A

# COLLECTION of ESSAYS

AND

# FUGITIV WRITINGS.

ON

MORAL, HISTORICAL, POLITICAL AND LITERARY

SUBJECTS.

BY NOAH WEBSTER, JUN.
ATTORNEY AT LAW.

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BY NOAH WEBSTER, JUN.
ATTORNEY AT LAW.

Heureuses les villes qui, comme les individus, n'ont point encore pris leur pli! Elles feules peuvent aspirer à des loix unanimes, profondes et sages.

TABLEAU DE PARIS.



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TO

The PRESIDENT,

The VICE PRESIDENT,

The SENATORS, and

The REPRESENTATIVS

OF THE

UNITED STATES of AMERICA,

The following PUBLICATION,

Designed to

Aid the PRINCIPLES of the REVOLUTION,

TO

Suppress POLITICAL DISCORD,

AND TO

Diffuse a SPIRIT of ENQUIRY,

Favorable to MORALS, to SCIENCE, and TRUTH,

*Is most humbly inscribed,*

As a TRIBUTE of RESPECT for their KARACTERS,

Of GRATITUDE for their PUBLIC SERVICES,

And a PLEDGE of ATTACHMENT

TO THE

Present CONSTITUTION

OF THE

AMERICAN REPUBLIC,

BY THEIR MOST OBEDIENT,

AND MOST HUMBLE SERVANT,

*The Author*.

HARTFORD, *June, 1790*.

*As the author was absent from the press, and the copy, in some places, obscure or not correct, some errors have unavoidably escaped the notice of the printers. The following are the most material.*

Page 47, line 7, after *corporate* add *body*.

49, line 4 from bottom, for *cognized* reed *organized*.

54, line 6 of note, for *would* reed *could*.

58, line 7, for *contrary* reed *contracting*.

146, last line, for *thousand* reed *hundred*.

151, line 2 from bottom, for *jurisdiction* reed *usurpation*.

263, line 13, for *do* reed *did*.

275, line 5, for *Archorites* reed *Archontes*.

283, line 14, for *leriquæ* reed *linguæ*, and for *dacodeni duodeni*.

323, last line of text, for *godfather* reed *grandfather*.

327, line 7 from bottom, for *change* reed *chance*.

332, line 7 from bottom, for *masks* reed *marks*.

334, line 22, place the full point after *equity*.

349, line 1, for *district* reed *distinct*.

350, line 2, for *mass* reed *map*.

355, line 5, for *ilans* reed *clans*.

365, line 9, for *the manners* reed *this manner*.

375, line 3 and 4 from bottom, for *ilans* reed *ilands*.

377, line 4, for *Koman* reed *Roman*.

382, line 4 from bottom, for *necessarily* reed *necessary*.

401, line 28, for *normous* reed *enormous*.

## *PREFACE.*

The following Collection consists of Essays and Fugitiv Peeces, ritten at various times, and on different occasions, az wil appeer by their dates and subjects. Many of them were dictated at the moment, by the impulse of impressions made by important political events, and abound with a correspondent warmth of expression. This freedom of language wil be excused by the frends of the revolution and of good guvernment, who wil recollect the sensations they hav experienced, amidst the anarky and distraction which succeeded the cloze of the war. On such occasions a riter wil naturally giv himself up to hiz feelings, and hiz manner of *riting* wil flow from hiz manner of *thinking*.

Most of thoze peeces, which hav appeered before in periodical papers and Magazeens, were published with fictitious signatures; for I very erly discuvered, that altho the name of an old and respectable karacter givs credit and consequence to hiz ritings, yet the name of a yung man iz often prejudicial to hiz performances. By conceeling my name, the opinions of men hav been prezerved from an undu bias arizing from personal prejudices, the faults of the ritings hav been detected, and their merit in public estimation ascertained.

The favorable reception given to a number of theze Essays by an indulgent public, induced me to publish them in a volum, with such alterations and emendations, az I had heerd suggested by frends or indifferent reeders, together with some manuscripts, that my own wishes led me to hope might be useful.

During the course of ten or twelv yeers, I hav been laboring to correct popular errors, and to assist my

yung brethren in the road to truth and virtue; my publications for theze purposes hav been numerous; much time haz been spent, which I do not regret, and much censure incurred, which my hart tells me I do not dezerv. The influence of a yung writer cannot be so powerful or extensiv az that of an established karacter; but I hav ever thot a man's usefulness depends more on *exertion* than on *talents*. I am attached to America by berth, education and habit; but abuv all, by a philosophical view of her situation, and the superior advantages she enjoys, for augmenting the sum of social happiness.

I should hav added another volum, had not recent experience convinced me, that few large publications in this country wil pay a printer, much less an author. Should the Essays here presented to the public, proov undezerving of notice, I shal, with cheerfulness, resign my other papers to oblivion.

The reeder wil obzerv that the orthography of the volum iz not uniform. The reezon iz, that many of the essays hav been published before, in the common orthography, and it would hav been a laborious task to copy the whole, for the sake of changing the spelling.

In the essays, ritten within the last year, a considerable change of spelling iz introduced by way of experiment. This liberty waz taken by the writers before the age of queen Elizabeth, and to this we are indeted for the preference of modern spelling over that of Gower and Chaucer. The man who admits that the change of *housbonde*, *mynde*, *ygone*, *moneth* into *husband*, *mind*, *gone*, *month*, iz an improovment, must acknowlege also the riting of *helth*, *breth*, *rong*, *tung*, *munth*, to be an improovment. There iz no alternativ. Every possible reezon that could ever be

offered for altering the spelling of wurds, stil exists in full force; and if a gradual reform should not be made in our language, it wil proov that we are less under the influence of reezon than our ancestors.

*Hartford, June, 1790.*

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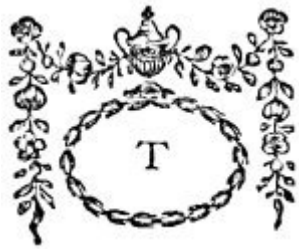


# A
# COLLECTION OF ESSAYS.

# No. I.

NEW YORK, 1788.

## *On the* EDUCATION *of* YOUTH *in* AMERICA.



The Education of youth is, in all governments, an object of the first consequence. The impressions received in early life, usually form the characters of individuals; a union of which forms the general character of a nation.

The mode of Education and the arts taught to youth, have, in every nation, been adapted to its particular stage of society or local circumstances.

In the martial ages of Greece, the principal study of its Legislators was, to acquaint the young men with the use of arms, to inspire them with an undaunted courage, and to form in the hearts of both sexes, an invincible attachment to their country. Such was the effect of their regulations for these purposes, that the very women of Sparta and Athens, would reproach their own sons, for surviving their companions who fell in the field of battle.

Among the warlike Scythians, every male was not only taught to use arms for attack and defence; but was obliged to sleep in the field, to carry heavy burthens, and to climb rocks and precipices, in order to habituate himself to hardships, fatigue and

danger.

In Persia, during the flourishing reign of the great Cyrus, the Education of youth, according to Xenophon, formed a principal branch of the regulations of the empire. The young men were divided into classes, each of which had some particular duties to perform, for which they were qualified by previous instructions and exercise.

While nations are in a barbarous state, they have few wants, and consequently few arts. Their principal objects are, defence and subsistence; the Education of a savage therefore extends little farther, than to enable him to use, with dexterity, a bow and a tomahawk.

But in the progress of manners and of arts, war ceases to be the employment of whole nations; it becomes the business of a few, who are paid for defending their country. Artificial wants multiply the number of occupations; and these require a great diversity in the mode of Education. Every youth must be instructed in the business by which he is to procure subsistence. Even the civilities of behavior, in polished society, become a science; a bow and a curtesy are taught with as much care and precision, as the elements of Mathematics. Education proceeds therefore, by gradual advances, from simplicity to corruption. Its first object, among rude nations, is safety; its next, utility; it afterwards extends to convenience; and among the opulent part of civilized nations, it is directed principally to show and amusement.

In despotic states, Education, like religion, is made subservient to government. In some of the vast empires of Asia, children are always instructed in the occupation of their parents; thus the same arts are

always continued in the same families. Such an institution cramps genius, and limits the progress of national improvement; at the same time it is an almost immoveable barrier against the introduction of vice, luxury, faction and changes in government. This is one of the principal causes, which have operated in combining numerous millions of the human race under one form of government, and preserving national tranquillity for incredible periods of time. The empire of China, whose government was founded on the patriarchical discipline, has not suffered a revolution in laws, manners or language, for many thousand years.

In the complicated systems of government which are established among the civilized nations of Europe, Education has less influence in forming a national character; but there is no state, in which it has not an inseparable connection with morals, and a consequential influence upon the peace and happiness of society.

Education is a subject which has been exhausted by the ablest writers, both among the ancients and moderns. I am not vain enough to suppose I can suggest any new ideas upon so trite a theme as Education in general; but perhaps the manner of conducting the youth in America may be capable of some improvement. Our constitutions of civil government are not yet firmly established; our national character is not yet formed; and it is an object of vast magnitude that systems of Education should be adopted and pursued, which may not only diffuse a knowlege of the sciences, but may implant, in the minds of the American youth, the principles of virtue and of liberty; and inspire them with just and liberal ideas of government, and with an inviolable

attachment to their own country. It now becomes every American to examin the modes of Education in Europe, to see how far they are applicable in this country, and whether it is not possible to make some valuable alterations, adapted to our local and political circumstances. Let us examin the subject in two views. First, as it respects arts and sciences. Secondly, as it is connected with morals and government. In each of these articles, let us see what errors may be found, and what improvements suggested, in our present practice.

The first error that I would mention, is, a too general attention to the dead languages, with a neglect of our own.

This practice proceeds probably from the common use of the Greek and Roman tongues, before the English was brought to perfection. There was a long period of time, when these languages were almost the only repositories of science in Europe. Men, who had a taste for learning, were under a necessity of recurring to the sources, the Greek and Roman authors. These will ever be held in the highest estimation both for stile and sentiment; but the most valuable of them have English translations, which, if they do not contain all the elegance, communicate all the ideas of the originals. The English language, perhaps, at this moment, is the repository of as much learning, as one half the languages of Europe. In copiousness it exceeds all modern tongues; and though inferior to the Greek and French in softness and harmony, yet it exceeds the French in variety; it almost equals the Greek and Roman in energy, and falls very little short of any language in the regularity of its construction.[1]

In deliberating upon any plan of instruction, we

should be attentive to its future influence and probable advantages. What advantage does a merchant, a mechanic, a farmer, derive from an acquaintance with the Greek and Roman tongues? It is true, the etymology of words cannot be well understood, without a knowlege of the original languages of which ours is composed. But a very accurate knowlege of the meaning of words and of the true construction of sentences, may be obtained by the help of Dictionaries and good English writers; and this is all that is necessary in the common occupations of life. But suppose there is some advantage to be derived from an acquaintance with the dead languages, will this compensate for the loss of five or perhaps seven years of valuable time? Life is short, and every hour should be employed to good purposes. If there are no studies of more consequence to boys, than those of Latin and Greek, let these languages employ their time; for idleness is the bane of youth. But when we have an elegant and copious language of our own, with innumerable writers upon ethics, geography, history, commerce and government; subjects immediately interesting to every man; how can a parent be justified in keeping his son several years over rules of Syntax, which he forgets when he shuts his book; or which, if remembered, can be of little or no use in any branch of business? This absurdity is the subject of common complaint; men see and feel the impropriety of the usual practice; and yet no arguments that have hitherto been used, have been sufficient to change the system; or to place an English school on a footing with a Latin one, in point of reputation.

It is not my wish to discountenance totally the study of the dead languages. On the other hand I should urge a more close attention to them, among young

men who are designed for the learned professions. The poets, the orators, the philosophers and the historians of Greece and Rome, furnish the most excellent models of Stile, and the richest treasures of Science. The slight attention given to a few of these authors, in our usual course of Education, is rather calculated to make pedants than scholars; and the time employed in gaining superficial knowlege is really wasted.[2]

> "A little learning is a dangerous thing,
> Drink deep, or taste not the Pierian
> spring."

But my meaning is, that the dead languages are not necessary for men of business, merchants, mechanics, planters, &c. nor of utility sufficient to indemnify them for the expense of time and money which is requisite to acquire a tolerable acquaintance with the Greek and Roman authors. Merchants often have occasion for a knowlege of some foreign living language, as, the French, the Italian, the Spanish, or the German; but men, whose business is wholly domestic, have little or no use for any language but their own; much less, for languages known only in books.

There is one very necessary use of the Latin language, which will always prevent it from falling into neglect; which is, that it serves as a common interpreter among the learned of all nations and ages. Epitaphs, inscriptions on monuments and medals, treaties, &c. designed for perpetuity, are written in Latin, which is every where understood by the learned, and being a dead language is liable to no change.

But the high estimation in which the learned

languages have been held, has discouraged a due attention to our own. People find themselves able without much study to write and speak the English intelligibly, and thus have been led to think rules of no utility. This opinion has produced various and arbitrary practices, in the use of the language, even among men of the most information and accuracy; and this diversity has produced another opinion, both false and injurious to the language, that there are no rules or principles on which the pronunciation and construction can be settled.

This neglect is so general, that there is scarcely an institution to be found in the country, where the English tongue is taught regularly, from its elements to its true and elegant construction, in prose and verse. Perhaps in most schools, boys are taught the definition of the parts of speech, and a few hard names which they do not understand, and which the teacher seldom attempts to explain; this is called *learning grammar*. This practice of learning questions and answers without acquiring any ideas, has given rise to a common remark, *that grammar is a dry study*; and so is every other study which is prosecuted without improving the head or the heart. The study of geography is equally dry, when the subject is not understood. But when grammar is taught by the help of visible objects; when children perceive that differences of words arise from differences in things, which they may learn at a very early period of life, the study becomes entertaining, as well as improving. In general, when a study of any kind is tiresome to a person, it is a presumptive evidence that he does not make any proficiency in knowlege, and this is almost always the fault of the instructor.

In a few instances perhaps the study of English is

thought an object of consequence; but here also there is a great error in the common practice; for the study of English is preceded by several years attention to Latin and Greek. Nay, there are men, who contend that the best way to become acquainted with English, is to learn Latin first. Common sense may justly smile at such an opinion; but experience proves it to be false.

If language is to be taught mechanically, or by rote, it is a matter of little consequence whether the rules are in English, Latin or Greek: But if children are to acquire *ideas*, it is certainly easier to obtain them in a language which they understand, than in a foreign tongue. The distinctions between the principal parts of speech are founded in nature, and are within the capacity of a school boy. These distinctions should be explained in English, and when well understood, will facilitate the acquisition of other languages. Without some preparation of this kind, boys will often find a foreign language extremely difficult, and sometimes be discouraged. We often see young persons of both sexes, puzzling their heads with French, when they can hardly write two sentences of good English. They plod on for some months with much fatigue, little improvement, and less pleasure, and then relinquish the attempt.

The principles of any science afford pleasure to the student who comprehends them. In order to render the study of language agreeable, the distinctions between words should be illustrated by the differences in visible objects. Examples should be presented to the senses, which are the inlets of all our knowlege. That *nouns are the names of things, and that adjectives express their qualities*, are abstract definitions, which a boy may repeat five years

without comprehending the meaning. But that *table* is the name of an article, and *hard* or *square* is its property, is a distinction obvious to the senses, and consequently within a child's capacity.

There is one general practice in schools, which I censure with diffidence; not because I doubt the propriety of the censure, but because it is opposed to deep rooted prejudices: This practice is the use of the Bible as a school book. There are two reasons why this practice has so generally prevailed: The first is, that families in the country are not generally supplied with any other book: The second, an opinion that the reading of the scriptures will impress, upon the minds of youth, the important truths of religion and morality. The first may be easily removed; and the purpose of the last is counteracted by the practice itself.

If people design the doctrines of the Bible as a system of religion, ought they to appropriate the book to purposes foreign to this design? Will not a familiarity, contracted by a careless disrespectful reading of the sacred volume, weaken the influence of its precepts upon the heart?

Let us attend to the effect of familiarity in other things.

The rigid Puritans, who first settled the New England States, often chose their burying ground in the center of their settlements. Convenience might have been a motive for the choice; but it is probable that a stronger reason was, the influence which they supposed the frequent burials and constant sight of the tombs would have upon the lives of men. The choice, however, for the latter purpose, was extremely injudicious; for it may be laid down as a general rule, that those who live in a constant view

of death, will become hardened to its terrors.

