

DRAFT CONSTITUTION FOR VIRGINIA
JUNE 1776

FAIR COPY

A Bill for new-modelling the form of Government and for establishing the Fundamental principles thereof in future.

Whereas George Guelf king of Great Britain and Ireland and Elector of Hanover, heretofore entrusted with the exercise of the kingly office in this government hath endeavored to pervert the same into a detestable and insupportable tyranny;

by putting his negative on laws the most wholesome & necessary for ye public good;

by denying to his governors permission to pass laws of immediate and pressing importance, unless suspended in their operations for his assent, and, when so suspended, neglecting to attend to them for many years;

by refusing to pass certain other laws, unless the person to be benefited by them would relinquish the inestimable right of representation in the legislature

by dissolving legislative assemblies repeatedly and continually for opposing with manly firmness his invasions on the rights of the people;

when dissolved, by refusing to call others for a long space of time, thereby leaving the political system without any legislative head;

by endeavoring to prevent the population of our country, & for that purpose obstructing the laws for the naturalization of foreigners & raising the condition lacking appropriations of lands;

by keeping among us, in times of peace, standing armies and ships of war;

lacking to render the military independent of & superior to the civil power;

by combining with others to subject us to a foreign jurisdiction, giving his assent to their pretended acts of legislation.

for quartering large bodies of troops among us;

for cutting off our trade with all parts of the world;

for imposing taxes on us without our consent;

for depriving us of the benefits of trial by jury;

for transporting us beyond seas to be tried for pretended offences; and

for suspending our own legislatures & declaring themselves invested with power to legislate for us in all cases whatsoever;

by plundering our seas, ravaging our coasts, burning our towns and destroying the lives of our people;

by inciting insurrections of our fellow subjects with the allurements of forfeiture & confiscation;

by prompting our negroes to rise in arms among us; those very negroes whom *he hath from time to time by an inhuman use of his negative he hath refused permission to exclude by law;

by endeavoring to bring on the inhabitants of our frontiers the merciless Indian savages, whose known rule of warfare is an undistinguished destruction of all ages, sexes, & conditions of existence;

by transporting at this time a large army of foreign mercenaries to complete the works of death, desolation & tyranny already begun with circumstances of cruelty & perfidy so unworthy the head of a civilized nation;

by answering our repeated petitions for redress with a repetition of injuries;

and finally by abandoning the helm of government and declaring us out of his allegiance & protection;

by which several acts of misrule the said George Guelf has forfeited the kingly office and has rendered it necessary for the preservation of the people that he should be immediately deposed from the same, and divested of all its privileges, powers, & prerogatives:

And forasmuch as the public liberty may be more certainly secured by abolishing an office which all experience hath shewn to be inveterately inimical thereto *or which* and it will thereupon become further necessary to re-establish such ancient principles as are friendly to the rights of the people and to declare certain others which may co-operate with and fortify the same in future.

Be it therefore enacted by the authority of the people that the said, George Guelf be, and he hereby is deposed from the kingly office within this government and absolutely divested of all it's rights, powers, and prerogatives: and that he and his descendants and all persons acting by or through him, and all other persons whatsoever shall be and forever remain incapable of the same: and that the said office shall henceforth cease and never more either in name or substance be re-established within this colony.

And be it further enacted by the authority aforesaid that the following fundamental laws and principles of government shall henceforth be established.

The Legislative, Executive and Judiciary offices shall be kept forever separate; no person exercising the one shall be capable of appointment to the others, or to either of them.

LEGISLATIVE

Legislation shall be exercised by two separate houses, to wit a house of Representatives, and a house of Senators, which shall be called the General Assembly of Virginia.

Ho. of Representatives

The sd house of Representatives shall be composed of persons chosen by the people annually on the [1st day of October] and shall meet in General assembly on the [1st day of November] following and so from time to time on their own adjournments, or at any time when summoned by the Administrator and shall continue sitting so long as they shall think the publick service requires.

Vacancies in the said house by death or disqualification shall be filled by the electors under a warrant from the Speaker of the said house.

ELECTORS

All male persons of full age and sane mind having a freehold estate in [one fourth of an acre] of land in any town, or in [25] acres of land in the country, and all elected persons resident in the colony who shall have paid scot and lot to government the last [two years] shall have right to give their vote in the election of their respective representatives. And every person so qualified to elect shall be capable of being elected, provided he shall have given no bribe either directly or indirectly to any elector, and shall take an oath of fidelity to the state and of duty in his office, before he enters on the exercise thereof. During his continuance in the said office he shall hold no public pension nor post of profit, either himself, or by another for his use.

The number of Representatives for each county or borough shall be so proportioned to the numbers of it's qualified electors that the whole number of representatives shall not exceed [300] nor be less than [125.] for the present there shall be one representative for every [] qualified electors in each county or borough: but whenever this or any future proportion shall be likely to exceed or fall short of the limits beforementioned, it shall be again adjusted by the house of representatives.

The house of Representatives when met shall be free to act according to their own judgment and conscience.

