officer acting under the Authority of the United States shall, upon Impeachment, be suspended from the Exercise of his Office during his Trial.

The Judges of the Federal Court shall be incapable of holding any other Office, or of receiving the Profits of any other Office or Emolument under the United States or any of them.

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