No person has less sensibility than the Surgeon, who has been accustomed to the amputation of limbs. No person thinks less of death, than the Soldier, who has frequently walked over the carcasses of his slain comrades; or the Sexton, who lives among the tombs.

Objects that affect the mind strongly, whether the sensations they excite are painful or pleasureable, always lose their effect by a frequent repetition of their impressions.[3] Those parts of the scripture, therefore, which are calculated to strike terror to the mind, lose their influence by being too frequently brought into view. The same objection will not apply to the history and morality of the Bible; select passages of which may be read in schools to great advantage. In some countries, the common people are not permitted to read the Bible at all: In ours, it is as common as a newspaper, and in schools, is read with nearly the same degree of respect. Both these practices appear to be extremes. My wish is not to see the Bible excluded from schools, but to see it used as a system of religion and morality.

These remarks suggest another error which is often committed in our inferior schools: I mean that of putting boys into difficult sciences, while they are too young to exercise their reason upon abstract subjects. For example; boys are often put to the study of mathematics, at the age of eight or ten years; and before they can either read or write. In order to show the impropriety of such a practice, it is necessary to repeat what was just now observed, that our senses are the avenues of knowlege. This fact proves that the most natural course of Education is that which employs, first the senses or powers of the body, or those faculties of the mind which first acquire

strength; and then proceeds to those studies which depend on the power of comparing and combining ideas. The art of writing is mechanical and imitative; this may therefore employ boys, as soon as their fingers have strength sufficient to command a pen. A knowledge of letters requires the exercise of a mental power, memory; but this is coeval almost with the first operations of the human mind; and with respect to objects of sense, is almost perfect even in childhood. Children may therefore be taught reading, as soon as their organs of speech have acquired strength sufficient to articulate the sounds of words. [4]

But those sciences, a knowlege of which is acquired principally by the reasoning faculties, should be postponed to a more advanced period of life. In the course of an English Education, mathematics should be perhaps the last study of youth in schools. Years of valuable time are sometimes thrown away, in a fruitless application to sciences, the principles of which are above the comprehension of the students.

There is no particular age, at which every boy is qualified to enter upon mathematics to advantage. The proper time can be best determined by the instructors, who are acquainted with the different capacities of their pupils.

Another error, which is frequent in America, is that a master undertakes to teach many different branches in the same school. In new settlements, where people are poor, and live in scattered situations, the practice is often unavoidable: But in populous towns, it must be considered as a defective plan of Education. For suppose the teacher to be equally master of all the branches which he attempts to teach, which seldom happens, yet his attention must be distracted with a

multiplicity of objects, and consequently painful to himself and not useful to the pupils. Add to this the continual interruptions which the students of one branch suffer from those of another, which must retard the progress of the whole school. It is a much more eligible plan to appropriate an apartment to each branch of Education, with a teacher who makes that branch his sole employment. The principal academies in Europe and America are on this plan, which both reason and experience prove to be the most useful.

With respect to literary institutions of the first rank, it appears to me that their local situations are an object of importance. It is a subject of controversy, whether a large city or a country village is the most eligible situation for a college or university. But the arguments in favor of the latter, appear to me decisive. Large cities are always scenes of dissipation and amusement, which have a tendency to corrupt the hearts of youth and divert their minds from their literary pursuits. Reason teaches this doctrine, and experience has uniformly confirmed the truth of it.

Strict discipline is essential to the prosperity of a public seminary of science; and this is established with more facility, and supported with more uniformity, in a small village, where there are no great objects of curiosity to interrupt the studies of youth or to call their attention from the orders of the society.

That the morals of young men, as well as their application to science, depend much on retirement, will be generally acknowleged; but it will be said also, that the company in large towns will improve their manners. The question then is, which shall be sacrificed; the advantage of an *uncorrupted heart* and

an *improved head*; or of polished manners. But this question supposes that the virtues of the heart and the polish of the gentleman are incompatible with each other; which is by no means true. The gentleman and the scholar are often united in the same person. But both are not formed by the same means. The improvement of the head requires close application to books; the refinement of manners rather attends some degree of dissipation, or at least a relaxation of the mind. To preserve the purity of the heart, it is sometimes necessary, and always useful, to place a youth beyond the reach of bad examples; whereas a general knowlege of the world, of all kinds of company, is requisite to teach a universal propriety of behavior.

But youth is the time to form both the head and the heart. The understanding is indeed ever enlarging; but the seeds of knowlege should be planted in the mind, while it is young and susceptible; and if the mind is not kept untainted in *youth*, there is little probability that the moral character of the *man* will be unblemished. A genteel address, on the other hand, *may* be acquired at any time of life, and *must* be acquired, if ever, by mingling with good company. But were the cultivation of the understanding and of the heart, inconsistent with genteel manners, still no rational person could hesitate which to prefer. The goodness of a heart is of infinitely more consequence to society, than an elegance of manners; nor will any superficial accomplishments repair the want of principle in the mind. It is always better to be *vulgarly right*, than *politely wrong*.

But if the amusements, dissipation and vicious examples in populous cities render them improper

places for seats of learning; the monkish mode of sequestering boys from other society, and confining them to the apartments of a college, appears to me another fault. The human mind is like a rich field, which, without constant care, will ever be covered with a luxuriant growth of weeds. It is extremely dangerous to suffer young men to pass the most critical period of life, when the passions are strong, the judgement weak, and the heart susceptible and unsuspecting, in a situation where there is not the least restraint upon their inclinations. My own observations lead me to draw the veil of silence over the ill effects of this practice. But it is to be wished that youth might always be kept under the inspection of age and superior wisdom; that literary institutions might be so situated, that the students might live in decent families, be subject, in some measure, to their discipline, and ever under the control of those whom they respect.

Perhaps it may also be numbered among the errors in our systems of Education, that, in all our universities and colleges, the students are all restricted to the same course of study, and by being classed, limited to the same progress. Classing is necessary, but whether students should not be removeable from the lower to the higher classes, as a reward for their superior industry and improvements, is submitted to those who know the effect of emulation upon the human mind.

But young gentlemen are not all designed for the same line of business, and why should they pursue the same studies? Why should a merchant trouble himself with the rules of Greek and Roman syntax, or a planter puzzle his head with conic sections? Life is too short to acquire, and the mind of man too feeble

to contain, the whole circle of sciences. The greatest genius on earth, not even a Bacon, can be a perfect master of *every* branch; but any moderate genius may, by suitable application, be perfect in any *one* branch. By attempting therefore to teach young gentlemen every thing, we make the most of them mere smatterers in science. In order to qualify persons to figure in any profession, it is necessary that they should attend closely to those branches of learning which lead to it.

There are some arts and sciences which are necessary for every man. Every man should be able to speak and write his native tongue with correctness; and have some knowlege of mathematics. The rules of arithmetic are indispensably requisite. But besides the learning which is of common utility, lads should be directed to pursue those branches which are connected more immediately with the business for which they are destined.

It would be very useful for the farming part of the community, to furnish country schools with some easy system of practical husbandry. By repeatedly reading some book of this kind, the mind would be stored with ideas, which might not indeed be understood in youth, but which would be called into practice in some subsequent period of life. This would lead the mind to the subject of agriculture, and pave the way for improvements.

Young gentlemen, designed for the mercantile line, after having learned to write and speak English correctly, might attend to French, Italian, or such other living language, as they will probably want in the course of business. These languages should be learned early in youth, while the organs are yet pliable; otherwise the pronunciation will probably be

imperfect. These studies might be succeeded by some attention to chronology, and a regular application to geography, mathematics, history, the general regulations of commercial nations, principles of advance in trade, of insurance, and to the general principles of government.

It appears to me that such a course of Education, which might be completed by the age of fifteen or sixteen, would have a tendency to make better merchants than the usual practice which confines boys to Lucian, Ovid and Tully, till they are fourteen, and then turns them into a store, without an idea of their business, or one article of Education necessary for them, except perhaps a knowlege of writing and figures.

Such a system of English Education is also much preferable to a university Education, even with the usual honors; for it might be finished so early as to leave young persons time to serve a regular apprenticeship, without which no person should enter upon business. But by the time a university Education is completed, young men commonly commence *gentlemen*; their age and their pride will not suffer them to go thro the drudgery of a compting house, and they enter upon business without the requisite accomplishments. Indeed it appears to me that what is now called a *liberal Education*, disqualifies a man for business. Habits are formed in youth and by practice; and as business is, in some measure, mechanical, every person should be exercised in his employment, in an early period of life, that his habits may be formed by the time his apprenticeship expires. An Education in a university interferes with the forming of these habits; and perhaps forms opposite habits; the mind may

contract a fondness for ease, for pleasure or for books, which no efforts can overcome. An academic Education, which should furnish the youth with some ideas of men and things, and leave time for an apprenticeship, before the age of twenty one years, would in my opinion, be the most eligible for young men who are designed for activ employments.

The method pursued in our colleges is better calculated to fit youth for the learned professions than for business. But perhaps the period of study, required as the condition of receiving the usual degrees, is too short. Four years, with the most assiduous application, are a short time to furnish the mind with the necessary knowlege of the languages and of the several sciences. It might perhaps have been a period sufficiently long for an infant settlement, as America was, at the time when most of our colleges were founded. But as the country becomes populous, wealthy and respectable, it may be worthy of consideration, whether the period of academic life should not be extended to six or seven years.

But the principal defect in our plan of Education in America, is, the want of good teachers in the academies and common schools. By good teachers I mean, men of unblemished reputation, and possessed of abilities, competent to their stations. That a man should be master of what he undertakes to teach, is a point that will not be disputed; and yet it is certain that abilities are often dispensed with, either thro inattention or fear of expense.

To those who employ ignorant men to instruct their children, permit me to suggest one important idea: That it is better for youth to have *no* Education, than to have a bad one; for it is more difficult to eradicate

habits, than to impress new ideas. The tender shrub is easily bent to any figure; but the tree, which has acquired its full growth, resists all impressions.

Yet abilities are not the sole requisites. The instructors of youth ought, of all men, to be the most prudent, accomplished, agreeable and respectable. What avail a man's parts, if, while he is the "wisest and brightest," he is the "meanest of mankind?" The pernicious effects of bad example on the *minds* of youth will probably be acknowleged; but with a view to *improvement*, it is indispensably necessary that the teachers should possess good breeding and agreeable manners. In order to give full effect to instructions, it is requisite that they should proceed from a man who is loved and respected. But a low bred clown, or morose tyrant, can command neither love nor respect; and that pupil who has no motive for application to books, but the fear of a rod, will not make a scholar.

The rod is often necessary in school; especially after the children have been accustomed to disobedience and a licentious behavior at home. All government originates in families, and if neglected there, it will hardly exist in society; but the want of it must be supplied by the rod in school, the penal laws of the state, and the terrors of divine wrath from the pulpit. The government both of families and schools should be absolute. There should, in families, be no appeal from one parent to another, with the prospect of pardon for offences. The one should always vindicate, at least apparently, the conduct of the other. In schools the master should be absolute in command; for it is utterly impossible for any man to support order and discipline among children, who are indulged with an appeal to their parents. A

proper subordination in families would generally supersede the necessity of severity in schools; and a strict discipline in both is the best foundation of good order in political society.

If parents should say, "we cannot give the instructors of our children unlimited authority over them, for it may be abused and our children injured;" I would answer, they must not place them under the direction of any man, in whose temper, judgement and abilities, they do not repose perfect confidence. The teacher should be, if such can be found, as judicious and reasonable a man as the parent.

There can be little improvement in schools, without strict subordination; there can be no subordination, without principles of esteem and respect in the pupils; and the pupils cannot esteem and respect a man who is not in himself respectable, and who is not treated with respect by their parents. It may be laid down as an invariable maxim, that a person is not fit to superintend the Education of children, who has not the qualifications which will command the esteem and respect of his pupils. This maxim is founded on a truth which every person may have observed; that children always *love* an *amiable* man, and always *esteem* a *respectable* one. Men and women have their passions, which often rule their judgement and their conduct. They have their caprices, their interests and their prejudices, which at times incline them to treat the most meritorious characters with disrespect. But children, artless and unsuspecting, resign their hearts to any person whose manners are agreeable, and whose conduct is respectable. Whenever, therefore, pupils cease to respect their teacher, he should be instantly dismissed.

Respect for an instructor will often supply the place

of a rod of correction. The pupil's attachment will lead him to close attention to his studies; he fears not the *rod* so much as the *displeasure* of his teacher; he waits for a smile, or dreads a frown; he receives his instructions and copies his manners. This generous principle, the fear of offending, will prompt youth to exertions; and instead of severity on the one hand, and of slavish fear, with reluctant obedience on the other, mutual esteem, respect and confidence strew flowers in the road to knowlege.

With respect to morals and civil society, the other view in which I proposed to treat this subject, the effects of Education are so certain and extensiv, that it behooves every parent and guardian to be particularly attentiv to the characters of the men, whose province it is to form the minds of youth.

From a strange inversion of the order of nature, the cause of which it is not necessary to unfold, the most important business in civil society, is, in many parts of America, committed to the most worthless characters. The Education of youth, an employment of more consequence than making laws and preaching the gospel, because it lays the foundation on which both law and gospel rest for success; this Education is sunk to a level with the most menial services. In most instances we find the higher seminaries of learning intrusted to men of good characters, and possessed of the moral virtues and social affections. But many of our inferior schools, which, so far as the heart is concerned, are as important as colleges, are kept by men of no breeding, and many of them, by men infamous for the most detestable vices.[5] Will this be denied? will it be denied, that before the war, it was a frequent practice for gentlemen to purchase convicts, who had

been transported for their crimes, and employ them as private tutors in their families?

Gracious Heavens! Must the wretches, who have forfeited their lives, and been pronounced unworthy to be inhabitants of a *foreign* country, be entrusted with the Education, the morals, the character of *American* youth?

Will it be denied that many of the instructors of youth, whose examples and precepts should form their minds for good men and useful citizens, are often found to sleep away, in school, the fumes of a debauch, and to stun the ears of their pupils with frequent blasphemy? It is idle to suppress such truths; nay more, it is wicked. The practice of employing low and vicious characters to direct the studies of youth, is, in a high degree, criminal; it is destructive of the order and peace of society; it is treason against morals, and of course, against government; it ought to be arraigned before the tribunal of reason, and condemned by all intelligent beings. The practice is so exceedingly absurd, that it is surprising it could ever have prevailed among rational people. Parents wish their children to be *well bred*, yet place them under the care of *clowns*. They wish to secure their hearts from *vicious principles* and *habits*, yet commit them to the care of men of the most *profligate lives*. They wish to have their children taught *obedience* and *respect* for superiors, yet give them a master that both parents and children *despise*. A practice so glaringly absurd and irrational has no name in any language! Parents themselves will not associate with the men, whose company they *oblige* their children to keep, even in that most important period, when habits are forming for life.[6]

Are parents and guardians ignorant, that children

always imitate those with whom they live or associate? That a boy, bred in the woods, will be a savage? That another, bred in the army, will have the manners of a soldier? That a third, bred in a kitchen, will speak the language, and possess the ideas, of servants? And that a fourth, bred in genteel company, will have the manners of a gentleman? We cannot believe that many people are ignorant of these truths. Their conduct therefore can be ascribed to nothing but inattention or fear of expense. It is perhaps literally true, that a wild life among savages is preferable to an Education in a kitchen, or under a drunken tutor; for savages would leave the mind uncorrupted with the vices, which reign among slaves and the depraved part of civilized nations. It is therefore a point of infinite importance to society, that youth should not associate with persons whose manners they ought not to imitate; much less should they be doomed to pass the most susceptable period of life, with clowns, profligates and slaves.

There are people so ignorant of the constitution of our natures, as to declare, that young people should see vices and their consequences, that they may learn to detest and shun them. Such reasoning is like that of the novel writers, who attempt to defend their delineations of abandoned characters; and that of stage players, who would vindicate the obscene exhibitions of a theater; but the reasoning is totally false.[7] Vice always spreads by being published; young people are taught many vices by fiction, books or public exhibitions; vices, which they never would have known, had they never read such books or attended such public places. Crimes of all kinds, vices, judicial trials necessarily obscene, and infamous punishments, should, if possible, be concealed from the young. An examination in a court

of justice may teach the tricks of a knave, the arts of a thief, and the evasions of hackneyed offenders, to a dozen young culprits, and even tempt those who have never committed a crime, to make a trial of their skill. A newspaper may spread crimes; by communicating to a nation the knowlege of an ingenious trick of villainy, which, had it been suppressed, might have died with its first inventor. It is not true that the effects of vice and crimes deter others from the practice; except when rarely seen. On the other hand, frequent exhibitions either cease to make any impressions on the minds of spectators, or else reconcile them to a course of life, which at first was disagreeable.