SENATE

The Senate shall consist of not less than [15] nor more than [50] members who shall be appointed by the house of Representatives. One third of them shall be removed out of office by lot at the end of the first [three] years and their places be supplied by a new appointment; one other third shall be removed by lot in like manner at the end of the second [three] years and their places be supplied by a new appointment; after which one third shall be removed annually at the end of every [three] years according to seniority. When once removed, they shall be forever incapable of being re-appointed to that house. Their qualifications shall be an oath of fidelity to the state, and of duty in their office, the being [31] years of age at the least, and the having given no bribe directly or indirectly to obtain their appointment. While in the senatorial office they shall be incapable of holding any public pension or post of profit either themselves, or by others for their use.

The judges of the General court and of the High court of Chancery shall have session and deliberative voice, but not suffrage in the house of Senators.

The Senate and the house of representatives shall each of them have power to originate and amend bills; save only that bills for levying money *bills* shall be originated and amended by the representatives only: the assent of both houses shall be requisite to pass a law.

The General assembly shall have no power to pass any law inflicting death for any crime, excepting murder, such those offences in the military service for which they shall think punishment by death absolutely necessary: and all capital punishments in other cases are hereby abolished. Nor shall they have power to prescribe torture in any case whatever: nor shall there be power anywhere to pardon

crimes or to remit fines or punishments: nor shall any law for levying money be in force longer than [ten years] from the time of its commencement.

[Two thirds] of the members of either house shall be a Quorum to proceed to business.

EXECUTIVE

The executive powers shall be exercised in manner following.

ADMINISTRATOR

One person to be called the [Administrator] shall be annually appointed by the house of Representatives on the second day of their first session, who after having acted [one] year shall be incapable of being again appointed to that office until he shall have been out of the same [three] years.

DEPUTY ADMR

Under him shall be appointed by the same house and at the same time, a Deputy-Administrator to assist his principal in the discharge of his office, and to succeed, in case of his death before the year shall have expired, to the whole powers thereof during the residue of the year.

The administrator shall possess the power formerly held by the king: save only that, he shall be bound by acts of legislature tho' not expressly named;

he shall have no negative on the bills of the Legislature;

he shall be liable to action, tho' not to personal restraint for private duties or wrongs;

he shall not possess the prerogatives;

of dissolving, proroguing or adjourning either house of Assembly;

of declaring war or concluding peace;

of issuing letters of marque or reprisal;

of raising or introducing armed forces, building armed vessels, forts or strongholds;

of coining monies or regulating their values;

of regulating weights and measures;

of erecting courts, offices, boroughs, corporations, fairs, markets, ports, beacons, lighthouses, seamarks.

of laying embargoes, or prohibiting the exportation of any commodity for a longer space than [40] days.

of retaining or recalling a member of the state but by legal process pro delicto vel contractu.

of making denizens.

of pardoning crimes, or remitting fines or punishments.

of creating dignities or granting rights of precedence.

but these powers shall be exercised by the legislature alone, and excepting also those powers which by these fundamentals are given to others, or abolished.

PRIVY COUNCIL

A Privy council shall be annually appointed by the house of representatives whose duties it shall be to give advice to the Administrator when called on by him. With them the Deputy Administrator shall have session and suffrage.

DELEGATES

Delegates to represent this colony in the American Congress shall be appointed when necessary by the house of Representatives. After serving [one] year in that office they shall not be capable of being re-appointed to the same during an interval of [one] year.

TREASURER

A treasurer shall be appointed by the house of representatives who shall issue no money but by authority of both houses.

ATTORNEY GENRL

An Attorney general shall be appointed by the house of Representatives

HIGH SHERIFFS, &C

High Sheriffs and Coroners of counties shall be annually elected by those qualified to vote for representatives: and no person who shall have served as high sheriff [one] year shall be capable of being re-elected to the said office in the same county till he shall have been out of office [five] years.

OTHER OFFICERS

All other Officers civil and military shall be appointed by the Administrator; but such appointment shall be subject to the negative of the Privy council, saving however to the Legislature a power of transferring to any other persons the appointment of such officers or any of them.

JUDICIARY

The Judiciary powers shall be exercised

First, by County courts and other inferior jurisdictions:

Secondly, by a General court & a High court of Chancery:

Thirdly, by a Court of Appeals.

COUNTY COURTS, &C

The judges of the county courts and other inferior jurisdictions shall be appointed by the Administrator, subject to the negative of the privy council. They shall not be fewer than [five] in number. Their jurisdictions shall be defined from time to time by the legislature: and they shall be removable for misbehavior by the court of Appeals.

GENL. COURT AND HIGH CT. OF CHANCERY

The Judges of the General court and of the High court of Chancery shall be appointed by the Administrator and Privy council. If kept united they shall be [5] in number, if separate, there shall be [5] for the General court & [3] for the High court of Chancery. The appointment shall be made from the faculty of the law, and of such persons of that faculty as shall have actually exercised the same at the bar of some court or courts of record within this colony for [seven] years. They shall hold their commissions during good behavior, for breach of which they shall be removable by the court of Appeals. Their jurisdiction shall be defined from time to time by the Legislature.

