

## Cato Uticensis, Virginia *Independent Chronicle*, 17 October 1787

To the FREEMEN of Virginia.

Adventuring, this day, to call your attention to one of the most serious and awful subjects, that ever was agitated by a free people, I must, in the most unfeigned manner, supplicate your kindest indulgence. I must, (it would be presumption to deny it) own that the head which dictates these words, and the hand, which guides this pen, trembles at this moment with reverential awe; and, if I mistake not, there are few among you, whose own feelings will leave any room to doubt it, when you are informed, that I am summing up the courage to question the merits of the *Fæderal Constitution*, proposed to your consideration by the late General Convention.

In the hour of distress, in the moment of confusion and perilous danger, after separately declaring themselves sovereign and independent, the Thirteen States of America associated together in a Fœderal league, for their common defence, an affair of such magnitude, formed under the influence of such unfavorable circumstances, could not fail of receiving a tinge from them; consequently, when the war, that link, which supplied each defect was over, the yawnings and the chasms of the building began to give evident marks of the hastiness of the workmen: America saw, that without the help of a better cement, the different members were likely to fall asunder, and that, though we may find a lodging in some of the separated pavilions, we must bid adieu to the grandeur and dignity of being inhabitants of a stately palace.

The State of Virginia had the honor of taking the lead in this business, and well aware of its magnitude and import, she delegated some of her choicest sons to it, as did the other States, the result has been anxiously waited for, and in the confidence of its being the offspring of the combined abilities and integrity of America, nobody doubted discovering in it the characteristic features of the parents. The reverence, which every man must feel for them, made me, on examining it, guard against my own opinion with the utmost severity. But, as it is not in the power of man to give up, in any single instance, the dictates of his reason, when he has once been convinced of the propriety of allowing his judgment to be swayed by no other motive, I thought it beneath the dignity of a free agent, with strength of conviction on my mind, to sacrifice it to any authority or predilection whatsoever. To acquire this conviction, 'tis true, I had no small difficulty to bring myself to examine the Fœderal Constitution abstracting from its authors; I hope, nevertheless, that every freeman in Virginia will, in this momentous matter, take the same method, will nobly dare to think for himself, and will not be lulled, perhaps into a fatal stupor, by the whistling of any names whatsoever; this, I am sure, is the wish of the most exalted characters, that formed the Fœderal Convention; and, believe me, when you will not use this privilege, you are no longer worthy to bear the name of *freemen*. I would wish to find it sunk deep into your recollection, and be early impressed upon the minds of your children, that all the republics, which were, and are not, in the world, owed their loss of liberty and their dissolution, to an over-weening reverence for men and their measures. This consideration is not thrown out to you, with

the impious arrogance of insinuating the least doubt of the upright and patriotic views, of the Delegates who formed the late General Convention; a vain and presumptuous attempt of that kind would, undoubtedly, have no other effect with you, than that of branding the man, who could be guilty of it, with the most deserved infamy and contempt. The intention of it is, to induce you, as it behooves freemen, to meet the consideration of this matter, with minds purged of all kind of prejudice, and ready to yeild to the conviction of your reason—*Humanum est errare*. The lot of human nature renders it liable to error, and, if we discover it here, it will be a great practical lesson, to humble ourselves before the fountain of ALL WISDOM. Though I have not the fondness to think, that any remarks of mine shall influence the political conduct of any one, I may, perhaps without incurring the imputation of self-sufficiency, indulge myself with the hopes, that they may call forth some abler pens to agitate this matter. It is surely to be wished, that the attention of the Citizens of the different States should be fixed, in a cool, dispassionate manner, to a subject, which is to have so direct an influence on the future prosperity of them and their posterity.

It has been the language, since the peace, of the most virtuous and discerning men in America, that the powers vested in Congress were inadequate to the procuring of the benefits, that should result from the union: It was found, that our national character was sinking in the opinion of foreign nations, and, that the selfish views of some of the States were likely to become the source of dangerous jealousy; the requisitions of Congress were set at naught; the Government, that represented the Union, had not a shilling in its Treasury to enable it to pay off the Fœderal debts, nor, had it any method within its power to alter its situation; it could make treaties of commerce, but could not enforce the observance of them, and it was felt, that we were suffering from the restrictions of foreign nations, who seeing the want of energy in our Fœderal Constitution, and the unlikelihood of co-operation in thirteen separate Legislatures, had shackled our commerce, without any dread of recrimination on our part: To obviate these grievances, it was, I believe, the general opinion, that new powers should be vested in Congress, to enable it, in the amplest manner, to regulate the commerce, to lay and collect duties on the imports, of the United States. Delegates were appointed by most of them, for these purposes, to a Convention, to be held at Annapolis in the September before last; a few of them met, and without waiting for the others, who were coming on, they dissolved the Convention, after resolving among themselves, that the powers vested in them were not sufficiently extensive, and, that they would apply to the Legislatures of the several States, which they represented, to appoint members to another Convention, with powers to new model the Fœderal Constitution. This, indeed, it has now done in the most unequivocal manner, nor has it stopped here, for it has fairly annihilated the Constitution of each individual state. It has proposed to you a high prerogative government, which, like *Aron's* serpent, is to swallow up the rest: this is what the thinking people in America were apprehensive of; they knew how difficult it is to hit the golden mean, how natural the transition is from one extreme to the other; from anarchy to tyranny; from the inconvenient laxity of thirteen separate Governments to the too sharp and grinding one, before which our sovereignty, as a state, was to vanish.