> "Vice is a monster of so frightful mien,
> As to be hated, needs but to be seen;
> Yet seen too oft, familiar with her face,
> We first endure, then pity, then embrace."

For these reasons, children should keep the best of company, that they might have before them the best manners, the best breeding, and the best conversation. Their minds should be kept untainted, till their reasoning faculties have acquired strength, and the good principles which may be planted in their minds, have taken deep root. They will then be able to make a firm and probably a successful resistance, against the attacks of secret corruption and brazen libertinism.

Our legislators frame laws for the suppression of vice and immorality; our divines thunder, from the pulpit, the terrors of infinite wrath, against the vices that stain the characters of men. And do laws and preaching effect a reformation of manners? Experience would not give a very favorable answer

to this inquiry. The reason is obvious; the attempts are directed to the wrong objects. Laws can only check the public effects of vicious principles; but can never reach the principles themselves; and preaching is not very intelligible to people, till they arrive at an age when their principles are rooted, or their habits firmly established. An attempt to eradicate old habits, is as absurd, as to lop off the branches of a huge oak, in order to root it out of a rich soil. The most that such clipping will effect, is to prevent a further growth.

The only practicable method to reform mankind, is to begin with children; to banish, if possible, from their company, every low bred, drunken, immoral character. Virtue and vice will not grow together in a great degree, but they will grow where they are planted, and when one has taken root, it is not easily supplanted by the other. The great art of correcting mankind therefore, consists in prepossessing the mind with good principles.

For this reason society requires that the Education of youth should be watched with the most scrupulous attention. Education, in a great measure, forms the moral characters of men, and morals are the basis of government.[8] Education should therefore be the first care of a Legislature; not merely the institution of schools, but the furnishing of them with the best men for teachers. A good system of Education should be the first article in the code of political regulations; for it is much easier to introduce and establish an effectual system for preserving morals, than to correct, by penal statutes, the ill effects of a bad system. I am so fully persuaded of this, that I shall almost adore that great man, who shall change our practice and opinions, and make it respectable for

the first and best men to superintend the Education of youth.

Another defect in our schools, which, since the revolution, is become inexcuseable, is the want of proper books. The collections which are now used consist of essays that respect foreign and ancient nations. The minds of youth are perpetually led to the history of Greece and Rome or to Great Britain; boys are constantly repeating the declamations of Demosthenes and Cicero, or debates upon some political question in the British Parliment. These are excellent specimens of good sense, polished stile and perfect oratory; but they are not interesting to children. They cannot be very useful, except to young gentlemen who want them as models of reasoning and eloquence, in the pulpit or at the bar.

But every child in America should be acquainted with his own country. He should read books that furnish him with ideas that will be useful to him in life and practice. As soon as he opens his lips, he should rehearse the history of his own country; he should lisp the praise of liberty, and of those illustrious heroes and statesmen, who have wrought a revolution in her favor.

A selection of essays, respecting the settlement and geography of America; the history of the late revolution and of the most remarkable characters and events that distinguished it, and a compendium of the principles of the federal and provincial governments, should be the principal school book in the United States. These are interesting objects to every man; they call home the minds of youth and fix them upon the interests of their own country, and they assist in forming attachments to it, as well as in enlarging the understanding.

"It is observed by the great Montesquieu, that the laws of education ought to be relative to the principles of the government."[9]

In despotic governments, the people should have little or no education, except what tends to inspire them with a servile fear. Information is fatal to despotism.

In monarchies, education should be partial, and adapted to the rank of each class of citizens. But "in a republican government," says the same writer, "the whole power of education is required." Here every class of people should *know* and *love* the laws. This knowlege should be diffused by means of schools and newspapers; and an attachment to the laws may be formed by early impressions upon the mind.

Two regulations are essential to the continuance of republican governments: 1. Such a distribution of lands and such principles of descent and alienation, as shall give every citizen a power of acquiring what his industry merits.[10] 2. Such a system of education as gives every citizen an opportunity of acquiring knowlege and fitting himself for places of trust. These are fundamental articles; the *sine qua non* of the existence of the American republics.

Hence the absurdity of our copying the manners and adopting the institutions of Monarchies.

In several States, we find laws passed, establishing provision for colleges and academies, where people of property may educate their sons; but no provision is made for instructing the poorer rank of people, even in reading and writing. Yet in these same States, every citizen who is worth a few shillings annually, is entitled to vote for legislators.[11] This appears to me a most glaring solecism in

government. The constitutions are *republican*, and the laws of education are *monarchical*. The *former* extend civil rights to every honest industrious man; the *latter* deprive a large proportion of the citizens of a most valuable privilege.

In our American republics, where government is in the hands of the people, knowlege should be universally diffused by means of public schools. Of such consequence is it to society, that the people who make laws, should be well informed, that I conceive no Legislature can be justified in neglecting proper establishments for this purpose.

When I speak of a diffusion of knowlege, I do not mean merely a knowlege of spelling books, and the New Testament. An acquaintance with ethics, and with the general principles of law, commerce, money and government, is necessary for the yeomanry of a republican state. This acquaintance they might obtain by means of books calculated for schools, and read by the children, during the winter months, and by the circulation of public papers.

"In Rome it was the common exercise of boys at school, to learn the laws of the twelve tables by heart, as they did their poets and classic authors."[12] What an excellent practice this in a free government!

It is said, indeed by many, that our common people are already too well informed. Strange paradox! The truth is, they have too much knowlege and spirit to resign their share in government, and are not sufficiently informed to govern themselves in all cases of difficulty.

There are some acts of the American legislatures which astonish men of information; and blunders in legislation are frequently ascribed to bad intentions.

But if we examin the men who compose these legislatures, we shall find that wrong measures generally proceed from ignorance either in the men themselves, or in their constituents. They often mistake their own interest, because they do not foresee the remote consequences of a measure.

It may be true that all men cannot be legislators; but the more generally knowlege is diffused among the substantial yeomanry, the more perfect will be the laws of a republican state.

Every small district should be furnished with a school, at least four months in a year; when boys are not otherwise employed. This school should be kept by the most reputable and well informed man in the district. Here children should be taught the usual branches of learning: submission to superiors and to laws; the moral or social duties; the history and transactions of their own country; the principles of liberty and government. Here the rough manners of the wilderness should be softened, and the principles of virtue and good behaviour inculcated. The *virtues* of men are of more consequence to society than their *abilities*; and for this reason, the *heart* should be cultivated with more assiduity than the *head*.

Such a general system of education is neither impracticable nor difficult; and excepting the formation of a federal government that shall be efficient and permanent, it demands the first attention of American patriots. Until such a system shall be adopted and pursued; until the Statesman and Divine shall unite their efforts in *forming* the human mind, rather than in loping its excressences, after it has been neglected; until Legislators discover that the only way to make good citizens and subjects, is to nourish them from infancy; and until parents

shall be convinced that the *worst* of men are not the proper teachers to make the *best*; mankind cannot know to what a degree of perfection society and government may be carried. America affords the fairest opportunities for making the experiment, and opens the most encouraging prospect of success.[13]

In a system of education, that should embrace every part of the community, the female sex claim no inconsiderable share of our attention.

The women in America (to their honor it is mentioned) are not generally above the care of educating their own children. Their own education should therefore enable them to implant in the tender mind, such sentiments of virtue, propriety and dignity, as are suited to the freedom of our governments. Children should be treated as children, but as children that are, in a future time, to be men and women. By treating them as if they were always to remain children, we very often see their childishness adhere to them, even in middle life. The silly language called *baby talk*, in which most persons are initiated in infancy, often breaks out in discourse, at the age of forty, and makes a man appear very ridiculous.[14] In the same manner, vulgar, obscene and illiberal ideas, imbibed in a nursery or a kitchen, often give a tincture to the conduct through life. In order to prevent every evil bias, the ladies, whose province it is to direct the inclinations of children on their first appearance, and to choose their nurses, should be possessed, not only of amiable manners, but of just sentiments and enlarged understandings.

But the influence of women in forming the dispositions of youth, is not the sole reason why their education should be particularly guarded; their influence in controling the manners of a nation, is

another powerful reason. Women, once abandoned, may be instrumental in corrupting society; but such is the delicacy of the sex, and such the restraints which custom imposes upon them, that they are generally the last to be corrupted. There are innumerable instances of men, who have been restrained from a vicious life, and even of very abandoned men, who have been reclaimed, by their attachment to ladies of virtue. A fondness for the company and conversation of ladies of character, may be considered as a young man's best security against the attractives of a dissipated life. A man who is attached to *good* company, seldom frequents that which is *bad*. For this reason, society requires that females should be well educated, and extend their influence as far as possible over the other sex.

But a distinction is to be made between a *good* education, and a *showy* one; for an education, merely superficial, is a proof of corruption of taste, and has a mischievous influence on manners. The education of females, like that of males, should be adapted to the principles of the government, and correspond with the stage of society. Education in Paris differs from that in Petersburg, and the education of females in London or Paris should not be a model for the Americans to copy.

In all nations a *good* education, is that which renders the ladies correct in their manners, respectable in their families, and agreeable in society. That education is always *wrong*, which raises a woman above the duties of her station.

In America, female education should have for its object what is *useful*. Young ladies should be taught to speak and write their own language with purity and elegance; an article in which they are often

deficient. The French language is not necessary for ladies. In some cases it is convenient, but, in general, it may be considered as an article of luxury. As an accomplishment, it may be studied by those whose attention is not employed about more important concerns.

Some knowlege of arithmetic is necessary for every lady. Geography should never be neglected. Belles Letters learning seems to correspond with the dispositions of most females. A taste for Poetry and fine writing should be cultivated; for we expect the most delicate sentiments from the pens of that sex, which is possessed of the finest feelings.

A course of reading can hardly be prescribed for all ladies. But it should be remarked, that this sex cannot be too well acquainted with the writers upon human life and manners. The Spectator should fill the first place in every lady's library. Other volumes of periodical papers, tho inferior to the Spectator, should be read; and some of the best histories.

With respect to novels, so much admired by the young, and so generally condemned by the old, what shall I say? Perhaps it may be said with truth, that some of them are useful, many of them pernicious, and most of them trifling. A hundred volumes of modern novels may be read, without acquiring a new idea. Some of them contain entertaining stories, and where the descriptions are drawn from nature, and from characters and events in themselves innocent, the perusal of them may be harmless.

Were novels written with a view to exhibit only one side of human nature, to paint the social virtues, the world would condemn them as defective: But I should think them more perfect. Young people, especially females, should not see the vicious part of

mankind. At best novels may be considered as the toys of youth; the rattle boxes of sixteen. The mechanic gets his pence for his toys, and the novel writer, for his books; and it would be happy for society, if the latter were in all cases as innocent play things as the former.

In the large towns in America, music, drawing and dancing, constitute a part of female education. They, however, hold a subordinate rank; for my fair friends will pardon me, when I declare, that no man ever marries a woman for her performance on a harpsichord, or her figure in a minuet. However ambitious a woman may be to command admiration *abroad*, her real merit is known only at *home*. Admiration is useless, when it is not supported by domestic worth. But real honor and permanent esteem, are always secured by those who preside over their own families with dignity.[15]

Before I quit this subject, I beg leave to make some remarks on a practice which appears to be attended with important consequences; I mean that of sending boys to Europe for an education, or sending to Europe for teachers. This was right before the revolution; at least so far as national attachments where concerned; but the propriety of it ceased with our political relation to Great Britain.

In the first place, our honor as an independent nation is concerned in the establishment of literary institutions, adequate to all our own purposes; without sending our youth abroad, or depending on other nations for books and instructors. It is very little to the reputation of America to have it said abroad, that after the heroic atchievements of the late war, these independent people are obliged to send to Europe for men and books to teach their

children A B C.

But in another point of view, a foreign education is directly opposite to our political interests, and ought to be discountenanced, if not prohibited.

Every person of common observation will grant, that most men prefer the manners and the government of that country where they are educated. Let ten American youths be sent, each to a different European kingdom, and live there from the age of twelve to twenty, and each will give the preference to the country where he has resided.

The period from twelve to twenty is the most important in life. The impressions made before that period are commonly effaced; those that are made during that period *always* remain for many years; and *generally* thro life.

Ninety nine persons of a hundred who pass that period in England or France, will prefer the people, their manners, their laws, and their government, to those of their nativ country. Such attachments are injurious, both to the happiness of the men, and to the political interests of their own country. As to private happiness, it is universally known how much pain a man suffers by a change of habits in living. The customs of Europe are and ought to be different from ours; but when a man has been bred in one country, his attachments to its manners make them, in a great measure, necessary to his happiness. On changing his residence, he must therefore break his former habits, which is always a painful sacrifice; or the discordance between the manners of his own country, and his habits, must give him incessant uneasiness; or he must introduce, into a circle of his friends, the manners in which he was educated. These consequences may follow, and the last, which

is inevitable, is a public injury. The refinement of manners in every country should keep pace exactly with the increase of its wealth; and perhaps the greatest evil America now feels is, an improvement of taste and manners which its wealth cannot support.

A foreign education is the very source of this evil; it gives young gentlemen of fortune a relish for manners and amusements which are not suited to this country; which however, when introduced by this class of people, will always become fashionable.

But a corruption of manners is not the sole objection to a foreign education: An attachment to a *foreign* government, or rather a want of attachment to our *own*, is the natural effect of a residence abroad, during the period of youth. It is recorded of one of the Greek cities, that in a treaty with their conquerors, it was required that they should give a certain number of *male children* as hostages for the fulfilment of their engagements. The Greeks absolutely refused, on the principle that these children would imbibe the ideas and embrace the manners of foreigners, or lose their love for their own country: But they offered the same number of *old* men, without hesitation. This anecdote is full of good sense. A man should always form his habits and attachments in the country where he is to reside for life. When these habits are formed, young men may travel without danger of losing their patriotism. A boy who lives in England from twelve to twenty, will be an *Englishman* in his manners and his feelings; but let him remain at home till he is twenty, and form his attachments, he may then be several years abroad, and still be an *American*.[16] There may be exceptions to this observation; but living examples

may be mentioned to prove the truth of the general principle here advanced, respecting the influence of habit.

It may be said that foreign universities furnish much better opportunities of improvement in the sciences than the American. This may be true, and yet will not justify the practice of sending young lads from their own country. There are some branches of science which may be studied to much greater advantage in Europe than in America, particularly chymistry. When these are to be acquired, young gentlemen ought to spare no pains to attend the best professors. It may, therefore, be useful, in some cases, for students to cross the atlantic to *complete* a course of studies; but it is not necessary for them to go early in life, nor to continue a long time. Such instances need not be frequent even now; and the necessity for them will diminish in proportion to the future advancement of literature in America.

It is, however, much questioned, whether, in the ordinary course of study, a young man can enjoy greater advantages in Europe than in America. Experience inclines me to raise a doubt, whether the danger to which a youth must be exposed among the sons of dissipation abroad, will not turn the scale in favor of our American colleges. Certain it is, that four fifths of the great literary characters in America never crossed the atlantic.

But if our universities and schools are not so good as the English or Scotch, it is the business of our rulers to improve them, not to endow them merely; for endowments alone will never make a flourishing seminary; but to furnish them with professors of the first abilities and most assiduous application, and with a complete apparatus for establishing theories

by experiments. Nature has been profuse to the Americans, in genius, and in the advantages of climate and soil. If this country, therefore, should long be indebted to Europe for opportunities of acquiring any branch of science in perfection, it must be by means of a criminal neglect of its inhabitants.

The difference in the nature of the American and European governments, is another objection to a foreign education. Men form modes of reasoning, or habits of thinking on political subjects, in the country where they are bred; these modes of reasoning may be founded on fact in all countries; but the same principles will not apply in all governments, because of the infinite variety of national opinions and habits. Before a man can be a good Legislator, he must be intimately acquainted with the temper of the people to be governed. No man can be thus acquainted with a people, without residing amongst them and mingling with all companies. For want of this acquaintance, a Turgot and a Price may reason most absurdly upon the Constitutions of the American states; and when any person has been long accustomed to believe in the propriety or impropriety of certain maxims or regulations of government, it is very difficult to change his opinions, or to persuade him to adapt his reasoning to new and different circumstances.

One half the European Protestants will now contend that the Roman Catholic religion is subversive of civil government. Tradition, books, education, have concurred to fix this belief in their minds; and they will not resign their opinions, even in America, where some of the highest civil offices are in the hands of Roman Catholics.

