

Founders on the Defects of the ARTICLES of CONFEDERATION

1780-1787 __ LETTERS (EXCERPTS)

Written in 1776 to create a wartime government, the Articles of Confederation have come down in history as a grand failure, finally ditched and replaced by the now long-lived U.S. Constitution. Somewhat unfair to the Articles, perhaps, which could well have served a small secure confederation in untroubled times. Yet they were “neither fit for war nor peace,” wrote Alexander Hamilton, as they hobbled the fragile new nation struggling to defeat a global power despite its flimsy internal cohesion. With victory achieved, the states felt less drive toward unity and more cause for distrusting central authority—why should they create their own despotic Parliament? But their tethered Congress was impotent to face the postwar challenges that threatened the nation’s viability. What was wrong? What could fix it? Presented here are the thoughts of eight revered Patriots—George Washington, James Madison, Alexander Hamilton, Benjamin Franklin, Thomas Jefferson, Robert Morris, Henry Lee, and Henry Knox—from their correspondence in the last years of the war to the eve of the Constitutional Convention. How were their observations and recommendations reflected in the 1787 Constitution that replaced the unnumbered Articles? How would Anti-Federalists have responded to these eight men—all Federalists who supported the new Constitution?

■ *“make our union feeble and precarious”* Alexander Hamilton to James Duane,¹ 3 Sept. 1780_

The fundamental defect is a want [lack] of power in Congress. It is hardly worth while to show in what this consists as it seems to be universally acknowledged, or to point out how it has happened as the only question is how to remedy it. It may however be said that it has originated from three causes:²

- an excess of the spirit of liberty³ which has made the particular states show a jealousy [distrust] of all power not in their own hands, and this jealousy has led them to exercise a right of judging in the last resort of the measures recommended by Congress, and of acting according to their own opinions of their propriety or necessity;
- a diffidence [lack of confidence] in Congress of their own powers, by which they have been timid and indecisive in their resolutions, constantly making concessions to the states till they have scarcely left themselves the shadow of power;
- a want of sufficient means at their disposal to answer the public exigencies [urgent needs] and of vigor to draw forth those means, which have occasioned [caused] them to depend on the states

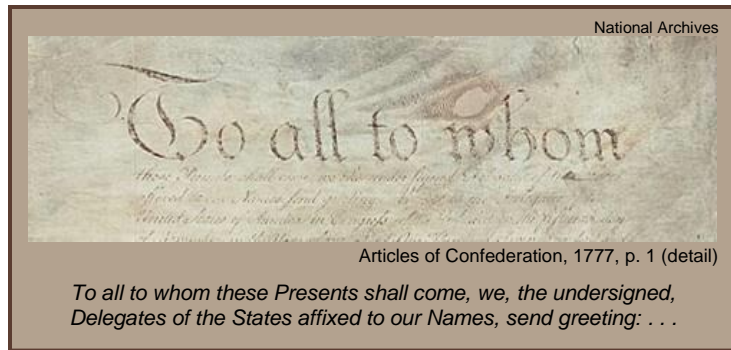
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¹ New York lawyer and member of the Continental Congress, with whom Hamilton had studied law.

² (1) the state legislatures that relinquish little power to Congress and decide national issues on local concerns; (2) a lack of confidence in Congress that has relinquished any authority it once had; (3) Congress’s failure to provide food and provisions for the army, relying instead on the states to deliver what they had promised, thus causing the army (i.e., Gen. Washington) to bypass Congress and implore states directly for provisions.

³ Many founding Patriots feared the “excess spirit of liberty” in the state constitutions, written early in the war, that concentrated power in the legislatures and limited the governor’s and courts’ authority, thus inviting the dangers of unfettered democracy, they felt.

individually to fulfill their engagements [obligations] with the army, and the consequence of which has been to ruin their influence and credit with the army, to establish its dependence on each state separately rather than *on them*, that is, rather than the whole collectively.



...

