

JAMES WINTHROP IN FAVOR OF THE ARTICLES OF CONFEDERATION

On September 17, 1787, the Constitution was signed by the delegates to the Constitutional Convention, and in the following months, was debated in the various states prior to ratification. In Massachusetts, James Winthrop, a scholar, judge, and librarian of Harvard University, was one who spoke out against ratification of the proposed Constitution. On December 3, 1787, he published the following article in The Massachusetts Gazette, discussing his reasons for wanting the government of the United States to remain a confederation of states, with each state having powers of internal regulation. Despite Winthrop's opposition, however, Massachusetts ratified the Constitution by a narrow margin in February, 1788.⁵

Having considered some of the principal advantages of the happy form of government under which it is our peculiar good fortune to live, we find by experience, that it is the best calculated of any form hitherto invented, to secure to us the rights of our persons and of our property, and that the general circumstances of the people show an advanced state of improvement never before known. We have found the shock given by the war in a great measure obliterated, and the public debt contracted at that time to be considerably reduced in the nominal sum. The Congress lands are fully adequate to the redemption of the principal of their debt, and are filling and populating very fast. . . .

We find, then, that after the experience of near two centuries our separate governments are in full vigour. They discover, for all the purposes of internal regulation, every symptom of strength, and none of decay. The new system [the Constitution] is, therefore, for such purposes, useless and burdensome.

Let us now consider how far it is practicably consistent with the happiness of the people and their freedom. It is the opinion of the ablest writers on the subject, that no extensive empire can be governed upon republican principles, and that such a government will degenerate to a despotism, unless it be made up of a confederacy of smaller states, each having the full power of internal regulation. This is precisely the principle which has hitherto preserved our freedom. No instance can be found of any free government of considerable extent which has been supported upon any other plan. Large and consolidated empires may indeed dazzle the eyes of a distant spectator with their splendour, but if examined more nearly are always found to be full of misery. The reason is obvious. In large states the same principles of legislation will not apply to all the parts. . . . We accordingly find that the very great empires have always been despotic. . . . It is under such tyranny that the Spanish provinces languish, and such would be our misfortune and degradation, if we should submit to have the concerns of the whole empire managed by one legislature. To promote the happiness of

the people it is necessary that there should be local laws; and it is necessary that those laws should be made by the representatives of those who are immediately subject to the want of them. By endeavouring to suit both extremes, both are injured.

It is impossible for one code of laws to suit Georgia and Massachusetts. They must, therefore, legislate for themselves. Yet, there is, I believe, not one point of legislation that is not surrendered in the proposed plan [the Constitution]. Questions of every kind respecting property are determinable in a continental court, and so are all kinds of criminal causes. The continental legislature has, therefore, a right to make rules in all cases by which their judicial courts shall proceed and decide causes. No rights are reserved to the citizens. The laws of Congress are in all cases to be the supreme law of the land, and paramount to the constitutions of the individual states. The Congress may institute what modes of trial they please, and no plea drawn from the constitution of any state can avail. This new system is, therefore, a consolidation of all the states into one large mass, however diverse the parts may be of which it is to be com-

posed. The idea of an uncompounded republic, on an average, one thousand miles in length, and eight hundred in breadth, and containing six millions of white inhabitants all reduced to the same standard of morals, of habits, and of laws, is in itself an absurdity, and contrary to the whole experience of mankind. The attempt made by Great Britain to introduce such a system, struck us with horror, and when it was proposed by some theorists that we should be represented in parliament, we uniformly declared that one legislature could not represent so many different interests for the purposes of legislation and taxation. This was the leading principle of the revolution, and makes an essential article in our creed. All that part, therefore, of the new system, which relates to the internal government of the states, ought at once to be rejected.

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