

17. *The Sober Views of A Politician*

To James Duane

[*Liberty Pole, New Jersey, September 3, 1780*]

Dr. Sir

Agreeably to your request and my promise I sit down to give you my ideas of the defects of our present system, and the changes necessary to save us from ruin. They may perhaps be the reveries of a projector rather than the sober views of a politician. You will judge of them, and make what use you please of them.

The fundamental defect is a want 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—an excess of the spirit of liberty which has made the particular states show a jealousy 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 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 and of vigor to draw forth those means; which have occasioned them to depend on the states individually to fulfil their engagements 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 on the whole collectively.

It may be pleaded, that Congress had never any definitive powers granted them and of course could exercise none—could do nothing more than recommend. The manner in which Congress was appointed would warrant, and the public good required, that they should have considered themselves as vested with full power *to preserve the republic from harm*. They have done many of the highest acts of sovereignty, which were always cheerfully submitted to—the declaration of independence, the declaration of war, the levying an army, creating a navy, emitting money, making alliances with foreign powers, appointing a dictator &c. &c.—all these implications of a complete sovereignty were never disputed, and ought to have been a standard for the whole conduct of Administration. Undefined powers are discretionary powers, limited only by the object for which they were given—in the present case, the independence and freedom of America. The confederation made no difference; for as it has not been generally adopted, it had no operation. But from what I recollect of it, Congress have even descended from the authority which the spirit of that act gives them, while the particular states have no further attended to it than as it suited their pretensions and convenience. It would take too much time to enter into particular instances, each of which separately might appear inconsiderable, but united are of serious import. I only mean to remark, not to censure.

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 in each state, over its internal police, will defeat the other powers given to Congress, and make our union feeble and precarious. . . .

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. . . .

I shall now propose the remedies, which appear to me applicable to our circumstances, and necessary to extricate our affairs from their present deplorable situation.

The first step must be to give Congress powers competent to the public exigencies. This may happen in two ways, one by resuming and exercising the discretionary powers I suppose to have been originally vested in them for the safety of the states and resting their conduct on the

candor of their country men and the necessity of the conjuncture: the other by calling immediately a convention of all the states with full authority to conclude finally upon a general confederation, stating to them beforehand explicitly the evils arising from a want of power in Congress, and the impossibility of supporting the contest on its present footing, that the delegates may come possessed of proper sentiments as well as proper authority to give to the meeting. Their commission should include a right of vesting Congress with the whole or a proportion of the unoccupied lands, to be employed for the purpose of raising a revenue, reserving the jurisdiction to the states by whom they are granted.

The first plan, I expect will be thought too bold an expedient by the generality of Congress; and indeed their practice hitherto has so rivetted the opinion of their want of power, that the success of this experiment may very well be doubted.

I see no objection to the other mode, that has any weight in competition with the reasons for it. The Convention should assemble the 1st of November next, the sooner, the better; our disorders are too violent to admit of a common or lingering remedy. The reasons for which I require them to be vested with plenipotentary authority are that the business may suffer no delay in the execution, and may in reality come to effect. A convention may agree upon a confederation; the states individually hardly ever will. We must have one at all events, and a vigorous one if we mean to succeed in the contest and be happy hereafter. As I said before, to engage the states to comply with this mode, Congress ought to confess to them plainly and unanimously the impracticability of supporting our affairs on the present footing and without a solid coercive union. I ask that the Convention should have a power of vesting the whole or a part of the unoccupied land in Congress, because it is necessary that body should have some property as a fund for the arrangements of finance; and I know of no other kind that can be given them.

The confederation in my opinion should give Congress complete sovereignty; except as to that part of internal police, which relates to the rights of property and life among individuals and to raising money by internal taxes. It is necessary, that every thing, belonging to this, should be regulated by the state legislatures. Congress should have complete sovereignty in all that relates to war, peace, trade, finance, and to the management of foreign affairs, the right of declaring war, of raising armies, officering, paying them, directing their motions in every respect, of equipping fleets and doing the same with them, of building fortifications, arsenals, magazines &c. &c., of making peace on such conditions as they think proper, of regulating trade, determining with what countries it shall be carried on, granting indulgencies laying prohibitions on all the articles of export or import, imposing duties granting bounties & premiums for raising, exporting, importing and applying to their own use the product of these duties, only giving credit to the states on whom they are

raised in the general account of revenues and expences, instituting Admiralty courts &c., of coining money, establishing banks on such terms, and with such privileges as they think proper, appropriating funds and doing whatever else relates to the operations of finance, transacting every thing with foreign nations, making alliances offensive and defensive, treaties of commerce, &c. &c. . . .

And why can we not have an American bank? Are our monied men less enlightened to their own interest or less enterprising in the pursuit? I believe the fault is in our government which does not exert itself to engage them in such a scheme. It is true, the individuals in America are not very rich, but this would not prevent their instituting a bank; it would only prevent its being done with such ample funds as in other countries. Have they not sufficient confidence in the government and in the issue of the cause? Let the Government endeavour to inspire that confidence, by adopting the measures I have recommended or others equivalent to them. Let it exert itself to procure a solid confederation, to establish a good plan of executive administration, to form a permanent military force, to obtain at all events a foreign loan. If these things were in a train of vigorous execution, it would give a new spring to our affairs; government would recover its respectability and individuals would renounce their diffidence. . . .

The first step to establishing the bank will be to engage a number of monied men of influence to relish the project and make it a business. . . .

If a Convention is called the minds of all the states and the people ought to be prepared to receive its determinations by sensible and popular writings, which should conform to the views of Congress. There are epochs in human affairs, when *novelty* even is useful. If a general opinion prevails that the old way is bad, whether true or false, and this obstructs or relaxes the operation of the public service, a change is necessary if it be but for the sake of change. This is exactly the case now. 'Tis an universal sentiment that our present system is a bad one, and that things do not go right on this account. The measure of a Convention would revive the hopes of the people and give a new direction to their passions, which may be improved in carrying points of substantial utility. The Eastern states have already pointed out this mode to Congress; they ought to take the hint and anticipate the others.

And, in future, My Dear Sir, two things let me recommend, as fundamental rules for the conduct of Congress—to attach the army to them by every motive, to maintain an air of authority (not domineering) in all their measures with the states. The manner in which a thing is done has more influence than is commonly imagined. Men are governed by opinion; this opinion is as much influenced by appearances as by realities; if a Government appears to be confident of its own powers, it is the surest way to inspire the same confidence in others; if it is diffident, it may be

certain, there will be a still greater diffidence in others, and that its authority will not only be distrusted, controverted, but contemned.

I wish too Congress would always consider that a kindness consists as much in the manner as in the thing: the best things done hesitatingly and with an ill grace lose their effect, and produce disgust rather than satisfaction or gratitude. . . .