But the confederation itself is defective and requires to be altered. It is neither fit for war nor peace. The idea of an uncontrollable sovereignty [autonomy] in each state over its internal police [militia] will defeat the other powers given to Congress and make our union feeble and precarious [endangered]. There are instances without number where acts necessary for the general good, and which rise out of the powers given to Congress, must interfere with the internal police of the states, . . . You have already had example of this for which I refer you to your own memory.

The confederation gives the states individually too much influence in the affairs of the army. They should have nothing to do with it. The entire formation and disposal of our military forces ought to belong to Congress. It is an essential cement of the union, and it ought to be the policy of Congress to destroy all ideas of state attachments in the army and make it look up wholly to them.

...

The confederation too gives the power of the purse too entirely to the state legislatures. It should provide perpetual funds in the disposal of Congress — by a land tax, poll tax, or the like. All imposts upon commerce ought to be laid by Congress and appropriated to their use, for without certain revenues a government can have no power. That power which holds the purse strings absolutely must rule.

Sept. 1780: Most states refuse Congressional request to cede western claims to national government.

Feb. 1781: By one vote (Rhode Island), Congress is denied power to tax imports in order to raise funds. Virginia later retracts its affirming vote.

■ ***“given no Power to compel”*** Robert Morris⁴ to John Hanson, president of Congress, 11 Feb. 1782_

Our Debts being unfunded and unprovided for, the Interest cannot be paid. Those therefore who trusted us in the Hour of Distress are defrauded. To expect that under such Circumstances others will confide in the Government would be Folly, and to expect that Foreigners will Trust a Government which has no Credit with its own Citizens must be madness. The whole Weight therefore of the War must be borne in the present Moment. . . .

. . . I would to God that I could say there were even the appearances of general Vigor and Exertion. But the Truth is very different. The United States have call'd for eight Million of Dollars early in November last, of which the first quarterly Payment was to have been made on the first Day of April next. But I cannot find that a single State has laid the Taxes.

...

. . . let the several States be ever so negligent, the Confederation has given no Power to compel [force/order]. While it confers on Congress the Privilege of asking everything, it has secured to each State the Prerogative of granting nothing. Since then, the Congress cannot compel the States to make a grant of Money, they must at least take Care to prevent the States for making an unnecessary Expenditure of those Moneys which are in our Possession. Nor is this all. We are called on by the Principles of Justice as well as of Duty to prevent such Expenditure.

⁴ English-born Philadelphian, signer of the Declaration of Independence, and the Continental Congress delegate assigned with financing the Continental Army, which he occasionally did out of his own pocket; appointed first Secretary of the Treasury in 1789.

Oct. 1781: War effectively ends with Cornwallis's surrender to Washington at Yorktown, Virginia.

Nov. 1782: Preliminary peace treaty with Great Britain is signed.

April 1783: By one vote (New York), Congress is again denied power to levy import taxes.

■ “to make this Country great”

George Washington to Rev. William Gordon,⁵ 8 July 1783_

. . . It now rests with the Confederated Powers [states], by the line of conduct they mean to adopt, to make this Country great, happy, and respectable, or to sink it into littleness — worse perhaps, into Anarchy and Confusion — for certain I am that unless adequate Powers are given to Congress for the *general* purposes of the Federal Union that we shall soon molder [decay] into dust and become contemptible in the Eyes of Europe, if we are not made the sport [joke] of their Politics. To suppose that the general concern of this Country can be directed by thirteen heads, or one head without competent powers, is a solecism [mistake], the bad effects of which every Man who has had the practical knowledge to judge from, that I have, is fully convinced of, tho' none perhaps has felt them in so forcible and distressing a degree. The People at large, and at a distance from the theatre of Action, who only know that the Machine was kept in motion and that they are at last arrived at the first object of their Wishes [independence] are satisfied with the event, without investigating the causes of the slow progress to it or of the Expenses which have accrued and which they now seem unwilling to pay, great part of which has arisen from that want of energy [lack of power] in the Federal Constitution which I am complaining of, and which I wish to see given to it by a Convention of the People, instead of hearing it remarked that as we have worked through an arduous Contest with the Powers Congress already have (but which, by the by, have been gradually diminishing) why should they be invested with more? . . .

