

## **Virginia *Independent Chronicle*, 14 November 1787**

*Extract of a letter from a gentleman in New-York to his friend on the present Assembly, dated October 26, 1787.*

“I suppose you, my dear friend, at this moment in deep divan with your conferees, at Richmond, deciding on the new constitution. If you and I differ in this, I must give up all politics in future, and content myself with contemplating, with philosophic phlegm, the effects of so speedy a departure from those principles for which we risked our lives and fortunes against Great-Britain. I have not only no objection to, but am extremely desirous of, a strong and general government, provided the fundamental principles of liberty be well secured. These I take to be, trial by jury as has been and is practised—the check of impeachment—the distinct organization and operation of the three great powers of government, the legislative, judicial, and executive. In all these great points the proposed constitution requires amendment, before it can be adopted even with safety.

“In the constitution of the fœderal court, where its jurisdiction is original, the securing jury trial in criminal, is, according to all legal reasoning, an exclusion of it in civil matters—and in its appellate function it is expressly said the court shall judge both of *law* and *fact*. This of course renders the finding of a jury below, totally nugatory.

“The right of impeachment is speciously secured to the representative of the people. But who are the court to try it? The Senate, who are the advisers in all executive acts of civil government, which are of any importance. This House then are to try the executive officers either for obeying or disobeying their determination, and in both cases must be at once parties and judges. Could any device be more effectual to render this great and salutary prerogative of the people specious in appearance, but nugatory in operation.

“To vest judicial, legislative, and executive powers in the same body, is admitted by all constitutional writers as parental of aristocratic tyranny, or single despotism. It is besides an evident absurdity, because the powers are incongruous. These functions are so distinct in their nature, that they require different talents to discharge them—they are so arduous, that they demand the constant attention of the most able to execute them well—they are so incompatible, that even Kings and despots find it necessary to give the execution of them to different bodies. How then can we admit a constitution, which accumulates in one body so great a proportion of the legislative authority, so vast an influence in the executive department, and the transcendent power of judging in all impeachments?

“These are great defects—the smaller ones,

*Quos aut encuria fudit,*

*Aut humana parum cavit naturæ.*

I do not trouble you with; nor with the hazard our particular state runs of being made the subject of a ruinous monopoly in the commercial or carrying states. I perceive that in almost all things the eastern states outwit and outhinge us. There is at least some danger, that under the proposed constitution their interests would be always paramount to ours.

“There is a most strange desire to give foreigners the advantage in legal pursuits over our fellow citizens. Where this Donquixotism in politics finds its equal I do not know. It has I am sure no foundation in practice; for can there be justice in allowing a foreigner, who resides at the federal court, to drag a citizen with whom he has any money transaction, from Georgia to the federal court to answer the foreigners suit? Is there a nation in the world in which an American has such a superiority over the natives? Is it not always held, that the utmost a foreigner can expect, is to be upon a par with the natives? what foreigner will desire to become a citizen, when by so doing he will lose that extraordinary pre-eminence? One would think it was calculated to make our country swarm with foreigners, instead of emigrants—and invite them to prey upon the American natives, who must either yield to every demand of a foreigner, or be utterly ruined in the litigation.

“The junction of the New-England States with Pennsylvania will lay Maryland, Virginia, and South Carolina under contribution at pleasure under the proposed constitution. They have lately given us a foretaste of this combination in late appointments in that country, which they owe to the bounty of Virginia, and in which, in return they will not suffer one Virginian to have a place of honor, influence, or profit.

“A Delegate from one of the Eastern states declared that the country was to be peopled by New-Englanders, and they only had a right to all the posts. Suppose after they have augmented their marine by exorbitant profits on the monopoly of our freight, they should say as they only could protect the American shores they only should regulate every thing belonging to them. The reasoning might be as bad as what they apply to the western country; but the same combination would form a majority that would give it effect. The pride of Virginia will rise at this supposition, and will say, we shall always be strong enough to assert our own right, have men and materials for ship-building as well as they, and therefore we have no occasion to fear this. Alas, my good friend, pride is a bad reasoner, and the fat indolence of our countrymen, is illy calculated for a persevering combat with the hungry enterprise of the—and the insatiable rapacity of the—. Looking forward then a little to the probable consequences of admitting the intended constitution, we cannot but perceive that we are forging fetters for Virginia, and reducing her to receive laws from—and—by a superior naval power in our front, and a powerful people in our rear, consisting chiefly of New-Englanders and Pennsylvanians, and governed by them entirely.”

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