

Dear Sir,

Charlottesville Jan 4 23^d 1788.

Mr Donitt affords me an opportunity of writing
such thoughts as occur to me at present on the subject of your
new government.
The most important object will to frame it in such a way as will
satisfy all those who may wish to emigrate to your country and
as no form of government can do that there is but one way to effect it
by making it a part of your constitution that another convention shall
be held at the end of three or four years for the purpose of purging
or reconsidering the constitution. This will make the government agree-
ably to all those who approve the form you adopt & will give it to be
contemned those who dislike it will give it to be altered. This plan
appears more proper for your country than any other. When a country
is fully peopled a government that is adapted to their condition
situation and prejudices will probably win their future portion as
they generally imitate the same. It is in matters of government that
their sagacity is. But you know not yet from what nation or country you
are to be supplied with inhabitants and therefore can form no judgment
what government will suit the bulk of the inhabitants least years hence.
Perhaps you may ask if it would not be as well to direct that a convention
should be held at stated times for ever for the same purpose. I think not.
A government formed on that plan will ever be unstable and subject to
convulsions at the return of those stated periods for its revision.
Drawing the outlines of a government for your country is particularly
difficult because the great expense attending the best forms will prevent
their being adopted.
The executive power should be separated from the others and I think con-
siderable. I would wish to see a man who is a little experienced and
vigilant for a short term and declaring him ineligible in future.
You will effectually prevent any usurpation. He should have appoint-
ment to the office civil and military for experience has fully proved
that popular assemblies make very bad choices. In the government
of Virginia the council naming their own members and recommending
military officers are justly considered as the rotten part of our con-
stitution. Another example is the one in the office of collector
and sheriff. This burden is better managed in Pennsylvania indeed I
believe that is the only state in the union where the taxes levied on the
people are regularly paid into the public treasury there system ought
to be well considered.
The legislature I would wish to be divided into two branches and
the senate elected upon the plan of the Maryland senate. My little
experience has fully satisfied me of the utility of this second branch
and also convinced me that they are only a name when elected as the
senate of Virginia. Thus they sell by wisdom and more partly not that
is to be found in the house of delegates. I judge from their constitution
they must be dependent on the house of delegates. Each senator repre-
sents four or five counties his influence is confined to one when a measure
is adopted by the delegates which they as representatives from his
district of the senate do not conform to it he certainly displays en-
tire selfishness he has perhaps as much influence in the district as he
will and this is by that means certain of never being elected again. In the
Maryland senate there are no such local attachments and none of those
attachments which often prevent the adoption of the most salutary
measures. They yet but also have the power of originating bills
which would be greatly expedient by being carried on it if different
from those at the same time in both houses and matters of intricacy will
more probably be brought to perfection by a few than by many.
The right of suffrage ought to be vested in every free man who is sub-
ject to militia duty or the payment of taxes and to make the repre-
sentation equal a certain number of free men ought to have the right
of

electing a representative and not confine it to countries differing so materially in their extent of territory. This mode would do away from jealousy which every day afflicts us. between the large and small countries. The Senate should consist of one-fourth of the number of the House of delegates.

The House of delegates should be chosen by the people themselves and the proportion of about one to every five hundred electors. The trifling distinction about amended money bills ought to be given as sufficiently masters of the purse if they have the power to reject all proposed amendments. It may always safely enter to his proposer if he has the power to accept or reject them as he pleases.

Too much care cannot be used at first to prevent the unnecessary appointment of officers to the assembly and other parts of the government, and to keep from giving salaries when they are not merited, therefore, if specified to the officer.