To me it would seem not more absurd to hear a traveller who was setting out on a long journey declare he would take no Money in his pocket to defray [pay] the Expenses of it but rather depend upon chance and charity lest he should misapply it, than are the expressions of so much fear of the powers and means of Congress. For Heaven's sake, who are Congress? are they not the Creatures of the People, amenable to them for their Conduct and dependent from day to day on their breath? Where then can be the danger of giving them such Powers as are adequate to the great ends of Government and to all the general purposes of the Confederation . . . ?

March 1783: Army veterans encamp in Philadelphia to lobby for back pay, which Congress had been unable to provide from its depleted treasury.

April 1783: Virginia cedes its western lands [Northwest Territory] to the national government.

Sept. 1783: Final peace treaty with Great Britain is signed.

■ “no right to the Benefits of Society”

Benjamin Franklin (Paris) to Robert Morris, 25 Dec. 1783_

The Remissness [failure/laxness] of our People in Paying Taxes is highly blamable, the Unwillingness to pay them is still more so. I see in some Resolutions of Town Meetings a Remonstrance [petition] against giving Congress a Power to take, as they call it, *the People's Money* out of their Pockets tho' only to pay the Interest and Principal of Debts duly contracted [for the war]. They seem to mistake the Point. Money justly due from the People is their Creditors' Money [those who loaned the money] and no longer the Money of the People who, if they withhold it, should be compell'd to pay by some Law. All Property indeed — except the Savage's temporary Cabin, his Bow, his Matchcoat, and other little Acquisitions absolutely necessary for his Subsistence — seems to me to be the Creature of public Convention.⁶ Hence the Public has the Right of Regulating Descents & all other Conveyances of Property,⁷ and even of limiting the Quantity & the Uses of it. All the Property

⁵ English clergyman who lived in New England from 1770 to 1786, supported the Patriot cause and later wrote a lengthy history of the United States.

⁶ I.e., can be taxed or used for the public good, under law.

⁷ In English law, government controlled how wealthy families willed land and property to their descendants. Under *primogeniture*, large family tracts of land were willed to the eldest son only, in order to keep large estates large, securing the power base of the wealthy governing class. Considered undemocratic, primogeniture laws were revoked by the states after the Revolution.

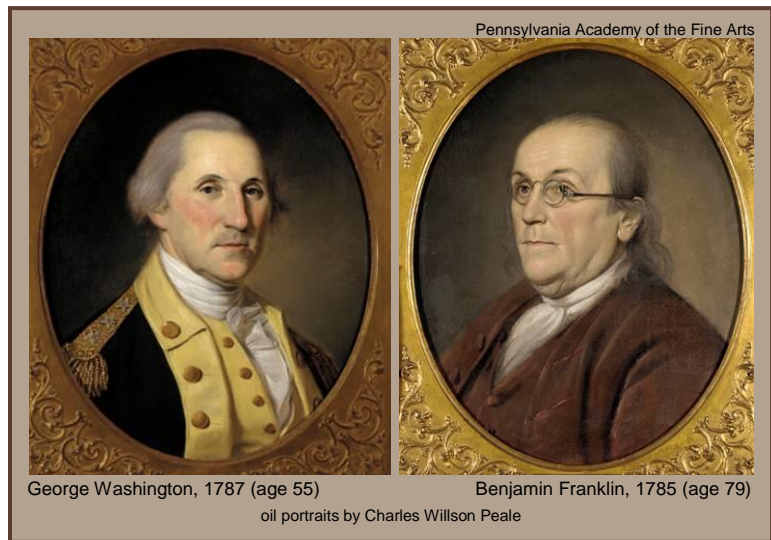
that is necessary to a Man for the Conservation of the Individual & the Propagation of the Species is his natural Right which none can justly deprive him of — But all Property of the Public, who by their Laws have created it and who may therefore by other Laws dispose of it, whenever the Welfare of the Public shall demand such Disposition. He that does not like civil Society on these Terms, let him retire & live among Savages. — He can have no right to the Benefits of Society who will not pay his Club towards the Support of it.

