An Independent Freeholder, Winchester *Virginia Gazette*, 18 January 1788

This essay, the conclusion of which appeared in the *Gazette* on 25 January (below), was perhaps written by Alexander White of Frederick County.

To the CITIZENS of VIRGINIA.

Friends and Countrymen, I shall make no apology for intruding my thoughts on a subject which ought to engage the attention of every American, I mean the Constitution proposed by the late Federal Convention. To this plan many objections have been made. I shall take more particular notice of those published in the Winchester Gazette of sixteenth and twenty-third November last, said to be Observations by R. H. L. Esquire, and Objections by Colonel M——n; and here I shall not attempt to prove that the Constitution would be inadmissible with their amendments, or absolutely to pronounce that it might not have been improved by the adoption of some of them, to determine this point it would be necessary to see the whole scheme when new modelled so as to receive the amendments, for however pleasing to the people an amendment might be, as a detached sentiment, we cannot otherwise know how it would accord with a plan of Continental Government—having built a convenient dwelling house in a plain style, I would not thank the ablest architect to introduce an highly ornamented Corinthian pillar as one of the supporters of my piazza. *A Bill of Rights* has a pleasing sound, and in some instances has been deemed necessary, but on occasions very different from the present. When by the abdication of James IId. there was a suspension of Regal Government in England, the two houses of Parliament, accompanied the solemn tender of the Crown, which they made to William and Mary, with a Bill of Rights, stating certain acts, which the King, who has the executive powers of government, and is one branch of the legislature, should not do, without the consent of the other two branches the Lords and Commons; but it never entered into the minds of the people of England to declare a Bill of Rights restrictive of the powers of the whole legislative body, tho' they have the choice of one branch only, the other two holding their seats by hereditary right, and one of them claiming by divine. At the American Revolution there was not only an end to the power of the crown, but a total dissolution of government; the people were reduced to a state of nature, under these circumstances several of the states conceived it necessary, previous to granting legislative powers, to declare that certain rights were inherent in the people, and to reserve those rights out of the grant. But is America in the situation Great Britain was in at the time of the revolution in that country, or in which she herself was at the time of the revolution in this? Nothing can be more remote; here is neither a total nor partial dissolution of Government; our social compacts and all our ancient rights remain entire, except such as are expressly granted to Congress. And this affords an answer to many objections, such as that religious liberty, the Freedom of the Press, the right of Petitioning the Legislature, &c. &c. &c. are not secured; no power over these matters being granted to Congress, she never can interpose to destroy them. Much more safely may we rest the Constitution on this ground than on a bill of rights, in

that case all powers would be considered as granted which were not expressly reserved, it would not only be incongruous but dangerous, and might tend to sap the foundation of the whole structure. We have not been able to divest ourselves of our early ideas. We have been taught from our infancy to regard those men who opposed the arbitrary exertions of royal power in England as patriots and heroes, and without adverting to the difference of circumstances, conceive, that it is equally meritorious to clog the wheels of government in this country, to circumscribe the legislature, though constituted and chosen by ourselves as narrowly as the people of England have circumscribed the power of their kings. Yet it appears to me incompatible with the nature of government, that the supreme power in a nation should be restrained from raising an army, or doing any other act which may be necessary for the defence or security of the state, by any other means than the wisdom of the rulers and their regard to the public good, and we have no reason to doubt, from the mode of choosing the members of Congress, but that both these principles will act with full force under the proposed government, I believe such restraint has never been attempted. In England the keeping up standing armies in time of peace was opposed only when it was done by the sole authority of the crown. In this country we complained when troops were stationed among us *without the consent of our Assemblies.* I shall not attempt to discuss the question, whether vesting the executive powers of government in a President and Council appointed by him, as proposed by R. H. L. Esquire, or in the President and Senate, as proposed by the Federal Convention would be preferable? I shall only observe, that the Convention seem to have had in view the government of Rome, the greatest and wisest republic, of which we read in history, confering however, much less power on the President, Vice-President and Senate than the Roman Consuls and Senate enjoyed in the purest times of the republic, and that R. H. L. Esq. drew his ideas from the British government—I will acknowledge a great and wise *monarchy.* All men agree that a general Government for the union is absolutely necessary. How nugatory and vain would the acts of that government be were there no courts to enforce their execution? It is objected that the judges will not be independent, the words of the Constitution are, “The judges both of the supreme and inferior courts shall hold their offices during good behaviour, and shall at stated times receive for their services a compensation, which shall not be diminished during their continuance in office.” Let the objector pen a more effectual clause. The original jurisdiction of the supreme court is to extend only to cases in which one of the United States or the minister of a foreign nation is concerned. It is therefore in case of appeals only that the objector supposes, “the vexatious and oppressive calling of citizens from their own country to be tried in a far distant court.” But appeals are to be allowed only “with such exceptions and under such restrictions as Congress shall make.” We may therefore rest satisfied that they will not be allowed except in important cases. When we were under a royal government appeals were not allowed from our general court in any case of less value than 5001. sterling, and this by instructions from the crown. If a prince would do this or his subjects what may we expect from our fellow citizens, when invested with power by the voice of their country; and when they and their posterity are to feel the consequence of all their acts? When you add to this, that the jurisdiction of the federal courts will not extend to disputes relating to property, real

or personal, to contracts or personal injuries between citizens, which in general are the subjects of litigation; the apprehension of oppression from those courts must appear groundless. Trial by jury in all criminal cases is expressly secured, and that the trial shall be in the state where the crime is committed. Can you expect that the number of courts and the times and places of holding them through all future ages should be ascertained? What would you have done in such an instrument of government with regard to civil causes? Would you say the trial by jury shall be in all cases? Is the court of chancery an institution to be abolished? Are you displeased with the mode of proceeding against sheriffs by motion, and in various other cases in which the legislature of this state has found it necessary to dispense with the trial by jury? And may not cases equally necessary happen under the continental government?

(To be concluded in our next.)

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