Great part of the security and happiness of the state will ultimately depend on the establishment of the courts. The primary object ought to be the making the judges independent of the other branches of the government. They should therefore hold their office during good behavior and have their salaries fixed by the constitution so as to be out of the reach of the legislature and perhaps no more effectual way could be found than by fixing them at so much million yearly. There are the only salaries in the government that ought not to be very low but to induce men of abilities in the profession to quit the bar you must make the salary of a judge at least equal to the profit of a lawyer who has a moderate share of business. The expenses of the court ought to be defrayed by proper taxes imposed on the business done there or conviction for an offence the offender should pay the charges of the prosecution and the burden cast in civil disputes should be equally divided between the parties for the expenses incurred by him and on justice. It appears to me more equitable that than persons who make courts necessary should pay the expenses of them than those who never appear before them. No distinction should take place between common law and equity courts; it always appears absurd to me that you should have a court of justice for appeals. I thought I should be told by the judges that altho' I had just cause for complaint that he cannot receive my wrong but that I must go to another judge sitting in another room afterwards paying double costs and losing much time but last year the justice which the first judge and myself equally with an administrator. The great object should be to have a proper court of appeal totally independent of and unconnected with the first court when the justice is established and judgment given in the first instance. No doubt there can be no security for proper conduct in the judges no check ever yet been invented to place one judge equal to that of having a second tribunal before whom his judgment is so he can agree and the matter having been once determined by the inferior court will open an equally as quick on the court of appeal so that each will be as a proper restraint on the other. The same judge should never sit on the appeal who gave the judgment appealed from this is a great defect of our court of appeal; it is too much to expect from man after he has made up an opinion from due reflection and deliberation that opinion to the world that he should be an open to conviction as a judge who never heard the matter agitated before.

There are the same dissimilar thoughts on the subject which occur to me at present but in my opinion there are considerations which ought to have greater weight with you at this time than for many

It should also be made a part of the duty of the judges to attend the General Assembly during their session to give their opinions when required on any point of law and also to draw all public bills after the ground work is laid in each house by resolutions. I am satisfied that this would save the state annually nearly the whole amount of the judges salaries by empaneling at least one half each session and would prevent those unnecessary and dangerous changes which are too often brought about to answer private purposes.

A claim for money ought all to be considered by an Auditor having certain lines marked out for his conduct. This state has lost at least one hundred thousand pounds by the assemblys settling those claims. gentlemen are not proof against personal friend ship and solicitation, and do not consider their reputation as concerned in the result as a public officer does.

Let your constitution for the honor of your country be enforced in the most prohibitive paper money, under laws, and laws impairing the force of contracts.

Be assured that nothing will do so much to make your country a perfect security in matters of property.

Put your courts upon such a footing that all men will be obliged to pay their debts as soon as they are collected. Give your country in now in a situation to bear this great proportion of your people being out of debt and do not regard the clamours of a few who have purchased more than they are able to pay. In many cases both the property & the money is in their hands.

Putting the county court magistrates will have a great effect on the members of the assembly who are also paid by their district counties it would answer a salary very high on the expense of your government. The great objections to them and the reason for their removal from the people the better no man here considers his county tax as imposed on him by the government. These little things necessary to persuade them to come into what is for their own good great reformations might easily be effected in the mode of procuring suits especially for debt but I doubt I am attempting one too often already the part of a reformer however my little and what will not be with held in the proper season.

Genl. Wilkinson

Hon'ble
Mr. Smith.

Lafayette county

John H. Smith
Hon'ble Mr. Smith
Lafayette County

These are the thoughts on government which the small
experience I have had in the business dictates; I consult no
books on the subject. because they always recommend forms
of government suitable to what man ought to be and not
what he is. The subject is all important to your country
and therefore to you for I look forward to it as the fixed pledge
of my destination and I feel myself the more interested by
having ~~your~~ government formed as it ^{will} be. Happiness
and safety to the people at large as I ^{will} ~~will~~ with the wife
that country a revolution that I have long since ^{desired} ~~desired~~
never to offer for or accept of any post under government.
I fear you have been detained by bad weather much
longer than you ~~simply~~ ^{simply} expected, wishing you a happy
meeting with your family.

I am

with respect and esteem
Dear Sir
Wm. B. Smith

If you think these cards I enclose
are of any service use them as
may judge best.