■ **“a half-starv’d, limping Government”** George Washington to Benjamin Harrison,⁸ 18 Jan. 1784

The disinclination of the individual States to yield competent powers to Congress for the Federal Government — their unreasonable jealousy [distrust] of that body & of one another — & the disposition which seems to pervade each of being all-wise & all-powerful within itself, will, if there is not a change in the system, be our downfall as a Nation. This is as clear to me as the A, B, C., & I think we have opposed Great Britain & have arrived at the present state of peace & independence to very little purpose if we cannot conquer our own prejudices.

The powers of Europe begin to see this & our newly acquired friends, the British, are already & professedly acting upon this ground, & wisely too, if we are determined to persevere in our folly. They know that individual opposition to their measures is futile & *boast* that we are not sufficiently united as a Nation to give a general one! Is not the indignity alone of this declaration, while we are in the very act of peacemaking & conciliation, sufficient to stimulate us to vest [place] more extensive & adequate powers in the sovereign of these United States? For my own part, altho’ I am returned to & am now mingled with the class of private citizens & like them must suffer all the evils of a Tyranny or of too great an extension of federal powers.⁹ I have no fears arising from this source in my mind, but I have many & powerful ones indeed which predict the worst consequences from a half starv’d, limping Government that appears to be always moving upon crutches & tottering at every step.

Men, chosen as the Delegates in Congress are, cannot officially be dangerous — they depend upon the breath — nay, they are so much the creatures of the people under the present Constitution that they can have no views (which could possibly be carried into execution) nor any interests distinct from those of their constituents. My political creed therefore is to be wise in the choice of Delegates — support them like Gentlemen while they are our representatives — give them competent powers for all federal purposes — support them in the due exercise thereof — & lastly, to compel them to close attendance in Congress during their delegation.¹⁰ These things under the present mode for & termination of elections, aided by annual instead of constant Sessions, would, or I am exceedingly mistaken, make us one of the most wealthy, happy, respectable & powerful Nations that ever inhabited the terrestrial Globe — without them, we shall in my opinion soon be everything which is the direct reverse of them.



⁸ Virginia delegate to the Continental Congress, a signer of the Declaration of Independence, and governor of Virginia in 1784.

⁹ I.e., I would suffer too if Congress abused its powers and acted tyrannically, but I don't worry that that will happen. Instead I greatly fear the consequences of a weak and ineffective Congress.

¹⁰ Delegates' attendance at sessions of Congress steadily declined after the war, reflecting its lack of power and credibility.

- April 1784: Congress passes the first Land Ordinance for administering the western lands.
 March 1785: Mount Vernon Conference. A successful agreement by Virginia and Maryland delegates on commercial use of the Chesapeake Bay waters spurs the drive to reform the Articles.

■ ***“a Government which is too feeble”***

James Madison to James Monroe, 7 August 1785_

I conceive it to be of great importance that the defects of the federal system should be amended, not only because such amendments will make it better answer the purpose for which it was instituted, but because I apprehend danger to its very existence from a continuance of defects which expose a part if not the whole of the empire [nation] to severe distress. The suffering part [people], even when the minor [minority] part, cannot long respect a Government which is too feeble to protect their interest. But when the suffering part come to be the major part, and they despair of seeing a protecting energy given to the General Government, from what motives is their allegiance to be any longer expected?

- March 1786: Thomas Jefferson and John Adams, ambassadors to France and Great Britain, fail to convince the Barbary pirate nations of North Africa to cease capturing U.S. ships and crews. Jefferson urges Congress to establish a navy instead of continuing to pay protection money to the Barbary states.
 June 1786: Congress reports that “nothing . . . can rescue us from Bankruptcy or preserve the Union of the several states from Dissolution” unless the states give Congress more finance authority.
 Aug. 1786: U.S. defaults on interest payments on the war debts to Spain, France, and the Netherlands.