It is therefore of infinite importance that those who

direct the councils of a nation, should be educated in that nation. Not that they should restrict their personal acquaintance to their own country, but their first ideas, attachments and habits should be acquired in the country which they are to govern and defend. When a knowlege of their own country is obtained, and an attachment to its laws and interests deeply fixed in their hearts, then young gentlemen may travel with infinite advantage and perfect safety. I wish not therefore to discourage travelling, but, if possible, to render it more useful to individuals and to the community. My meaning is, that *men* should travel, and not *boys*.

It is time for the Americans to change their usual route, and travel thro a country which they never think of, or think beneeth their notice: I mean the United States.

While these States were a part of the British Empire, our interest, our feelings, were those of Englishmen; our dependence led us to respect and imitate their manners, and to look up to them for our opinions. We little thought of any national interest in America; and while our commerce and governments were in the hands of our parent country, and we had no common interest, we little thought of improving our acquaintance with each other, or of removing prejudices, and reconciling the discordant feelings of the inhabitants of different Provinces. But independence and union render it necessary that the citizens of different States should know each others characters and circumstances; that all jealousies should be removed; that mutual respect and confidence should succeed, and a harmony of views and interests be cultivated by a friendly intercourse.

A tour thro the United States ought now to be

considered as a necessary part of a liberal education. Instead of sending young gentlemen to Europe to view curiosities and learn vices and follies, let them spend twelve or eighteen months in examining the local situation of the different States; the rivers, the soil, the population, the improvements and commercial advantages of the whole; with an attention to the spirit and manners of the inhabitants, their laws, local customs and institutions. Such a tour should at least precede a tour to Europe; for nothing can be more ridiculous than a man travelling in a foreign country for information, when he can give no account of his own. When, therefore, young gentlemen have finished an academic education, let them travel thro America, and afterwards to Europe, if their time and fortunes will permit. But if they cannot make a tour thro both, that in America is certainly to be preferred; for the people of America, with all their information, are yet extremely ignorant of the geography, policy and manners of their neighbouring States. Except a few gentlemen whose public employments in the army and in Congress, have extended their knowlege of America, the people in this country, even of the higher classes, have not so correct information respecting the United States, as they have respecting England or France. Such ignorance is not only disgraceful, but is materially prejudicial to our political friendship and federal operations.

Americans, unshackle your minds, and act like independent beings. You have been children long enough, subject to the control, and subservient to the interest of a haughty parent. You have now an interest of your own to augment and defend: You have an empire to raise and support by your

exertions, and a national character to establish and extend by your wisdom and virtues. To effect these great objects, it is necessary to frame a liberal plan of policy, and build it on a broad system of education. Before this system can be formed and embraced, the Americans must *believe*, and *act* from the belief, that it is dishonorable to waste life in mimicking the follies of other nations and basking in the sunshine of foreign glory.

# No. II

NEW YORK, 1788.

## PRINCIPLES of GOVERNMENT *and* COMMERCE.

All mankind are, by nature, free, and have a right to enjoy life, liberty and property.

One person has no right to take from another his life, health, peace, or good name; to take away or lessen his freedom of thinking and acting, or to injure his estate in the smallest degree.

A collection of individuals forms a *society*; and every society must have *government*, to prevent one man from hurting another, and to punish such as commit crimes. Every person's safety requires that he should submit to be governed; for if one man may do harm without suffering punishment, every man has the same right, and no person can be safe.

It is necessary therefore that there should be laws to control every man. Laws should be made by consent or concurrence of the greatest part of the society.

The whole body of people in society is the sovereign power or state; which is called, the body politic. Every man forms a part of this state, and so has a share in the sovereignty; at the same time, as an individual, he is a subject of the state.

When a society is large, the whole state cannot meet together for the purpose of making laws; the people therefore agree to appoint deputies, or representativs, to act for them. When these agents are chosen and met together, they represent the

whole state, and act as the sovereign power. The people resign their own authority to their representativs; the acts of these deputies are in effect the acts of the people; and the people have no right to refuse obedience.

It is as wrong to refuse obedience to the laws made by our *representativs*, as it would be to break laws made by *ourselves*. If a law is bad and produces general harm, the people may appoint new deputies to repeal it; but while it is a law, it is the act and will of the sovereign power, and ought to be obeyed.

The people in free governments, make their own laws by agents or representativs, and appoint the executiv officers. An executiv officer is armed with the authority of the whole state and cannot be resisted. He cannot do wrong, unless he goes beyond the bounds of the laws.

An executiv officer can hardly be too arbitrary; for if the laws are good, they should be strictly executed and religiously obeyed: If they are bad, the people can alter or repeal them; or if the officer goes beyond his powers, he is accountable to those who appoint him. A neglect of good and wholesome laws is the bane of society.

Judges and all executiv officers should be made as much as possible, independent of the will of the people at large. They should be chosen by the representativs of the people and answerable to them only: For if they are elected by the people, they are apt to be swayed by fear and affection; they may dispense with the laws, to favor their friends, or secure their office. Besides, their election is apt to occasion party spirit, cabals, bribery and public disorder. These are great evils in a state, and defeat the purposes of government.

The people have a right to advise their representativs in certain cases, in which they may be well informed. But this right cannot often be exercised with propriety or safety: Nor should their instructions be binding on their representativs: For the people, most of whom live remote from each other, cannot always be acquainted with the general interest of the state; they cannot know all the reasons and arguments which may be offered for, or against a measure, by people in distant parts of the state; they cannot tell at home, how they *themselves* would think and act, in a general assembly of *all* the citizens.

In this situation, if the people of a certain district, bind their representativ to vote in a particular manner, they may bind him to do *wrong*. They make up their minds, upon a partial view of facts, and form a resolution, which they themselves, on a fair state of all the facts, in the general assembly, might see reasons to change. There have been instances, in which these binding, positiv instructions, have obliged a representativ to give his vote, contrary to the conviction of his own mind and what he thought the good of the state; consequently his vote was a violation of his oath.

But the opinions of the people should, if possible, be collected; for the general sense of a nation is commonly right. When people are well informed, their general opinion is perhaps always right. But they may be uninformed or misinformed and consequently their measures may be repugnant to their own interest. This is often the case, with particular districts of people; and hence the bad policy of giving binding instructions to representativs. The sense of a nation is collected by the opinions of people in particular districts; but as

some of these opinions may be wrong, a representativ should be left with discretionary powers to act for the good of the state.

Representativs are chosen by the inhabitants of certain districts, because this is most convenient: But when they act as lawgivers, they act for the whole state. When a man is considering the propriety of a general measure, he is not to be influenced by the interest of a single district or part of a state; but by the collectiv interest of the whole state. A good lawgiver will not ask solely what is *my* interest, or the interest of *my* town or constituents? but, what will promote the interest of the community; '*what will produce the greatest possible good, to the greatest number of people*?'

When a legislativ body makes *laws*, it acts for *itself* only, and can alter or repeal the laws when they become inconvenient. But when it makes *grants* or *contracts*, it act as a party, and cannot take back its grant, or change the nature of its contracts, without the consent of the other party. A state has no more right to neglect or refuse to fulfil its engagements, than an individual. There may be an exception in the case of a grant, for if a state has made a grant, which, contrary to its expectations, clearly endangers the safety of the community, it may resume that grant. The public safety is a consideration superior to all others. But the danger must be great and obvious; it must be generally seen and felt, before the state can be justified in recalling its grant. To take back a gift, or break a contract, for small causes or slight inconveniencies, is a most wanton abuse of power. Bargains, conveyances, and voluntary grants, where two parties are concerned, are *sacred things*; they are the supports of social confidence and security; they

ought not to be sported with, because one party is stronger than the other; they should be religiously observed.

As the state has no right to break its own promises, so it has no right to alter the promises of individuals. When one man has engaged to pay his debt in wheat, and his creditor expects the promise to be fulfiled, the legislature has no right to say, the debt shall be paid in flax or horses. Such an act saps all the supports of good faith between man and man; it is the worst kind of tyranny.

For this reason, all *tender laws*, which oblige a creditor to take, for his debt, some article which he never intended nor engaged to take, are highly *unjust* and *tyrannical*. The intention of the contracting parties should be strictly regarded; the state may enforce that intention, but can never have a right to interfere and defeat it. A legislature has no right to put a bargain on any footing, but that on which the parties *have* placed it or *are willing* to place it.

If a state is poor, and people owe more money than can be procured, a legislature may perhaps go so far as to suspend the collection of debts; or to ordain that a certain part only of the debts shall be recoverable immediately, and the payment of the remainder suspended. This may ease the debtors; but can be justified in extreme cases only, when the people are generally and greatly involved.

A people should not generally be in debt: The consumers of goods should not get credit. Heavy and numerous debts are great evils to a state. If the people will giv and take extensiv credit, the state should check their imprudence, by putting debts out of the protection of law. When it becomes a practice to collect debts by law, it is a proof of corruption and

degeneracy among the people. Laws and courts are necessary to settle controverted points between man and man; but a man should pay an acknowledged debt, not because there is a law to oblige him, but because it is *just* and *honest*, and because he has PROMISED to pay it.

Money, or a medium in trade, is necessary in all great states; but *too much* is a greater evil than *too little*. When people can get money without labor, they neglect business and become idle, prodigal and vicious; and when they have nothing but money, they are poor indeed. Spain was ruined by its mines of gold and silver in South America. That kingdom possessed all the money in Europe, and yet was the *poorest*; it will never be rich and flourishing, till its mines are exhausted. The discovery of rich mines in this country, would be the greatest misfortune, that can befall the United States.

Money is a mere representativ of property; it is the *change* which facilitates trade. But the *wealth* of a country is its *produce*; and its strength consists in the number of its industrious inhabitants. A man cannot become rich, unless he earns more than he spends. It is the same with a country. The labouring men are the support of a nation.

The value of money depends on the quantity in circulation. A medium of trade respects all commercial nations; and like water, it will find its level. Money will go where it is wanted, if the people have any thing to purchase it. If one state or country has more money than another, it is a proof that the people are more industrious or saving. It would be happy for the world, if no more money could be made: There is already too much. Silver is become very burdensome, merely because there is too much

in the world. If there were but one quarter of the money which now circulates, one quarter of a dollar would buy as much as a dollar will now.

Hence the mistaken policy of those people who attempt to increase the medium of trade by coinage or by a paper currency. They can add to the quantity, as much as they please; but not to the value. If America were shut out from all intercourse with other nations, and ten millions of dollars were circulating in the country, every article of life would have a certain price. If in this case, wheat should be one dollar a bushel, let the money be instantly doubled, the price of wheat would then be two dollars, and the price of every article would rise in the same proportion. So that twenty millions of dollars would be worth no more than ten, because they would buy no more of the useful commodities: America would be no richer in the one case than in the other.

But as there is a communication with other nations, a million of dollars, added to the circulating specie, does not increase the permanent medium in quantity; for just so much money as is added, will leave the country. If there is too much money in a country, the price of labor will rise, and the produce cannot find market abroad without a loss. This was the case with American produce, at the close of the war. If money is scarce in a country, the price of labor will be low, and consequently the produce of that country will be cheap at home, and a great profit will be made on the exportation. This profit will be returned, partly in goods and partly in money, and the country is enriched.

But the great principle, which should constitute the corner stone of government, is *public justice*. The

fountain head should be pure, or the streams will be foul indeed. That Legislatures, or bodies politic, should make laws, annex penalties for disobedience, institute courts for deciding controversies and trying offenders, and execute punishments on those that are convicted; yet at the same time neglect to do justice themselves by paying their own debts; this is of all absurdities the most glaring. To compel individuals to perform contracts and yet break their own solemn promises; to punish individuals for neglect, and yet set a general example of delinquency, is to undermine the foundation of social confidence, and shake every principle of commutativ justice.

These are general principles in government and trade, and ought to be deeply impressed upon the minds of every American.

# No. III.

NEW YORK, 1788.

## BILLS *of* RIGHTS.

One of the principal objections to the new Federal Constitution, is, that it contains no *Bill of Rights*. This objection, I presume to assert, is founded on ideas of government that are totally false. Men seem determined to adhere to old prejudices, and reason *wrong*, because our ancestors reasoned *right*. A Bill of Rights against the encroachments of Kings and Barons, or against any power independent of the people, is perfectly intelligible; but a Bill of Rights against the encroachments of an electiv Legislature, that is, against our *own* encroachments on *ourselves*, is a curiosity in government.

The English nation, from which we descended, have been gaining their liberties, inch by inch, by forcing concessions from the crown and the Barons, during the course of six centuries.[17] *Magna Charta*, which is called the palladium of English liberty, was dated in 1215, and the people of England were not represented in Parliament till the year 1265. Magna Charta established the rights of the Barons and clergy against the encroachments of royal perogativ; but the commons or people were hardly noticed in that deed. There was but one clause in their favor, which stipulated, that "no villain or rustic should, by any fine, be bereaved of his carts, plows and instruments of husbandry." As for the rest, they were considered as a part of the property belonging to an estate, and were transferred, as other moveables, at the will of their owners. In the succeeding reign, they were

permitted to send Representativs to Parliament; and from that time have been gradually assuming their proper degree of consequence in the British Legislature. In such a nation, every law or statute that defines the powers of the crown, and circumscribes them within determinate limits, must be considered as a barrier to guard popular liberty. Every acquisition of freedom must be established as a *right*, and solemnly recognized by the supreme power of the nation; lest it should be again resumed by the crown under pretence of ancient prerogativ: For this reason, the habeas corpus act passed in the reign of Charles 2d, the statute of the 2d of William and Mary, and many others which are declaratory of certain privileges, are justly considered as the pillars of English freedom.

These statutes are however not esteemed because they are unalterable; for the same power that enacted them, can at any moment repeal them; but they are esteemed, because they are barriers erected by the Representativs of the nation, against a power that exists independent of their own choice.

But the same reasons for such declaratory constitutions do not exist in America, where the supreme power is *the people in their Representativs*. The *Bills of Rights*, prefixed to several of the constitutions of the United States, if considered as assigning the reasons of our separation from a foreign government, or as solemn declarations of right against the encroachments of a foreign jurisdiction, are perfectly rational, and were doubtless necessary. But if they are considered as barriers against the encroachments of our own Legislatures, or as constitutions unalterable by posterity, I venture to pronounce them nugatory, and

to the last degree, absurd.

In our governments, there is no power of legislation, independent of the people; no power that has an interest detached from that of the public; consequently there is no power existing against which it is necessary to guard. While our Legislatures therefore remain electiv, and the rulers have the same interest in the laws, as the subjects have, the rights of the people will be perfectly secure without any declaration in their favor.

But this is not the principal point. I undertake to prove that a standing *Bill of Rights* is *absurd*, because no constitutions, in a free government, can be unalterable. The present generation have indeed a right to declare what *they* deem a *privilege*; but they have no right to say what the *next* generation shall deem a privilege. A state is a supreme corporate body that never dies. Its powers, when it acts for itself, are at all times equally extensiv; and it has the same right to *repeal* a law this year, as it had to *make* it the last. If therefore our posterity are bound by our constitutions, and can neither amend nor annul them, they are to all intents and purposes our slaves.

But it will be enquired, have we then no right to say, that trial by jury, the liberty of the press, the habeas corpus writ, and other invaluable privileges, shall never be infringed nor destroyed? By no means. We have the same right to say that lands shall descend in a particular mode to the heirs of the deceased proprietor, and that such a mode shall never be altered by future generations, as we have to pass a law that the trial by jury shall never be abridged. The right of Jury trial, which we deem invaluable, may in future cease to be a privilege; or other modes of trial more satisfactory to the people, may be

devised. Such an event is neither impossible nor improbable. Have we then a right to say that our posterity shall not be judges of their own circumstances? The very attempt to make *perpetual* constitutions, is the assumption of a right to control the opinions of future generations; and to legislate for those over whom we have as little authority as we have over a nation in Asia. Nay we have as little right to say that trial by jury shall be perpetual, as the English, in the reign of Edward the Confessor, had, to bind their posterity forever to decide causes by fiery Ordeal, or single combat. There are perhaps many laws and regulations, which from their consonance to the eternal rules of justice, will always be good and conformable to the sense of a nation. But most institutions in society, by reason of an unceasing change of circumstances, either become altogether improper, or require amendment; and every nation has at all times, the right of judging of its circumstances and determining on the propriety of changing its laws.