In Art. 1, Sect. 8. of the proposed Fœderal Constitution; it is said, “Congress shall have power to lay and collect taxes, duties, imposts and excises.”—Are you then, Virginians, about to abandon your country to the depredations of excisemen, and the pressure of excise laws? Did it ever enter the mind of any one of you, that you could live to see the day, that any other government, but the General Assembly of Virginia, should have power of *direct taxation* in this state? How few of you ever expected to see excise laws, the instruments of tyranny, in force in your country? But, who could imagine, that any man but a Virginian, were they found to be necessary, would ever have a voice towards enacting them? That any tribunal, but the Courts of Virginia, would be allowed to take cognizance of disputes between her citizens and their tax-gatherers and their excisemen? And that, if it should ever be found necessary to curse this land with these hateful excisemen, any one, but a fellow citizen, should be intrusted with that office? For my part, I cannot discover the necessity there was of allowing Congress to subject us to excise laws, unless, that considering the extensiveness of the single republic into which this Constitution would collect all the others, and the well known difficulty of governing large republics with harmony and ease, it was thought expedient to bit our mouths with massive curbs, to break us, bridled with excise laws, and managed by excisemen, into an uniform, sober pace, and thus, gradually, tame the *troublesome* mettle of the freeman. This necessity could not, surely, arise from the desire of furnishing Congress with a sufficient revenue, to enable it to exercise the prerogatives, which every friend to America would wish to see vested in it; as it would, by unanimous consent, have the management of the impost, it could increase it to any amount, and this would fall sufficiently uniform on every one, according to his ability; or, were this not found sufficient, could not the deficiency be made up by requisitions to the states? Could it not have been made an article of the Fœderal Constitution, that, if any of them refused their quota, Congress may be allowed to make it up by an increase of the impost, on that particular state so refusing. This would, surely, be a sufficient security to Congress, that their requisitions would be punctually complied with.

In any dispute between you and the revenue officers and excisemen of Congress, it is true, that it is provided, the trial shall be, in the first instance, within the state, though before a Fœderal tribunal: It is said in *par. 3. sect. 2. art. 3*, “The trial of all crimes except in cases of impeachments shall be by jury; and such trial shall be held in the state where the crimes shall be committed;” but what does this avail, when an appeal will lie against you to the Supreme Fœderal Court—In the paragraph preceding the one just now quoted, it is said, “In all cases affecting ambassadors, other public ministers and consuls, and those in which a state shall be a party, the Supreme Court shall have original jurisdiction. *In all the other cases before mentioned*, the Supreme Court shall have *appellate jurisdiction*, both as to law and fact, with such exceptions and under such regulations as the Congress shall make.” But, where is this Supreme Court to sit? Will it not be, where Congress shall fix its residence? Thither then you will be carried for trial. Who are to be your jury? Is there any provision made, that you shall have a *Venire* from your county, or even from your state, as they please to call it? No! you are to be tried within the territory of Congress, and Congress itself is to be a party; you are to be

deprived of the benefit of a jury from your vicinage, that boast and birthright of a freeman.

Should it not, at least, have been provided, that those revenue officers and excisemen, against whom free governments have, always, justly entertained a jealousy, should be citizens of the state? Was it inadmissible, that, they should be endued with the bowels of fellow-citizens? Are we not to expect, that New England will now send us revenue officers, instead of their onions and their apples? When you observe, that the few places, already, under Congress in this state are in the hands of strangers, you will own, that my suspicion is not without some foundation: and, if the first cause of it be required, those, who have served in Congress, can tell you, that the New England Delegates to that Assembly have always stood by each other, and have formed a firm phalanx, which the southern Delegates have not; that, on the contrary, the manoeuvres of the former have been commonly engaged, with success, in dividing the latter, against each other. The force of names and of habits is well known, though Scotland and England go now under the general name of Great Britain, the distinction of Scot[c]hman and Englishman still subsists, and, how often has the latter complained, that, that northern hive was continually swarming its hungry instruments of undue prerogative over his country.

The ingenious *Lord Shaftsbury* has said, that a wheel within a wheel was an *absurdity* in politics; but, where was this ever so manifest, as in this Fœderal Constitution. The phantom of sovereignty, which is left the state, enables it to legislate in many instances, and lay taxes; to have its tax-gatherers and excisemen too. Unhappy situation where the natural jealousy, and the pride inherent in two separate governments, presiding over the same people, will induce them to vie in the race of taxation to snatch the prize, the spoils of the citizen, that is to glut the vanity of their respective consequence! he, who has meditated on man, and the secret springs, which move him, must expect this. Unhappy situation where two rival excisemen battle at your doors for precedence in seizing these spoils!—In the name of God look well before you leap, consider, that the question is, whether, you would rather be a sovereign or a sharer in sovereignty: whether, as only a few from their abilities and consequence can expect to be delegated, in rotation, to Congress, you are not about to lay the foundation of a dangerous aristocracy. Whether, it is, not more likely that the blaze of LIBERTY will be kept alive among us, when watched on thirteen separate Altars, than when reunited into one, be it ever so refulgent. Consider, whether you are willing to see the state of Virginia dwindle into the insignificance of a town corporate: and as the Mayor Court of Alderman and Common Council in this make by-laws for its own government, you are satisfied with a Governor, Senate, and Assembly, which will have the same authority as “the United States shall guarantee to every state in this Union a Republican FORM of government.” Consider that if you pass the Fœderal Constitution *in toto*, you subject yourselves to see the doors of your houses, the impenetrable castles of freemen, fly open before the magic wand of an exciseman, and, that, if you should resent and punish the insolence of office, the daring brutality of the *publican*, perhaps offered to the wife of thy bosom, you will be dragged for trial before a distant tribunal, and there, perhaps,

condemned without enjoying the benefit of a jury from your vicinage, your unalienable birthright as a freeman.

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