■ ***“till the confederacy show its teeth”***

Thomas Jefferson (Paris) to James Monroe, 11 Aug. 1786_

It will be said there is no money in the treasury. There never will be money in the treasury till the confederacy shows its teeth. The states must see the rod — perhaps it must be felt by some one of them. I am persuaded all of them would rejoice to see every one obliged to furnish its contributions. It is not the difficulty of furnishing them which beggars [impoverishes] the treasury, but the fear that others will not furnish as much. Every rational citizen must wish to see an effective instrument of coercion & should fear to see it on any other element but the water. A naval force can never endanger our liberties nor occasion bloodshed: a land force would do both. It is not in the choice of the states whether they will pay money to cover their trade against the Algerines.¹¹ If they obtain a peace by negotiation they must pay a great sum of money for it. If they do nothing they must pay a great sum of money in the form of insurance [i.e., protection bribes], and in either way as great a one & probably less effectual than in the way of force.

- Aug. 1786: Shays’s Rebellion. An uprising of indebted farmers over increased taxes, the money shortage, farm foreclosures, and related economic hardships begins in western Massachusetts. It is quelled by the state militia in January 1787—without aid from Congress which could not compel the states to provide militia units. Similar uprisings in New England spur the drive for stronger national government.

■ ***“submit to the horrors of anarchy”***

Henry Lee¹² to George Washington, 8 Sept. 1786_

The period seems to be fast approaching when the people of these U. States must determine to establish a permanent capable government or submit to the horrors of anarchy and licentiousness [lacking moral restraint] — How wise would it be, how happy for us all, if this change could be made in friendship and conducted by reason. But such is the tardiness of the virtuous and worthy part of society in matters of this importance, and such the conceit & zeal of the vicious, that it is to be apprehended [feared] that wickedness and audacity will triumph over honor & honesty — The enclosed proclamation¹³ just come to hand will show you the temper of the eastern people — it is not confined to one state or to one part of a state, but pervades the whole. The decay of their commerce leaves the lower order unemployed, idleness in this body, and the intriguing exe[r]tions of another class whose desperate fortunes are remediable only by the ruin of society, produce schemes

¹¹ Algerians: of Algeria, one of the Barbary pirate nations of North Africa.

¹² Henry Lee, Jr., of Virginia, a close friend of Washington and father of Henry (“Light Horse Harry”) Lee III,

¹³ “The enclosure may be a copy of the resolutions adopted at Hatfield, Mass., on 25 Aug. by delegates from towns in Hampshire County listing many of the grievances that became the rallying cries of the Shaysites in the fall and winter.” The Papers of George Washington Digital Edition, ed. Theodore J. Crackel. Charlottesville: University of Virginia Press, Rotunda, 2008.

portending the dissolution of order & good government — Weak and feeble governments are not adequate to resist such high-handed offenses — Is it not then strange that the sober part of mankind will continue to prefer this incertitude & precariousness because their jealousies [suspicions] are alarmed and their envy incited when they see the officers of the Nation possessing that power which is indispensably necessary to chastise evil and reward virtue. But thus it is, and thus it has been, and from hence it follows that almost every Nation we read of have drank deep of the miseries which flow from despotism or licentiousness [excess of liberty] — the happy medium is difficult to practice.



Sept. 1786: Annapolis Convention. Delegates from five states meet to “remedy defects of the federal government,” especially those affecting interstate trade. Since all states are not represented and the “defects” extend beyond trade issues, a meeting is recommended the following May to broadly revise the Articles.

■ ***“no day was ever more clouded”***

George Washington to James Madison, 5 Nov. 1786_

Let prejudices, unreasonable jealousies, and local interest yield to reason and liberality. Let us look to our National character and to things beyond the present period. No Morn ever dawned more favorable than ours did — and no day was ever more clouded than the present! Wisdom & good examples are necessary at this time to rescue the political machine from the impending storm. . . . Without some alteration in our political creed, the superstructure we have been seven years raising at the expense of much blood and treasure must fall. We are fast verging to anarchy & confusion! . . .