The English writers talk much of the omnipotence of Parliament; and yet they seem to entertain some scruples about their right to change particular parts of their constitution. I question much whether Parliament would not hesitate to change, on any occasion, an article of Magna Charta. Mr. Pitt, a few years ago, attempted to reform the mode of representation in Parliament. Immediately an uproar was raised against the measure, as *unconstitutional*. The representation of the kingdom, when first established, was doubtless equal and wise; but by the increase of some cities and boroughs, and the depopulation of others, it has become extremely *unequal*. In some boroughs there is scarcely an elector left to enjoy its privileges. If the nation feels

no great inconvenience from this change of circumstances, under the old mode of representation, a reform is unnecessary. But if such a change has produced any national evils of magnitude enough to be felt, the present form of electing the Representativs of the nation, however *constitutional*, and venerable for its antiquity, may at any time be amended, if it should be the sense of Parliament. The *expediency* of the alteration must always be a matter of opinion; but all scruples as to the right of making it are totally groundless.

Magna Charta may be considered as a contract between two parties, the King and the Barons, and no contract can be altered but by the consent of both parties. But whenever any article of that deed or contract shall become inconvenient or oppressiv, the King, Lords and Commons may either amend or annul it at pleasure.

The same reasoning applies to each of the United States, and to the Federal Republic in general. But an important question will arise from the foregoing remarks, which must be the subject of another paper.

# No. IV.

NEW YORK, 1788.

## On GOVERNMENT.

The important question I proposed to discuss in this number, is this: "Whether, in a free State, there ought to be any distinction between the powers of the people, or electors, and the powers of the Representativs in the Legislature." Or in other words, "whether the legislativ body is not, or ought not to be, a standing convention, invested with the whole power of their constituents."

In supporting the affirmativ of this question, I must face the opinions and prejudices of my countrymen; yet if we attend closely to the merits of the question, stripped of all its specious covering, we shall perhaps find more arguments in favor of the opinion, than we at first suspect.

In the first place, a Legislature must be the supreme power, whose decisions are laws binding upon the whole State. Unless the Legislature is the supreme power, and invested with *all* the authority of the State, its acts are not laws, obligatory upon the whole State.[18] I am sensible that it is a favorite idea in this country, bandied about from one demagogue to another, that *rulers are the servants of the people*. So far as their business is *laborious* and *embarrassing*, it implies a degree of servitude; but in any other view, the opinion is totally false. The people ought at least to place their rulers, who are generally men of the first abilities and integrity, on a level with themselves; for that is an odd kind of government indeed, in which, *servants* govern their *masters*. The

truth is, a Representativ, as an individual, is on a footing with other people; as a Representativ of a State, he is invested with a share of the sovereign authority, and is so far a *governor* of the people. In short, the collectiv body of the Representativs, is the collectiv sense and authority of the people; and so far are the members from being the *servants* of the people, that they are just as much *masters*, *rulers*, *governors*, whatever appellation we give them, as the people would be themselves in a convention of the whole State.

But in the second place, the public good or safety requires that the powers of a Legislature should be coextensiv with those of the people. That a Legislature should be competent to pass any law that the public safety and interest may require, is a position that no man will controvert. If therefore it can be proved that the reservation of any power in the hands of the people, may at times interfere with the power of the Legislature to consult the public interest, and prevent its exercise, it must be acknowleged, that such a reservation is not only impolitic, but unjust. That a Legislature should have unlimited power to do *right*, is unquestionable; but such a power they cannot have, unless they have all the power of the State; which implies an unlimited power to do *wrong*. For instance, suppose the constitution of any state to declare, that no standing army shall be kept up in time of peace; then the Legislature cannot raise and maintain a single soldier to guard our frontiers, without violating the constitution. To say that new enlistments every year will save the constitution, is idle; for if a body of troops raised for thirty years is a standing army, then a body raised for twenty years, or for six months, is a standing army; and the power to raise troops for a

year, is a power to raise them at any time and maintain them forever; but with the addition of much trouble and a load of expense. Since therefore there never was, and probably never will be a time, till the millenium shall arrive, when troops will not be necessary to guard the frontiers of States, a clause in a constitution, restricting a Legislature from maintaining troops in time of peace, will unavoidably disable them from guarding the public interest. That a power to raise and equip troops at pleasure, may be abused, is certain; but that the public safety cannot be established without that power, is equally certain. The liberty of a people does not rest on any reservation of power in their hands paramount to their Legislature; it rests singly on this principle, *a union of interests between the governors and governed*. While a Legislator himself, his family and his property, are all liable to the consequences of the laws which he makes for the State, the rights of the people are as safe from the invasion of power, as they can be on this side heaven. This union of interest depends partly on the laws of property; but mostly on the *freedom of election*. The right of electing rulers is the people's prerogativ; and while this remains unabridged, it is a sufficient barrier to guard all their other rights. This prerogativ should be kept sacred; and if the people ever suffer any abridgment of this privilege, it must be their own folly and an irrecoverable loss.

Still further, I maintain that a people have no right to say, that any civil or political regulation shall be perpetual, because they have no right to make laws for those who are not in existence. This will be admitted; but still the people contend that they have a right to prescribe rules for their Legislature, rules which shall not be changed but by the people in a

convention. But what is a convention? Why a body of men chosen by the people in the manner they choose the members of the Legislature, and commonly composed of the same men; but at any rate they are neither wiser nor better. The sense of the people is no better known in a convention, than in the Legislature.[19]

But admit the right of establishing certain rules or principles which an ordinary Legislature cannot change, and what is the consequence? It is this, a change of circumstances must supersede the propriety of such rules, or render alterations necessary to the safety or freedom of the State; yet there is no power existing, but in the people at large, to make the necessary alterations. A convention then must be called to transact a business, which an ordinary Legislature can transact just as well; a convention differing from the Legislature merely in name, and in a few formalities of their proceedings. But when people have enjoyed a tolerable share of happiness under a government, they will not readily step out of the common road of proceeding; and evils insensibly increase to an enormous degree, before the people can be persuaded to a change. The reservation therefore of certain powers may, by an imperceptible change of circumstances, prove highly pernicious to a State. For example: When the Commons of England were first admitted to a share in the legislation of that kingdom, which was probably in the reign of Henry III, in 1265,[20] the representation was tolerably equal. But the changes in the population of different parts of the kingdom have destroyed all equality. The mode of election therefore should be reformed. But how shall it be done? If there is a constitution in that kingdom, which settles the mode of election, and that

constitution is an act of the people, paramount to the power of the Parliament, and unchangeable by them, a convention of the people must be called to make an alteration which would be as well made in Parliament. This would occasion infinite trouble and expense.

But the danger is, that as an evil of this kind increases, so will the lethargy of the people, and their habits of vice and negligence. Thus the disease acquires force, for want of an early remedy, and a dissolution ensues. But a Legislature, which is always watching the public safety, will more early discover the approaches of disorders, and more speedily apply a remedy. This is not precisely the case with the British constitution; for it was not committed at once to parchment and ratified by the people. It consists rather of practice, or common law, with some statutes of Parliament. But the English have been too jealous of changing their practice, even for the better. All the writers on the English constitution agree, that any Parliament can change or amend every part of it; yet in practice, the idea of an *unalterable constitution* has had too much influence in preventing a reform in their representation.

But we have an example nearer home directly in point. The charter of Connecticut declares that each town shall have liberty to send *one* or *two* deputies to the General Court; and the constant practice has been to send *two*. While the towns were few, the number of Representativs was not inconvenient; but since the complete settlement of the State, and the multiplication of the towns, the number has swelled the Legislature to an unwieldly and expensive size. The house of Representativs consists of about 170 members: An attempt has been made, at several

sessions, to lessen the representation, by limiting each town to one Deputy. A question arises, have the Assembly a right to lessen the representation? In most States, it would be decided in the negativ. Yet in that State it is no question at all; for there is a standing law expressly delegating the *whole* power of all the freemen to the Legislature. But I bring this instance to prove the possibility of changes in any system of government, which will require material alterations in its fundamental principles; and the Legislature should always be competent to make the necessary amendments, or they have not an unlimited power to do right.[21]

The distinction between the *Legislature* and a *Convention* is, for the first time, introduced into Connecticut, by the recommendation of the late convention of States, in order to adopt the new constitution. The Legislature of the State, without adverting to laws or practice, immediately recommended a convention for that purpose. Yet a distinction between a *Convention* and a *Legislature* is, in that State, a palpable absurdity, even by their own laws; for there is no constitution in the State, except its laws, which are always repealable by an ordinary Legislature; and the laws and uniform practice, from the first organization of the government, declare that *the Legislature has all the power of all the people*. A convention therefore can have no more power, and differs no more from an ordinary Legislature, than one Legislature does from another. Or rather it is no more than a Legislature chosen for *one particular purpose* of supremacy; whereas an ordinary Legislature is competent to *all* purposes of supremacy. But had the Legislature of that State ratified or rejected the new constitution, without consulting their constituents, their act would have

been valid and binding. This is the excellence of the constitution of Connecticut, that the *Legislature* is considered as the *body of the people*; and the people have not been taught to make a distinction which should never exist, and consider themselves as *masters* of their *rulers*, and their power as paramount to the laws. To this excellence in her frame of government, that State is indebted for uniformity and stability in public measures, during a period of one hundred and fifty years; a period of unparalleled tranquillity, never once disturbed by a violent obstruction of justice, or any popular commotion or rebellion. Wretched indeed would be the people of that State, should they adopt the vulgar maxim, that their rulers are their *servants*. We then may expect that the *laws* of those *servants* will be treated with the same contempt, as they are in some other States. [22]

But from the manner in which government is constituted, it is evident that there is no power residing in the State at large, which does not reside in the legislature. I know it is said that government originates in *compact*; but I am very confident, that if this is true, the *compact* is different from any other kind of compact that is known among men. In all other *compacts*, *agreements* or *covenants*, the assent of every person concerned, or who is to be bound by the compact, is requisite to render it valid and obligatory upon such person. But I very much question whether this ever takes place in any constitution of government.

Perhaps so far there is an *implied compact* in government, that every man consents to be bound by the opinion of a majority; but this is all a *supposition*; for the consent of a hundredth part of a society is never obtained.

The truth is, government originates in *necessity* and *utility*; and whether there is an implied compact or not, the opinions of the *few* must be overruled, and submit to the opinions of the *many*. But the opinions of a majority cannot be known, but in an Assembly of the whole society; and no *part* of the society has a right to decide upon a measure which equally affects the *whole*, without a consultation with the whole, to hear their arguments and objections. It is said that *all* power resides in the *people*; but it must be remembered, that let the supreme power be where it will, it can be exercised only in an *Assembly of the whole State*, or in an *Assembly of the Representativs of the whole State*.

Suppose the power to reside in the people, yet they cannot, and they have no right to exercise it in their scattered districts, and the reason is very obvious; it is impossible that the propriety of a measure can be ascertained, without the best general information, and a full knowlege of the opinions of the men on whom it is to operate.

By opinions here I would not be understood to mean, the various opinions formed on a view of a particular interest, for these opinions may be obtained by sending to each district, and collecting instructions; but I mean the *opinions* of the *whole society*, formed on the *information* and *debates* of the *whole society*. These opinions can be formed no where but in a Convention of the *whole State*, or of their *Representativs*. So far therefore are the people from having a power paramount to that of their Representativs in Convention, that they can exercise no act of supremacy or legislation at all, but in a Convention of the whole State by Representativs.[23] Unless therefore, it can be proved that a *Convention*,

so called, which is composed mostly of the same men as a Legislature, possesses some wisdom, power or qualifications, which a Legislature *does not* and *cannot*, then the distinction is useless and trifling. A Legislature is supposed to consist of men whom the people judge best qualified to superintend their interests; a convention cannot be composed of better men; and in fact we find it generally composed of the *same men*. If therefore no act of sovereignty can be exercised but in an Assembly of Representativs, of what consequence is it, whether we call it a *Convention* or a *Legislature*? or why is not the Assembly of Representativs of a people, at all times a *Convention*, as well as a *Legislature*?

To me it appears that a distinction is made without a difference; but a distinction that will often prevent good measures, perpetuate evils in government, and by creating a pretended power paramount to the Legislature, tend to bring laws into contempt.

POSTSCRIPT.—— This reasoning applies solely to the individual States, and not to the United States, before they were formed into a federal body. An important distinction must be observed between the *Constitution of a sovereign State*, and of *thirteen distinct sovereignties*. In a sovereign State, whatever they may suggest to the contrary, the voices of a majority are binding upon the minority, even in framing the first plan of government. In general, a majority of the votes of the *Representativs* in Legislature or Convention have been admitted as obligatory upon every member of the State, in forming and establishing a Constitution: But when the Constitution has been submitted to the people, as it is called, in town meetings or other small assemblies, the assent of every individual could not be expressly

obtained; and the dissent of any number, less than half the freemen present, who might not be one half the whole number in the State, could not prevent the establishment of the government, nor invalidate the obligation of *every man* to submit peaceably to its operation. The members of a state or community, cannot *from necessity*, be considered as parties to a contract, where the assent of every man is necessary to bind him to a performance of the engagement. But the several States, enter into a negociation like *contracting parties*; they agree that the assent of every individual State, shall be requisite to bind that State; and the frame of government, so agreed upon, is considered as a compact between independent sovereignties, which derives its binding force from the mutual and unanimous consent of the parties, and not merely from a necessity that the major part of the people should compel the rest to submission.

But in this very compact, the States have resigned their independent sovereignty, and become a single body or state, as to certain purposes; for they have solemnly contracted with each other, that *three fourths of* their number may alter and amend the first compact. They are therefore no longer separate individuals and contracting parties; but they form a single State or body politic; and a majority of three fourths can exert every act of sovereignty, except in two or three particulars, expressly reserved in the compact.

# No. V.

NEW YORK, 1788.

## ON GOVERNMENT.

The constitution of Virginia, like that of Connecticut, stands on the true principles of a Republican Representativ Government. It is not shackled with a Bill of Rights, and every part of it, is at any time, alterable by an ordinary Legislature. When I say *every part* of the constitution is alterable, I would except the right of elections, for the Representativs have not power to prolong the period of their own delegation. This is not numbered among the rights of legislation, and deserves a separate consideration. This right is not vested in the Legislature; it is in the people at large; it cannot be alienated without changing the form of government. Nay the right of election is not only the *basis*, but the *whole frame* or essence of a republican constitution; it is not merely *one*, but it is the *only* legislativ or constitutional act, which the people at large can with propriety exercise.

The simple principle for which I contend is this, "That in a representativ democracy, the delegates chosen for Legislators ought, at all times, to be competent to every possible act of legislation *under that form of government*; but not to *change that form*." Besides it is contrary to all our ideas of *deputation* or *agency for others*, that the person acting should have the power of extending the period of agency beyond the time specified in his commission. The Representativ of a people is, as to his powers, in the situation of an Attorney, whose letters commission

him to do every thing which his constituent would do, where he on the spot; but for a limited time only. At the expiration of that time his powers cease; and a Representativ has no more right to extend that period, than a plenipotentiary has to renew his commission. The British Parliament, by prolonging the period of their existence from one to three, and from three to seven years, committed an unjust act; an act however which has been confirmed by the acquiescence of the nation, and thus received the highest constitutional sanction. I am sensible that the Americans are much concerned for the liberties of the British nation; and the act for making Parliaments septennial is often mentioned as an arbitrary, oppressiv act, destructiv of English liberty. [24] The English are doubtless obliged to us for our tender concern for their happiness; yet for myself I entertain no such ideas: The English have generally understood and advocated their rights as well as any nation, and I am confident that the nation enjoys as much happiness and freedom, and much more tranquillity, under septennial Parliaments, than they would with annual elections. Corruption to obtain offices will ever attend wealth; it is generated with it, grows up with it, and will always fill a country with violent factions and illegal practices. Such are the habits of the people, that money will have a principal influence in carrying elections; and such vast sums are necessary for the purpose, that if elections were annual, none but a few of the wealthiest men could defray the expense; the landholders of moderate estates would not offer themselves as candidates; and thus in fact annual elections, with the present habits of the people, would actually diminish the influence of the Commons, by throwing the advantage into the hands

of a corrupt ministry, and a few overgrown nabobs. Before annual elections would be a blessing to the English, their habits must be changed; but this cannot be effected by human force. I wish my countrymen would believe that other nations understand and can guard their privileges, without any lamentable outcries from this side of the Atlantic. Government will always take its complexion from the habits of the people; habits are continually changing from age to age; a body of Legislators taken from the people, will generally represent these habits at the time when they are chosen: Hence these two important conclusions, 1st, That a legislativ body should be frequently renewed and always taken from the people: 2d, That a government which is perpetual, or incapable of being accommodated to every change of national habits, must in time become a *bad* government.