COURT OF APPEALS

The Court of Appeals shall consist of not less than [7] nor more than [11] members, to be appointed by the house of Representatives: they shall hold their offices during good behavior, for breach of which they shall be removable by an act of the legislature only. Their jurisdiction shall be to determine finally all causes removed before them from the General Court or High Court of Chancery, or of the county courts or other inferior jurisdictions for misbehavior: [to try impeachments against high offenders lodged before them by the house of representatives for such crimes as shall hereafter be precisely defined by the Legislature, and for the punishment of which, the said legislature shall have previously prescribed certain and determinate pains.] In this court the judges of the General court and High court of Chancery shall have session and deliberative voice, but no suffrage.

JURIES

All facts in causes whether of Chancery, Common, Ecclesiastical, or Marine law, shall be tried by a jury upon evidence given viva voce, in open court: but where witnesses are out of the colony or

unable to attend through sickness or other invincible necessity, their deposition may be submitted to the credit of the jury.

FINES, &C.

All Fines or Amercements shall be assessed, & Terms of imprisonment for Contempts & Misdemeanors shall be fixed by the verdict of a Jury.

PROCESS

All Process Original & Judicial shall run in the name of the court from which it issues.

QUORUM

Two thirds of the members of the General court, High court of Chancery, or Court of Appeals shall be a Quorum to proceed to business.

RIGHTS, PRIVATE AND PUBLIC LANDS

Unappropriated or Forfeited lands shall be appropriated by the Administrator with the consent of the Privy council.

Every person of full age neither owning nor having owned [50] acres of land, shall be entitled to an appropriation of [50] acres or to so much as shall make up what he owns or has owned [50] acres in full and absolute dominion. And no other person shall be capable of taking an appropriation.

Lands heretofore holden of the crown in fee simple, and those hereafter to be appropriated shall be holden in full and absolute dominion, of no superior whatever.

No lands shall be appropriated until purchased of the Indian native proprietors; nor shall any purchases be made of them but on behalf of the public, by authority of acts of the General assembly to be passed for every purchase specially.

The territories contained within the charters erecting the colonies of Maryland, Pennsylvania, North and South Carolina, are hereby ceded, released, & forever confirmed to the people of those colonies respectively, with all the rights of property, jurisdiction and government and all other rights whatsoever which might at any time heretofore have been claimed by this colony. The Western and Northern extent of this country shall in all other respects stand as fixed by the charter of until by act of the Legislature one or more territories shall be laid off Westward of the Alleghaney mountains for new colonies, which colonies shall be established on the same fundamental laws contained in this instrument, and shall be free and independent of this colony and of all the world.

Descents shall go according to the laws Gavelkind, save only that females shall have equal rights with males.

SLAVES

No person hereafter coming into this county shall be held within the same in slavery under any pretext whatever.

NATURALIZATION

All persons who by their own oath or affirmation, or by other testimony shall give satisfactory proof to any court of record in this colony that they propose to reside in the same [7] years at the least and who shall subscribe the fundamental laws, shall be considered as residents and entitled to all the rights of persons natural born.

RELIGION

All persons shall have full and free liberty of religious opinion; nor shall any be compelled to frequent or maintain any religious institution.

ARMS

No freeman shall be debarred the use of arms [within his own lands].

STANDING ARMIES

There shall be no standing army but in time of actual war.

FREE PRESS

Printing presses shall be free, except so far as by commission of private injury cause may be given of private action.

FORFEITURES

All Forfeitures heretofore going to the king, shall go the state; save only such as the legislature may hereafter abolish.

WRECKS

The royal claim to Wrecks, waifs, strays, treasure-trove, royal mines, royal fish, royal birds, are declared to have been usurpations on common right.

SALARIES

No Salaries or Perquisites shall be given to any officer but by some future act of the legislature. No salaries shall be given to the Administrator, members of the legislative houses, judges of the court of Appeals, judges of the County courts, or other inferior jurisdictions, Privy counsellors, or Delegates to the American Congress: but the reasonable expences of the Administrator, members of the house of representatives, judges of the court of Appeals, Privy counsellors, & Delegates for subsistence while acting in the duties of their office, may be borne by the public, if the legislature shall so direct.

QUALIFICATIONS

No person shall be capable of acting in any office Civil, Military [or Ecclesiastical] The Qualifications of all not otherwise directed, shall be an oath of fidelity to state and the having given no bribe to obtain their office who shall have given any bribe to obtain such office, or who shall not previously take an oath of fidelity to the state.

None of these fundamental laws and principles of government shall be repealed or altered, but by the personal consent of the people on summons to meet in their respective counties on one and the same day by an act of Legislature to be passed for every special occasion: and if in such county meetings the people of two thirds of the counties shall give their suffrage for any particular alteration or repeal referred to them by the said act, the same shall be accordingly repealed or altered, and such repeal or alteration shall take it's place among these fundamentals and stand on the same footing with them, in lieu of the article repealed or altered.

The laws heretofore in force in this colony shall remain in force, except so far as they are altered by the foregoing fundamental laws, or so far as they may be hereafter altered by acts of the Legislature.

FONTE:

<http://www.law.yale.edu>