How melancholy is the reflection [thought] that in so short a space we should have made such large strides towards fulfilling the prediction of our transatlantic foes! — “leave them to themselves and their government will soon dissolve.” Will not the wise & good strive hard to avert this evil? Or will their supineness suffer ignorance and the arts of self-interested designing [scheming] disaffected & desperate characters to involve this rising empire in wretchedness & contempt?¹⁴ What stronger evidence can be given of the want [lack] of energy in our governments than these disorders? If there exists not a power to check them, what security has a man of life, liberty, or property? To you, I am sure I need not add aught [any more] on this subject [as] the consequences of a lax or inefficient government are too obvious to be dwelt on. Thirteen Sovereignities pulling against each other, and all tugging at the federal head, will soon bring ruin on the whole; whereas a liberal and energetic Constitution, well guarded & closely watched to prevent encroachments, might restore us to that degree of respectability & consequence to which we had a fair claim & the brightest prospect of attaining.

■ ***“no Security for liberty or Property”***

Henry Knox¹⁵ to George Washington, 21 Dec. 1786_

The insurgents who were assembled at Worcester in Massachusetts have disbanded. The people at Boston seem to be glad at this event and say it was the effect of fear. But the fact is that the insurgents effected their object [attained their goal], which was to prevent the Court of Common Pleas [civil court] from proceeding to business. It is probable that the seizing some of the insurgents at Middlesex

¹⁴ I.e., will the “wise & good,” through indifference and lack of resistance, allow themselves to remain ignorant of the dangers to the nation, while the schemes of self-interested men (e.g., leaders of farmers’ revolts) lead the nation to mob rule and the contempt of foreign nations.

¹⁵ A close friend of Washington, Knox had served as an officer in the Continental Army and later became President Washington’s first Secretary of War.

occasioned a greater number of them to assemble at Worcester than otherwise would have assembled merely on Account of preventing the common Pleas. . . .

The commotions of Massachusetts have wrought prodigious changes in the minds of men in that State respecting [concerning] the Powers of Government — everybody says they must be strengthened and that unless this shall be effected there is no Security for liberty or Property. Such is the State of things in the east, that much trouble is to be apprehended [expected] in the course of the ensuing year.

■ ***“a little rebellion now and then”***

Thomas Jefferson (Paris) to James Madison, 30 Jan. 1787_

I am impatient to learn your sentiments on the late troubles in the Eastern states. So far as I have yet seen, they do not appear to threaten serious consequences. Those states have suffered by the stoppage of the channels of their commerce, which have not yet found other issues [markets]. This must render money scarce and make the people uneasy. This uneasiness has produced acts absolutely unjustifiable: but I hope they will provoke no severities from their governments. A consciousness of those in power that their administration of the public affairs has been honest may perhaps produce too great a degree of indignation, and those characters wherein fear predominates over hope may apprehend [fear] too much from these instances of irregularity. They may conclude too hastily that nature has formed man insusceptible of [unsuited for] any other government but that of force, a conclusion not founded in truth nor experience. Societies exist under three forms sufficiently distinguishable.

1. Without government, as among our Indians.
2. Under governments wherein the will of every one has a just influence, as is the case in England in a slight degree, and in our states in a great one.
3. Under governments of force, as is the case in all other monarchies and in most of the other republics.

To have an idea of the curse of existence under these last, they must be seen. It is a government of wolves over sheep. It is a problem, not clear in my mind, that the 1st. condition is not the best. But I believe it to be inconsistent with any great degree of population. The second state has a great deal of good in it. The mass of mankind under that enjoys a precious degree of liberty and happiness. It has its evils too, the principal of which is the turbulence to which it is subject. But weigh this against the oppressions of monarchy and it becomes nothing. *Malo periculosam, libertatem quam quietam servitutem.*¹⁶ Even this evil is productive of good. It prevents the degeneracy of government and nourishes a general attention to the public affairs. I hold it that a little rebellion now and then is a good thing, and as necessary in the political world as storms in the physical. Unsuccessful rebellions indeed generally establish the encroachments on the rights of the people which have produced them. An observation of this truth should render honest republican governors so mild in their punishment of rebellions as not to discourage them too much. It is a medicine necessary for the sound health of government.