With this view of the subject, I cannot suppress my surprise at the reasoning of Mr. Jefferson on this very point.[25] He considers it as a defect in the constitution of Virginia, that *it can be altered by an ordinary Legislature*. He observes that the Convention which framed the present constitution of that State, "received no powers in their creation which were not given to every Legislature before and since. So far and no farther authorised, they organized the government by the ordinance entitled a Constitution or form of government. It pretends to no higher authority than the other ordinances of the same session; it does not say, that it shall be perpetual; that it shall be unalterable by other Legislatures; that it shall be transcendant above the powers of those, who they knew would have equal powers with themselves."

But suppose the framers of this ordinance had said, that it should be *perpetual* and *unalterable*; such a declaration would have been void. Nay, altho the people themselves had individually and unanimously declared the ordinance perpetual, the declaration would have been invalid. One Assembly cannot pass an act, binding upon a subsequent Assembly of equal authority;[26] and the people in 1776, had no authority, and consequently could delegate none, to pass a single act which the people in 1777, could not repeal and annul. And Mr. Jefferson himself, in the very next sentence, assigns a reason, which is an unanswerable argument in favor of my position, and a complete refutation of his own. These are his words. "Not only the silence of the instrument is a proof they thought it would be alterable, but their own practice also: For this very Convention, meeting as a House of Delegates in General Assembly with the new Senate in the autumn of that year, passed acts of Assembly in contradiction to their ordinance of government; and *every Assembly from that time to this, has done the same*."

Did Mr. Jefferson reflect upon the inference that would be justly drawn from these facts? Did he not consider that he was furnishing his opponents with the most effectual weapons against himself? The acts passed by *every subsequent Assembly in contradiction to the first ordinance*, prove that all the Assemblies were *fallible* men; and consequently not competent to make *perpetual Constitutions* for future generations. To give Mr. Jefferson, and the other advocates for *unchangeable Constitutions*, the fullest latitude in their argument, I will suppose every freeman of Virginia, could have been assembled to deliberate upon a form of government, and that the present form, or even one more perfect, had been the result of their

Councils; and that they had declared it unalterable. What would have been the consequence? Experience would probably have discovered, what is the fact; and what forever will be the case; that *Conventions* are not possessed of *infinite wisdom*; that the wisest men cannot devise a perfect system of government. After all this solemn national transaction, and a formal declaration that their proceedings should be unalterable, suppose a single article of the Constitution should be found to interfere with some national benefit, some material advantage; where would be the power to change or reform that article? In the same general Assembly of all the people, and in no other body. But must a State be put to this inconvenience, to find a remedy for every defect of constitution?

Suppose, however, the *Convention* had been empowered to declare the form of government *unalterable*: What would have been the consequence? Mr. Jefferson himself has related the consequence. Every succeeding Assembly has found errors or defects in that frame of government, and has happily applied a remedy. But had not every Legislature had power to make these alterations, Virginia must have gone thro the farce, and the trouble of calling an *extraordinary* Legislature, to do that which an *ordinary* Legislature could do just as well, in their annual session; or those errors must have remained in the constitution, to the injury of the State.

The whole argument for Bills of Rights and unalterable Constitutions rests on two suppositions, viz. that the Convention which frames the government, is *infallible*; and that future Legislatures will be *less honest*, *less wise*, and *less attentiv to the interest of the State*, than a present Convention: The

first supposition is *always false*, and the last is *generally* so. A declaration of perpetuity, annexed to a form of government, implies a supposition of *perfect wisdom and probity* in the framers; which is both arrogant and impudent; and it implies a supposed power in them, to abridge the power of a succeeding Convention, and of the future state or body of people. The last supposition is, in every possible instance of legislation, *false*; and an attempt to exercise such a power, a high handed act of tyranny. But setting aside the argument, grounded on a want of power in one Assembly to abridge the power of another, what occasion have we to be so jealous of future Legislatures? Why should we be so anxious to guard the future rights of a nation? Why should we not distrust the people and the Representativs of the present age, as well as those of future ages, in whose acts we have not the smallest interest? For my part, I believe that the peeple and their Representativs, two or three centuries hence, will be as honest, as wise, as faithful to themselves, and will understand their rights as well, and be as able to defend them, as the people are at this period. The contrary supposition is absurd.

I know it is said, that other nations have lost their liberties by the ambitious designs of their rulers, and we may do the same. The experience of other nations, furnishes the ground of all the arguments used in favor of an unalterable constitution. The advocates seem determined that posterity shall not lose their liberty, even if they should be willing and desirous to surrender it. If a few declarations on parchment, will secure a single blessing to posterity, which they would otherwise lose, I resign the argument, and will receive a thousand declarations. Yet so thoroughly convinced am I of the opposite

tendency and effect of such unalterable declarations, that, were it possible to render them valid, I should deem every article an infringement of civil and political liberty. I should consider every article as a restriction which might impose some duty which in time might cease to be useful and necessary, while the obligation of performing it might remain; or which in its operation might prove pernicious, by producing effects which were not expected, and could not be foreseen. There is no one single right, no privilege, which is commonly deemed fundamental, which may not, by an unalterable establishment, preclude some amendment, some improvement in future administration of government. And unless the advocates for unalterable constitutions of government, can prevent all changes in the wants, the inclinations, the habits, and the circumstances of people, they will find it difficult, even with all their declarations of unalterable rights, to prevent changes in government. A paper declaration is a very feeble barrier against the force of national habits, and inclinations.

The loss of liberty, as it is called, in the kingdoms of Europe, has, in several instances, been a mere change of government, effected by a change of habits, and in some instances this change has been favorable to liberty. The government of Denmark, was changed from a mixed form, like that of England, to an absolute monarchy, by a solemn deliberate act of the people or States. Was this a loss of liberty? So far from it, that the change removed the oppressions of faction, restored liberty to the subject and tranquillity to the kingdom. The change was a blessing to the people. It indeed lodged a power in the Prince to dispose of life and property; but at the

same time it lodged in him a *power to defend both*; a power which before was lodged *no where*; and it is infinitely better that such a power should be vested in a *single hand*, than that it should *not exist at all*. The monarchy of France has grown out of a number of petty states and lordships; yet it is a fact, proved by history and experience, that the subjects of that kingdom have acquired liberty, peace and happiness, in proportion to the diminution of the powers of the petty sovereignties, and the extension of the prerogativs of the Monarch. It is said that Spain lost her liberties under the reign of Charles Vth; but I question the truth of the assertion; it is probable that the subject has gained as much by an abridgement of the powers of the nobility, as he lost by an annihilation of the Cortez. The United Netherlands fought with more bravery and perseverance to preserve their rights, than any other people since the days of Leonidas; and yet no sooner established a government, so jealously guarded as to defeat its own designs, and prevent the good effects of government, than they neglected its principles; the freemen resigned the privilege of election, and committed their liberties to a rich aristocracy. There was no compulsion, no external force in producing this revolution; but the form of government, which had been established on paper, and solemnly ratified, was not suited to the genius of the subjects. The burghers had the right of electing their rulers; but they neglected it voluntarily; and a *bill of rights*, a *perpetual constitution* on parchment, guaranteeing that right, was a useless form of words, because opposed to the temper of the people. The government assumed a complexion, more correspondent to their habits, and tho in theory no constitution is more cautiously guarded against an

infringement of popular privileges, yet in practice it is a real aristocracy.

The progress of government in England has been the reverse: The people have been gaining freedom by intrenching upon the powers of the nobles and the royal prerogativs. These changes in government do not proceed from *bills of rights*, *unalterable forms* and *perpetual establishments*; liberty is never secured by such paper declarations, nor lost for want of them. The truth is, Government originates in necessity, and takes its form and structure from the genius and habits of the people; and if on paper a form is not accommodated to those habits, it will assume a new form, in spite of all the formal sanctions of the supreme authority of a State. Were the monarchy of France to be dissolved, and the wisest system of republican government ever invented, solemnly declared, by the King and his council, to be the constitution of the kingdom; the people with their present habits, would refuse to receive it; and resign their privileges to their beloved sovereign. But so opposite are the habits of the Americans, that an attempt to erect a monarchy or an aristocracy over the United States, would expose the authors to the loss of their heads.[27] The truth is, the people of Europe, since they have become civilized, have, in no kingdom, possessed *all* the true principles of liberty. They could not therefore lose what they never possessed. There have been, from time immemorial, some rights of government, some prerogativs vested in some man or body of men, independent of the suffrages of the body of the subjects. This circumstance distinguishes the governments of Europe and of all the world, from those of America. There has been in the free nations of Europe an incessant struggle between freedom or national

rights, and hereditary prerogativs. The contest has ended variously in different kingdoms; but generally in depressing the power of the nobility; ascertaining and limiting the prerogativs of the crown, and extending the privileges of the people. The Americans have seen the records of their struggles; and without considering that the objects of the contest *do not exist in this country*; they are laboring to guard rights which there is no party to attack. They are as jealous of their rights, as if there existed here a King's prerogativs, or the powers of nobles, independent of their own will and choice, and ever eager to swallow up their liberties. But there is *no man* in America, who claims any rights but what are common to *every man*; there is no man who has an interest in invading popular privileges, because his attempt to curtail another's rights, would expose his own to the same abridgement. The jealousy of people in this country has no proper object against which it can rationally arm them; it is therefore directed *against themselves*, or against an invasion which they *imagine* may happen in future ages. The contest for *perpetual bills of rights* against a future tyranny, resembles Don Quixote's fighting windmills; and I never can reflect on the declamation about an *unalterable constitution* to guard certain rights, without wishing to add another article, as necessary as those that are generally mentioned, viz. "that no future Convention or Legislature shall cut their own throats, or those of their constituents." While the habits of the Americans remain as they are, the people will choose their Legislature from their own body; that Legislature will have an interest inseparable from that of the people, and therefore an act to restrain their power in any article of legislation, is as unnecessary as an act to prevent

them from committing suicide.

Mr. Jefferson, in answer to those who maintain that the form of government in Virginia is unalterable, because it is called a *constitution*, which, ex vi termini, means an act above the power of the ordinary Legislature, asserts that *constitution*, *statute*, *law* and *ordinance*, are synonymous terms, and convertible as they are used by writers on government. Constitutio dicitur jus quod a principe conditur. Constitutum, quod ab imperatoribus rescriptum statutumve est. Statutum, idem quod lex. [28] Here the words *constitution*, *statute* and *law*, are defined by each other; they were used as convertible terms by all former writers, whether Roman or British; and before the terms of the civil law were introduced, our Saxon ancestors used the correspondent English words, *bid* and *set*.[29] From hence he concludes that no inference can be drawn from the meaning of the word, that a *constitution* has a higher authority than a law or statute. This conclusion of Mr. Jefferson is just.

He quotes Lord Coke also to prove that any parliament can abridge, suspend or qualify the acts of a preceding Parliament. It is a maxim in their laws, that "Leges posteriores priores contrarias abrogant." After having fully proved that *constitution*, *statute*, *law* and *ordinance*, are words of similar import, and that the constitution of Virginia is at any time alterable by the ordinary Legislature, he proceeds to prove the danger to which the rights of the people are exposed, for want of an *unalterable form of government*. The first proof of this danger he mentions, is, the power which the Assembly exercises of determining its own quorum. The British Parliament fixes its own quorum: The former

Assemblies of Virginia did the same. During the war the Legislature determined that *forty* members should be a quorum to proceed to business, altho not a fourth part of the whole house. The danger of delay, it was judged, would warrant the measure. This precedent, our writer supposes, is subversive of the principles of the government, and dangerous to liberty.

It is a dictate of natural law that a *majority should govern*; and the principle is universally received and established in all societies, where no other mode has been arbitrarily fixed. This natural right cannot be alienated *in perpetuum*; for altho a Legislature, or even the body of the people, may resign the powers of government to forty, or to four men, when they please, yet they may likewise resume them at pleasure.

The people may, if they please, create a dictator on an emergency in war, but his creation would not *destroy*, but merely *suspend* the natural right of the *Lex majoris partis*. Thus forty members, a minority of the Legislature of Virginia, were empowered during a dangerous invasion, to legislate for the State; but any subsequent Assembly might have divested them of that power. During the operation of the law, vesting them with this power, their acts were binding upon the State; because their power was derived from the general sense of the State; it was actually derived from a legal majority. But that majority could, at any moment, resume the power and practice on their natural right.

It is a standing law of Connecticut, that forty men shall be a quorum of the House of Representativs, which consists of about 170 members. This law, I am confident, never excited a murmur, or a suspicion

that the liberties of the people were in danger; yet this law creates an oligarchy; it is an infringement of natural right; it subjects the State to the possibility, and even the probability of being governed at times by a minority. The acquiescence of the State, in the existence of the law, gives validity, and even the sanction of a majority, to the acts of that minority; but the majority may at any time resume their natural right, and make the assent of more than half of the members, necessary to give validity to their determinations.

The danger therefore arising from a power in the Assembly to determine their own quorum, is merely ideal, for no law can be perpetual; the authority of a majority of the people, or of their Representativs, is always competent to repeal any act that is found unjust or inconvenient. The acquiescence however of the people of the States mentioned, and that in one of them for a long course of years, under an oligarchy; or their submission to the power of a minority, is an incontestible proof of what I have before observed, that *theories* and *forms of government* are *empty things*; that the spirit of a government springs immediately from the temper of the people, and the exercise of it will generally take its tone from their feelings. It proves likewise that a *union of interests* between the rulers and the people, which union will always coexist with free elections, is not only the *best*, but the *only* security for their liberties which they can wish for and demand. The Government of Connecticut is a solid proof of these truths. The Assembly of that State, have always had power to abolish trial by jury, to restrain the liberty of the press, to suspend the habeas corpus act, to maintain a standing army, in short to command every engine of despotism; yet by some means or

other, it happens that the rights of the people are not invaded, and the subjects have generally been better satisfied with the laws, than the people of any other State. The reason is, the Legislature is a part of the people, and has the *same interest*. If a law should prove bad, the Legislature can repeal it; but in the *unalterable* bills of rights in some of the States, if an article should prove wrong and oppressiv, an ordinary Legislature cannot repeal or amend it; and the State will hardly think of calling a special Convention for so trifling a purpose. There are some articles, in several of the State Constitutions, which are glaring infractions of the first rights of freemen; yet they affect not a majority of the community; and centuries may elapse before the evil can be redressed, and a respectable class of men restored to the enjoyment of their rights.[30]

To prove the want of an *unalterable Constitution* in Virginia, Mr. Jefferson informs us that in 1776, during the distressed circumstances of the State, a proposition was made in the House of Delegates to create a Dictator, invested with every power, legislativ, executiv and judicial, civil and military. In June, 1781, under a great calamity, the proposition was repeated, and was near being passed. By the warmth he discovers in reprobating this proposal, one must suppose that the creation of a Dictator even for a few months, would have buried every remain of freedom. Yet he seems to allow that the step would have been justified, had there existed an *irresistible necessity*.

Altho it is possible that a case may happen, in which the creation of a Dictator might be the only resort to save life, liberty, property and the State, as it happened in Rome more than once; yet I should

dread his power as much as any man, were I not convinced that the same men that appointed him, could, in a moment, strip him of his tremendous authority. A Dictator, with an army superior to the strength of the State, would be a despot; but Mr. Jefferson's fears seem grounded on the authority derived from the Legislature. A concession of power from the Legislature, or the people, is a voluntary suspension of a natural *unalienable* right; and is resumeable at the expiration of the period specified, or the moment it is abused. A State can never alienate a *natural right*; for it cannot legislate for those who are not in existence. It may consent to suspend that right for great and temporary purposes; but were every freeman in Virginia to assent to the creation of a *perpetual Dictator*, the act in itself would be void. The expedient of creating a Dictator is dangerous, and no free people would willingly resort to it; but there may be times when this expedient is necessary to save a State from ruin, and when every man in a State would cheerfully give his suffrage for adopting it. At the same time, a temporary investiture of unlimited powers in one man, may be abused; it may be an influential precedent; and the continuance of it, may furnish the Dictator with the means of perpetuating his office. The distress of a people must be extreme, before a serious thought of a Dictator can be justifiable. But the people who create, can annihilate a Dictator; their right to govern themselves cannot be resigned by any act whatever, altho extreme cases may vindicate them in suspending the exercise of it. Even prescription cannot exist against this right; and *every* nation in Europe has a *natural* right to depose its King, and take the government into its own hands; altho it may forever be inexpedient for any of them to exercise

the right.

# No. VI.

NEW YORK, 1788.

## On GOVERNMENT.

I have said,[31] "that the people ought not to give binding instructions to Representativs." "That they cannot exercise any act of supremacy or legislation at all but in a Convention of the whole State, or of the Representativs of the whole State." And "That the right of election is the *only* constitutional right which they can with propriety exercise." That these positions, however repugnant to the received opinions of the present age, are capable of political demonstration, is to me unquestionable. They all convey nearly the same idea, and if true, they contravene, in some measure, a fundamental maxim of American politics, which is, that "the sovereign power resides in the people."

I am not desirous of subverting this favorite maxim; but I am very desirous it should be properly qualified and understood; for the abuse of it is capable of shaking any government; and I have no doubt that the mistakes which this maxim has introduced, have been the principal sources of rebellion, tumult and disorder in several of the American States.

It is doubtless true, that the individuals who compose a political society or State, have a sovereign right to establish what form of government they please in their own territories. But in order to deliberate upon the subject, they must all convene together, as in Rome and Athens; or must send deputies, vested with

powers to act for them, as is the practice in England and America. If they adopt the first method, then the Supreme Legislativ power resides, to all intents and purposes, in the whole body of the people. If, from the local circumstances of the people, the whole body cannot meet for deliberation, then the Legislativ powers do not reside in the people at large, but in an assembly of men delegated by the whole body.

To prove this last position, it is necessary to enquire, what is the object of law, and on what principles ought it to be founded? A law, if I understand the term, is an act of the *whole State*, operating upon the *whole State*, either by command or prohibition: It is thus distinguished from a *resolve* which more properly respects an individual or a part of the State. [32] The object of a law is to prevent positiv evil or produce positiv good to the *whole State*; not merely to a particular part. The principle therefore on which all laws should be founded, is, *a regard to the greatest good which can be produced to the greatest number of individuals in the State*. The principle is so obvious, that I presume it will not be controverted. Permit me then to enquire, whether the people of any district, county or town, in their local meetings, are competent to judge of this *general good*? A law, which is, in its operation *general*, must be founded on the best *general information*: The people themselves have no right to consent to a law, without this general information: They have no right to consent to a law, on a view of a local interest; nor without hearing the objections and arguments, and examining the amendments, suggested by every part of the community, which is to be affected by that law. To maintain the contrary is to defend the most glaring contradictions. But can the inhabitants, in

detached associations, be acquainted with these objections and arguments? Can they know the minds of their brethren at the distance of three or five hundred miles? If they cannot, they do not possess the right of legislation. Little will it avail to say, that the people acquire the necessary information by newspapers, or other periodical publications: There are not more than two States in the thirteen, where one half the freemen read the public papers. But if every freeman read the papers, this would not give him the information necessary to qualify him for a Legislator; for but a small part of the intelligence they contain is official, which alone can be the ground of law; nor can the collectiv sense of a nation or state be gathered from newspapers. The whole body of people, or Representativs of the whole body, are the only vehicles of information which can be trusted, in forming a judgement of the true interest of the whole State.

If the *collectiv sense* of a State is the basis of law, and that sense can be known officially no where but in an Assembly of all the people or of their Representativs; or in other words, if there can be no such thing as a *collection of sentiments* made in any other manner, than by a Convention of the whole people or their Delegates, where is the right of *instructing Representativs*? The sense of the people, taken in small meetings, without a general knowlege of the objections, and reasonings of the whole State, ought not to be considered as the true sense of the State; for not being possessed of the best general information, the people often form wrong opinions of their own interest. Had I the journals of the several Legislatures in America, I would prove to every man's satisfaction, that most of the schemes for paper money, tender laws, suspension of laws for the

recovery of debts, and most of the destructiv measures which have been pursued by the States, have originated in towns and counties, and been carried by positiv instructions from constituents to Representativs. The freemen, in these cases, have wrong ideas of their own interest; their error, in the first instance, is ascribeable merely to ignorance, or a want of that just information, which they themselves would obtain in a General Assembly.[33] The right therefore of prescribing rules to govern the votes of Representativs, which is so often assumed, frequently amounts to a right of doing infinite mischief, with the best intentions. There is perhaps no case in which the people at large are so capable of knowing and pursuing their own interest, as their Delegates are when assembled for consultation and debate. But the practice of giving binding instructions to Representativs, if it has any foundation, is built on this maxim, that the constituents, on a view of their local interests, and either with none, or very imperfect information, are better judges of the propriety of a law, and of the general good, than the most judicious men are (for such generally are the Representativs) after attending to the best official information from every quarter, and after a full discussion of the subject in an Assembly, where clashing interests conspire to detect error, and suggest improvements. This maxim is obviously false; and a practice built on it, cannot fail to produce laws, inaccurate, contradictory, capricious and subversive of the first rights of men. Perhaps no country, except America, ever experienced the fatal effects of this practice, and I blush to remark, what candor itself must avow, that few arbitrary governments, have in so short a period, exhibited so many *legal infractions* of sacred right; so many public

invasions of private property; so many wanton abuses of legislativ powers! Yet the people are generally honest; and as well informed as the people of any country. Their errors proceed from ignorance; from false maxims of governments. The people attempt to legislate without the necessary qualifications for lawgivers; yes, *they legislate at home!* and while this practice subsists, our public measures will be often weak, imperfect, and changeable; and sometimes *extremely iniquitous*. From these considerations, it appears that the powers of a Representativ should be wholly discretionary when he acts as a Legislator; but as an agent for a town or small society, he may have positiv instructions. His constituents, in the last case, are competent to instruct him, because they are the whole body concerned; but in the first instance, they are but a part of the State, and not competent to judge fully of the interest of the whole.

To place the matter in the strongest point of light, let us suppose a small State, in which the whole body of people meet for the purpose of making laws. Suppose in this democracy, the people of a town or other district should desire a particular act, for instance, a tender law. Would the inhabitants of this town, have a right to meet a few weeks before the General Assembly, where they all would expect to be present, to debate and vote; and in this town meeting take an oath, or otherwise bind themselves to vote for the act? Would they have a right to shut their ears against argument; to lay a restraint upon their own minds; to exclude the possibility of conviction, and solemnly swear to vote in a certain manner, whether right or wrong! If in this case, the people of a district have no right to lay a restraint upon themselves before they enter the General Assembly, neither have

they a right, in representativ democracies, to lay such a restraint upon their Delegates. The very reason why they are incompetent to direct their *Deputies*, is that they cannot determine how to act *themselves*, till they come into the Assembly. The very doctrine of representation in government excludes the right of giving binding instructions to Deputies. The design of choosing Representativs is to *collect the wisdom of the State*; the Deputies are *to unite* their Councils; *to meet* and *consult for* the public safety: But positiv instructions prevent this effect; they are dictated by local interests, or opinions formed on an imperfect view of facts and arguments; in short they totally counteract the good effects of public deliberations, and prevent those salutary measures which may result from united Councils. They make the opinions of a small part of the State a rule for the whole; they imply a decision of a question, before it is heard; they reduce a Representativ to a mere machine, by restraining the exercise of his reason; they subvert the very principles of republican government.

But let us attend to the inconsistency of the practice. The oath required of a Representativ, before he takes his seat, binds him to vote or act from a regard to the public good, *according to his judgement* and *the best of his abilities*. Some of the Constitutions contain an oath that binds a Representativ, *not to assent to, or vote for, any act that he shall deem injurious to the people*. But what opinion, what judgement can a man exercise, who is under the restraint of positiv instructions? Suppose a man so instructed should in conscience believe that a bill, if enacted, would be prejudicial to his constituents, yet his orders bind him to vote for it; how would he act between his oath and his instructions? In his oath he has sworn to

act according to his judgment, and for the good of the people; his instructions forbid him to use his judgment, and bind him to vote for a law which he is convinced will injure his constituents. He must then either abandon his orders or his oath; perjury or disobedience is his only alternativ.

This is no imaginary situation; I presume that many men have experienced it. One very worthy member of the Legislature in this State[34] a few years since, was in that very predicament; and I heard him express great anxiety upon the occasion.

How noble was the conduct of that gentleman in Sandwich (Mass.) who, being chosen to represent the town in the late Convention, and instructed to vote against the Constitution, *at all events; notwithstanding any thing that might be said in favor of it*; rather than submit to be fettered in this manner, resigned his appointment. The name of this gentleman, THOMAS BOURN, Esq. ought to be held in veneration by every true friend to his country, and his address to the electors on that occasion, ought to be written in letters of gold. It is recorded in these words: "Fellow Townsmen—The line of conduct which has appeared to me right, I have ever wished to pursue. In the decline of life, when a few revolving suns at most will bring me to the bar of impartial justice, I am unwilling to adopt a different, and less honest mode of acting. It is true, my sentiments at present are not in favor of the Constitution; open however to conviction, they may be very different, when the subject is fairly discussed by able and upright men. To place myself in a situation, where conviction could be followed only by a bigotted persistence in error, would be extremely disagreeable to me. Under the restrictions with which your Delegates are

fettered, *the greatest ideot may answer your purpose as well as the greatest man*. The suffrages of our fellow men, when they neither repose confidence in our integrity, nor pay a tribute of respect to our abilities, can never be agreeable. I am therefore induced positivly to decline accepting a seat in Convention, whilst I sincerely wish you, gentlemen, and my countrymen, every blessing which a wise and virtuous administration of a free government can secure."

Such a bold and honest independence of mind are the marks of a good Legislator. With such men as Mr. Bourn, in the legislativ department, our lives, liberties and properties are safe. Such a genius, rising amidst the obscurity of errors and false maxims, like a star emerging from chaos, spreads the rays of truth and illuminates the surrounding hemisphere. Considering the circumstances in which this gentleman was then placed, I had rather be the author of that short address, than of all the labored dissertations which have been written upon the proposed constitution.

Another error, which is connected with the practice of instructing Representativs, and may perhaps be one cause of it, is the opinion that a Deputy chosen by a certain number of freemen, is *their Representativ only* or *particularly*: It seems to be believed that a Representativ is bound to attend to the *particular interest of the men who elect him*, rather than to the *general interest*. If this were true, it would obviate, in some measure, the objections against instructions. But with respect to every general act, the opinion is *clearly false*. The reason why men are chosen by small societies of freemen, and not by the whole body, is, that the whole body cannot be well

acquainted with the most able men in the different parts of the State. It is the best expedient to correct the defects of government, or rather, it is the best *practicable* mode of election. To render the mode perfect, the *whole body of freemen* should be at liberty to choose their Delegates from the *whole body*. This would destroy, in a great measure, the local views and attachments which now embarrass government; every Representativ would be chosen by the whole body; and the interest of the whole number of constituents would be his object.

This mode is either impracticable or hazardous; notwithstanding this, when a Delegate is elected by a *part* of the State, he is really the Representativ of the *whole*, as much as if he were *elected* by the whole. The constituents of every Representativ are not solely those who *voted* for him, but the *whole State*, and the man that acts from a *local* interest, and attends merely to the wishes of those men who elected him, violates his oath, and abuses his trust. Hence the absurdity of instructions, which are generally dictated by a partial interest, and can perhaps in no case be the sole rule of a Legislator's conduct. When therefore a Representativ says, *such is the wish of my constituents; such are their directions*; his declaration is but partially true; for his instructions are the wishes of a *part* only of his constituents. His constituents, whom he actually represents, and whose greatest interest is the sole rule of his conduct, are *the whole body of freemen*. This is an important truth, and I must repeat it; the man who is deputed to make laws for a State, and suffers a local interest to influence his conduct, abuses a sacred trust; and the Representativ who obeys his instructions, in opposition to the conviction of his own mind, arising from a general view of public good, *is guilty of a*

*species of perjury*.

Such are the opinions, which after long deliberation, I have formed respecting the principles of a republican government. I feel a diffidence in publishing sentiments so repugnant to the principles received by my countrymen and recognized by some of the State Constitutions. But a strong persuasion of the truth of these opinions, acquired by reasoning, and confirmed by several years observations, forbids me to suppress them.

A summary of the truths, deduced from the foregoing reasoning, is this: That the power of a State is at all times equal; that neither the people themselves, nor a Convention of their Delegates, have either the power or the right to make an unalterable Constitution; that the power of creating a legislativ body, or the sovereign right of election, is solely in the people; but the sovereign power of making laws is solely in an Assembly of their Representativs; that the people have no right to give binding instructions to their Representativs; consequently a distinction between a *Convention* and a *Legislature*, can be merely a difference of *forms*; that Representativs have no right to prolong the period of their delegation; that being taken from the mass of the people, and having a common interest with them, they will be influenced, even by private interest, to promote the public good; and that such a government, which is a novelty on earth, is perhaps the best that can be framed, and the only form which will always have for its object, the general good.

# No. VII.

PHILADELPHIA, 1787.

## REMARKS *on the* MANNERS, GOVERNMENT, *and* DEBT *of the* UNITED STATES.

Since the declaration and establishment of a general peace, and since this country has had an opportunity to experience the effects of her independence, events have taken place, which were little expected by the friends of the revolution. It was expected, that on the ratification of peace, by the belligerent powers, America would enjoy perfect political tranquillity. The statesman in his closet, and the divine in his addresses to heaven, predicted and anticipated the happy period, when every man would rest, unmolested, under his own vine and his own fig tree. The merchant foresaw, in vision, the ports of all nations open to his ships, and the returns of a favorable commerce pouring wealth into his coffers. The honest laborer, in the shop and the field, was told that independence and peace would forever remove the fears of oppression, would lighten his burthen, and give him legal security for the uninterrupted possession of his rights. This flattering prospect inspired an irresistible enthusiasm in war. The contention for freedom was long and arduous; the prize was obtained; the delusion vanished, and America is surprized at the disappointment.

Instead of general tranquillity, *one* State has been involved in a civil war, and most of them are torn with factions, which weaken or destroy the energy of government. Instead of a free commerce with all the

world, our trade is every where fettered with restraints and impositions, dictated by foreign interest; and instead of pouring wealth into our country, its present tendency is, to impoverish both the merchant and the public. Instead of legal security of rights under governments of our own choice, and under our own control, we find property at least unsafe, even in our best toned government. Our charters may be wrested from us without a fault, our contracts may be changed or set aside without our consent, by the breath of a popular Legislature. Instead of a dimunition of taxes, our public charges are multiplied; and to the weight of accumulating debts, we are perpetually making accessions by expensiv follies. Instead of a union of States and measures, essential to the welfare of a great nation, each State is jealous of its neighbor, and struggling for the superiority in wealth and importance, at the hazard even of our federal existence.

This is the dark side of our public affairs; but such are the facts. The public and private embarrassments, which are both seen and felt, are the topics of incessant declamation. The rhapsodies of orators, and the publications in gazettes, from the northern to the southern extremity of the United States, concur in deprecating the present state of this country, and communicate the intelligence of our distresses to the whole civilized world. Nor are newspapers the only heralds of our calamities. The contempt of government among one class of men, the silent murmurs of poverty in the peaceful cottage, and numerous bankrupts in every quarter, are irresistible evidence to a thinking mind, that something is wrong.

But declamation is idle, and murmurs fruitless. Time

has been when the minds of people were alarmed at the approaches of despotism: Then harangues roused attention; then mobs raised the temple of freedom, and declared themselves ready to be sacrificed upon her altar. But violent passions in the public as well as in the human body, are always transitory. That enthusiasm which was called *public spirit, heroic virtue, and love of country*, has long ago subsided, and is absorbed in the general steady principle, private interest. That enthusiasm is not to be rekindled. The expostulations of our rulers and patriotic writers, have no more effect in reviving public spirit, than the attraction of a meteor in raising a tide.

Men, who embraced revolution principles, because independence might save a few shillings in taxes, or extend the imaginary sphere of freedom; who expected that peace would place them in a paradise of blessings, where they might riot without the fatigue of exertion; such men had narrow views of the consequence of detaching America from a transatlantic jurisdiction. They viewed but a small part of the great event: They are, they *ought to be* disappointed. Such men expect effects without causes, and are ready to despond, or commence enemies to a glorious event, because miracles are not wrought to verify their ill founded predictions.

In this view, this insect view of things, the revolution ought to be considered as extremely unfortunate; for to the present generation, it must certainly prove so.

But on the general scale of human happiness, every man of reflection must rejoice at the illustrious event. Even the propriety of the independence of these States, is so obviously dictated by their local situation, that a generous European ought to have consented to the measure on this single principle.

But taking into consideration the vast field which is here opened for improvements in science, in government, in religion, and in morals; the philosopher will felicitate himself with the prospect of discoveries favorable to arts and happiness; the statesman will rejoice that there is a retreat from the vassalage of Europe; the divine will bless God that a place has been reserved for an uncorrupted church; and the philanthropist, who compares the yeomanry of America with the peasantry of Europe, will congratulate himself on an event which has removed millions of people from the ambition of princes, and from a participation of the vices, which mark the decline of nations.