Feb.1787: By the vote of one state (New York), Congress is again refused the authority to pass import taxes.

■ ***“rouse all the real friends to the Revolution”***

James Madison to Edmund Pendleton,¹⁷ 24 Feb. 1787_

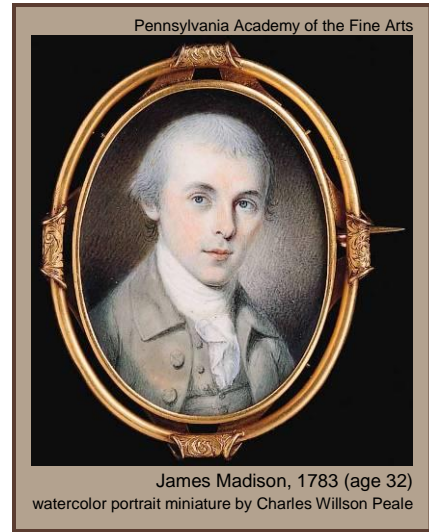
. . . the present System [government under the Articles] neither has nor deserves advocates, and if some very strong props are not applied will quickly tumble to the ground. No money is paid into the public Treasury. No respect is paid to the federal authority. Not a single State complies with the requisitions — several pass them over in silence and some positively reject them. The payments ever

¹⁶ Latin: “I prefer perilous liberty to quiet servitude.”

¹⁷ Virginia judge and statesman; president of the Virginia ratifying convention of 1788.

since the peace have been decreasing and of late fall short even of the pittance necessary for the Civil list [i.e., employee payroll] of the Confederacy. It is not possible that a Government can last long under these circumstances. If the approaching Convention should not agree on some remedy, I am persuaded that some very different arrangement will ensue.

The late turbulent scenes in Mass^{ts}. & infamous ones in Rhode Island have done inexpressible injury to the republican character in that part of the U. States, and a propensity towards Monarchy is said to have been produced by it in some leading minds. The bulk of the people will probably prefer the lesser evil of a partition of the Union into three more practicable and energetic Governments. The latter idea I find, after long confinement to individual speculations & private circles, is beginning to show itself in the Newspapers. But tho' it is a lesser evil, it is so great a one that I hope the danger of it will rouse all the real friends to the Revolution to exert themselves in favor of such an organization of the Confederacy as will perpetuate the Union and redeem the honor of the Republican name.¹⁸



■ **“I hope Good from their Meeting”** Benjamin Franklin (Philadelphia) to Thomas Jefferson (Paris) _19 April 1787_

Our Federal Constitution [Articles of Confederation] is generally thought defective, and a Convention, first propos'd by Virginia and since recommended by Congress, is to assemble here next Month to revise it and propose Amendments. The Delegates generally appointed, as far as I have heard of them, are Men of Character for Prudence and Ability, so that I hope Good from their Meeting. Indeed if it does not do Good it must do Harm, as it will show that we have not Wisdom enough among us to govern ourselves, and will strengthen the Opinion of some Political Writers that popular Governments cannot long support themselves.

- May 1787:** The Constitutional Convention convenes in Philadelphia. The delegates include George Washington (convention president), James Madison, Alexander Hamilton, Benjamin Franklin, and Robert Morris.
- Sept. 1787:** The Constitutional Convention accepts the final draft of the proposed Constitution.
- June 1788:** New Hampshire ratifies the Constitution, last of the nine states required for final adoption.
- Feb. 1789:** First Congress under the new Constitution convenes in New York City.
- April 1789:** First President under the new Constitution, George Washington, is inaugurated in New York City.

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The Papers of George Washington Digital Edition, ed. Theodore J. Crackel, Charlottesville: University of Virginia Press, Rotunda, 2008. [subscription:]

¹⁸ Not referring to the later Republican Party, created in 1854. Patriots supported the “republican” ideal of government elected by the people. Madison shared the concern of many that unfettered democracy, without the safeguard of disciplined leaders, could degenerate into demagogic or mob rule.