The revolution of America, whatever may be the present effects, must, on the universal scale of policy, prove fortunate, not only for the parties, but for mankind in general. The period, however, when this country will realize the happy consequences of her separation, must be remote; probably beyond the lives of the present generation.

It is worth our curiosity to inquire into the causes of our present political evils; not the more obvious causes, which every man sees and laments, but those radical causes which lie hid from common observation; whose operations are imperceptible, but whose effects are visible, even to a vulgar eye.

A fundamental mistake of the Americans has been, that they considered the revolution as completed, when it was but just begun. Having raised the pillars of the building, they ceased to exert themselves, and seemed to forget that the whole superstructure was then to be erected. This country is independent in government; but totally dependent in manners, which are the basis of government. Men seem not to

attend to the difference between Europe and America, in point of age and improvement; and are disposed to rush, with heedless emulation, into an imitation of manners, for which we are not prepared.

Every person tolerably well versed in history, knows that nations are often compared to individuals and to vegetables, in their progress from their origin to maturity and decay. The resemblance is striking and just. This progress is as certain in nations as in vegetables; it is as obvious, and its causes more easily understood; in proportion as the secret springs of action in government are more easily explained, than the mechanical principles of vegetation.

This progress therefore being assumed as a conceded fact, suggests a forcible argument against the introduction of European manners into America. The business of men in society is, first, to secure their persons and estates by arms and wholesome laws; then to procure the conveniences of life by arts and labor; but it is in the last stages only of national improvement, when luxury and amusements become public benefits, by dissipating accumulations of wealth, and furnishing employment and food for the poor. And luxury then is not beneficial, except when the wealth of a nation is wasted within itself. It is perhaps always true, that an old civilized nation cannot, with propriety, be the model for an infant nation, either in morals, in manners or fashions, in literature or in government.

The present ambition of Americans is, to introduce as fast as possible, the fashionable amusements of the European courts. Considering the former dependence of America on England, her descent, her connexion and present intercourse, this ambition cannot surprise us. But it must check this ambition to reflect

on the consequences. It will not be denied, that there are vices predominant in the most polite cities in Europe, which are not only unknown, but are seldom mentioned in America; and vices that are infamous beyond conception. I presume it will not be denied that there must be an amazing depravation of mind in a nation, where a farce is a publication of more consequence than Milton's Poem; and where an opera dancer, or an Italian singer, receives a salary equal to that of an Ambassador. The facts being known and acknowleged, I presume the consequence will not be denied. Not that this charge is good against every individual; even in the worst times, there will be found many exceptions to the general character of a nation.

If these vices and the depravation of mind do actually exist, it is a proof of a gradual corruption; for there was a time when they did not exist. There was a time when decency was a virtue, even at Venice. The progress is also slow, unless hastened by some external circumstances. It was more than two thousand years from the building of Rome to the pontificate of Alexander the VIth whose naked revelings filled the measure of public vice, and strike the human mind with horror.

A constant increase of wealth is ever followed by a multiplication of vices: This seems to be the destiny of human affairs; wisdom, therefore, directs us to retard, if possible, and not to accelerate the progress of corruption. But an introduction of the fashionable diversions of Europe into America, is an acceleration of the growth of vices which are yet in their infancy, and an introduction of new ones too infamous to be mentioned. A dancing school among the Tuscaroras, is not a greater absurdity than a masquerade in

America. A theater, under the best regulations, is not essential to our public and private happiness. It may afford entertainment to individuals; but it is at the expense of private taste and public morals. The great misfortune of all exhibitions of this kind is this; that they reduce all taste to a level. Not only the vices of all classes of people are brought into view, but of all ages and nations. The intrigues of a nobleman, and the scurrility of shoe blacks, are presented to the view of both sexes, of all ages; the vices of the age of Elizabeth and of Charles IId are recorded by the masterly pens of a Shakespeare and a Congreve, and by repeated representation, they are "hung on high," as the poet expresses it, "to poison half mankind." The fact is, that all characters must be presented upon a theater, because all characters are spectators; and a nobleman and a sailor, a dutchess and a washer woman, that attend constantly on the exhibitions of vice, become equally depraved; their tastes will be nearly alike as to vice; the one is as prepared for a crime as the other. It is for this reason, that many of the amusements of nations more depraved than ourselves, are highly pernicious in this country. They carry us forward by hasty strides, to the last stages of corruption; a period that every benevolent man will deprecate and endeavor to retard. This circumstance, the difference in the stages of our political existence, should make us shun the vices which may be politic and even necessary in older states; and endeavor to preserve our manners by being our own standards. By attaching ourselves to foreign manners, we counteract the good effects of the revolution, or rather render them incomplete. A revolution in the form of government, is but a revolution in name; unless attended with a change of principles and manners, which are the springs of

government.

This leads me to treat more particularly of the influence of fashions on the interests of these States; an article in which the ladies are deeply interested.

Fashion in itself is a matter of indifference, as affecting neither morals nor politeness. It is of no consequence whether a lady is clad with a gown or a frock; or whether a gentleman appears in public with a cap or a wig. But there may be times and situations in which the most trifling things become important. The practice of imitating foreign modes of dress, cannot cost America less than 100,000l. a year. I speak not of the necessary articles of dress; but merely of changes of fashions.

To understand this fact, it is necessary to advert to the different circumstances of this country, and of the European kingdoms, which we take as our models.

Two circumstances distinguish most of the commercial countries of Europe from America; a feudal division of real property, and manufactures. Where vast estates are hereditary and unalienable, a great part of the people are dependent on the rich, and if the rich do not employ them, they must starve. Thus in England and France, a great landholder possesses a hundred times the property that is necessary for the subsistence of a family; and each landlord has perhaps a hundred families dependent on him for subsistence. On this statement, if the landlord should live penuriously, and supply his own family only with necessaries, all his dependents must starve. In order to subsist the ninety nine families, he must create wants, which their employment must supply; for the natural wants of a few rich people will not furnish employment for great multitudes of

poor. Hence the good policy, the necessity of luxury in most European kingdoms. Hence originate all the changes and varieties of fashion. A gentleman or lady in London must not appear in public twice in the same suit. This is a regulation of custom, but it is highly political; for were the nobility and rich gentry to wear out all their clothes, one half the people must be beggars. The fashions of England and France are not merely matter of fancy: Fancy may dictate new and odd figures in dress; but the general design of frequent and continual changes of fashion, is wise systematic policy, at the courts of London and Paris.

But let us see with how little discretion and policy *we* adopt foreign luxuries. America is a young country, with small inequalities of property, and without manufactures. Few people are here dependent on the rich, for every man has an opportunity of becoming rich himself. Consequently few people are supported by the luxuries of the wealthy; and even these few are mostly foreigners.

But we have no body of manufacturers to support by dissipation. All our superfluities are imported, and the consumption of them in this country enriches the merchants and supports the poor of Europe. We are generous indeed! generous to a fault. This is the pernicious, the fatal effect of our dependence on foreign nations for our manners. We labor day and night, we sacrifice our peace and reputation, we defraud our public creditors, involve ourselves in debts, impoverish our country: Nay, many are willing to become bankrupts and take lodgings in a prison, for the sake of being as foolish as those nations which subsist their poor and grow rich and respectable by their follies.

No objection can be made to rich and elegant dresses

among people of affluent circumstances. But perhaps we may safely calculate that one third of the expenses incurred by dress in this country, add nothing either to convenience or elegance.

A new dress is invented in London or Paris, not for the sake of superior elegance, because it frequently happens that a new dress is less rich and elegant than an old one; but for the sake of giving food to manufacturers. That new fashion is sent across the Atlantic; let it be ever so troublesome and uncouth, we admire its novelty; we adopt it because it is fashionable; and merely for a change, that may be made in half an hour by a tailor or a milliner, 20, 30, or 50,000 pounds are drawn from the capital stocks of property in America, to enrich nations which command our commerce and smile at our folly.

But it is not only the wealth of this country that is sacrificed by our servile imitation of other nations; our complaisance often requires us to dispense with good taste.

It will probably be admitted that amidst the infinite variety of dresses which are fashionable, during a course of ten or fifteen years, some of them must be more convenient and elegant than others. True taste in dress consists in setting off the person to the best advantage. That dress which unites the articles of convenience, simplicity and neatness, in the greatest perfection, must be considered as the most elegant. But true taste goes farther; it has reference to age, to shape, to complexion, and to the season of the year. The same dress which adorns a miss of fifteen, will be frightful on a venerable lady of seventy. The same dress will embellish one lady and disfigure another. But the passive disposition of Americans in receiving every mode that is offered them, sometimes reduces

all ages, shapes and complexions to a level.

I will not undertake to say that people ought not, in the article of dress, to sacrifice taste to national interest. A sacrifice of that kind, in a manufacturing country, may be laudable; it will at least be pardonable. But in a reverse of situation, in America, where a waste of property and a group of political evils accompany a bad taste, the sacrifice admits of no apology.

It is not unfrequent to hear ladies complain severely of the inconvenience of fashion. Their good sense disapproves and their taste revolts at incumbrances. And yet where is the lady who would not sooner submit to any fatigue, rather than be ridiculous. I speak of ladies particularly; in point of expense, the gentlemens' dresses are exceptionable as well as the ladies; in point of convenience, the ladies are the greatest sufferers by fashion, as their dress admits of the greatest variety of incumbrances.

Perhaps the trouble of conforming entirely to the fashions of Europe is as great a tax upon the ladies, as the expense is to their husbands and parents.

One society of people, the Friends, are happily released from the tyranny and inconveniencies of fashion. However disagreeable the restraints of their religion may appear in other respects, it must be acknowledged that, in point of dress, the rules of their society conform to purity of taste.

Perhaps we may safely estimate, that the ladies of that society dress with two thirds of the expense which other ladies incur, even when the articles of their dress are equally rich and expensiv; the difference is saved by neglecting superfluous finery. And are not their taste in dress, their simplicity and

neatness, universally admired? Does it not set off their persons to the best advantage? Do not gentlemen almost universally give the preference to the taste of Quaker ladies? Nay, I would ask, whether other ladies themselves, under a strong bias in favor of a tawdry dress, are not frequently lavishing encomiums on the superior elegance and convenience of the Friends' dresses? And how often do they sigh beneath the trouble of their own dress, and wish that particular articles would go out of fashion.

If there is any thing on earth, which can make a rational mind disgusted with society, it is that cruel necessity, which obliges a person to sacrifice both his interest and his taste, or run the hazard of being laughed at for his singularity.

In some Asiatic countries, people never change their modes of dress. This uniformity, which continues for ages, proceeds from the same principles as the monthly changes in England and France; both proceed from necessity and policy. Both arise from good causes which operate in the several governments; that is, the manners of each government are subservient to its particular interest. The reverse is true of this country. Our manners are wholly subservient to the interest of foreign nations. Where do we find, in dress or equipage, the least reference to the circumstances of this country! Is it not the sole ambition of the Americans to be just like other nations, without the means of supporting the resemblance? We ought not to harbor any spleen or prejudice against foreign kingdoms. This would be illiberal. They are wise, they are respectable. We should despise the man that piques himself on his own country, and treats all others with

indiscriminate contempt. I wish to see much less jealousy and ill nature subsisting between the Americans and English. But in avoiding party spirit and resentment on the one hand, we should be very careful of servility on the other. There is a manly pride in true independence, which is equally remote from insolence and meanness; a pride that is characteristic of great minds. Have Americans discovered this pride since the declaration of peace? We boast of independence, and with propriety. But will not the same men, who glory in this great event, even in the midst of a gasconade, turn to a foreigner and ask him, "what is the latest fashion in Europe!" He has worn an elegant suit of clothes for six weeks; he might wear it a few weeks longer, but it has not so many buttons as the last suit of my lord ——: He throws it aside, and gets one that has. The suit costs him a sum of money; but it keeps him in the fashion, and feeds the poor of Great Britain or France. It is a singular phenomenon, and to posterity it will appear incredible, that a nation of heroes, who have conquered armies, and raised an empire, should not have the spirit to say—*we will wear our clothes as we please*.

Let it not be thought that this is a trifling subject; a matter of no consequence. Mankind are governed by opinion; and while we flatter ourselves that we enjoy independence, because no foreign power can impose laws upon us, we are groaning beneath the tyranny of opinion; a tyranny more severe than the laws of monarchs; a dominion voluntary indeed, but for that reason, more effectual; an authority of manners which commands our services, and sweeps away the fruits of our labor.

I repeat the sentiment with which I began; the

revolution of America is yet incomplete. We are now in a situation to answer all the purposes of the European nations; independent in government, and dependent in manners. They give us their fashions, they direct *our* taste to make a market for *their* commodities; they engross the profits of our industry, without the hazard of defending us, or the expense of supporting our civil government. A situation more favorable to *their* interest, or more repugnant to our *own*, *they* could not have chosen for us, nor *we* embraced.

If such is the state of facts, and if the influence of foreign manners does actually defeat the purposes of the revolution; if our implicit submission to the prevailing taste of European courts, involves individuals and the public in unnecessary expenses, it is in the power of a few influential characters in each of our commercial cities to remedy the whole evil. And in a reformation of this kind, the ladies would have no inconsiderable share.

It is really a matter of astonishment, that the pride of the Americans has so long submitted tamely to a foreign yoke. Aside of all regard to interest, we should expect that the idea of being a nation of apes would mortify minds accustomed to freedom of thought, and would prompt them to spurn their chains.

Have the ladies in America no ingenuity, no taste? Do they not understand what dresses are most convenient and elegant? What modes are best adapted to the climate, or other circumstances of this country? They most certainly do. Foreigners acknowlege that the nativ beauty and understanding of the American ladies are not excelled in any country, and equalled in very few. And one would

imagin that the modes of embellishing so many personal charms ought not, in all cases, to be prescribed by the milliners and manteau makers on the other side of the Atlantic. A noble pride should forbid that ladies of birth and breeding should be wholly indebted to the taste of others, for the decorations of their beauty.

When the gentlemen in America shall exercise spirit enough to be their own judges of taste in dress: When they have wisdom to consult the circumstances of this country, and fortitude enough to retain a fashion as long as their *own interest* requires, instead of changing it when *other nations* direct: When the ladies shall exercise the rights of their sex, and say, we will *give* the laws of fashion to our *own nation*, instead of *receiving* them from *another*, we will perform our part of the revolution: When both sexes shall take more pride and pleasure in being their own standards, than in being the humble imitators of those who riot on the profits of our commerce; we shall realize a new species of independence; an independence flattering to generous minds, and more productive of wealth than all the laws of power, or the little arts of national policy. And in this revolution of manners, there needs not any sacrifice of real dress. I will venture to estimate, that the retrenching of superfluous articles; articles which constitute no part of dress, and serve but to disfigure an elegant person; articles that are made and sent to us to support the sixpenny day laborers of Europe; I say, a retrenching of these trifling articles only, would be an annual saving to America sufficient to pay one half of the interest of our federal debt. We can throw no blame on foreign nations; they are wise, and profit by our want of spirit and taste.

On the footing that all mankind are brethren, perhaps it is generous in us to assist foreigners, who are a part of the Great Family.

It is to be wished, however, that we might first discharge our honest debts: That the soldier, whose labor and blood have purchased our empire, and whose services have been repaid with a shadow of reward, might be indemnified by the justice of his country: That the widow and orphan might at least receive the stipulated satisfaction for losses which money cannot repair. Yes, let us first be *just*, and then *generous*. When we have no better use for our superfluous property, then let us bestow it upon our wretched brethren of the human race. They will repay our charity with gratitude, and bless God that he has peopled one half the world with a race of freemen, to enrich the tyrants, and support the vassals of the other.

In another particular, our dependence on nations farther advanced in society than ourselves, has a very unhappy effect.

I assume it as a fact, conceded by all philosophers and historians, that there has been, in every civilized nation, a particular period of time, peculiarly favorable to literary researches; and that in this period, language and taste arrive to purity; the best authors flourish, and genius is exerted to benefit mankind.

This period in Greece was the age of Themistocles, immediately after the invasion of Xerxes. In Rome, it was the reign of Augustus Cæsar, when a revolution had left the empire in a state of tranquillity. In France, the reign of Louis the XIVth was distinguished for the number and eminence of its authors, and the correctness of taste. The

corresponding period of taste in England, commenced about the middle of the sixteenth century, and ended with the reign of George the IId. Scotland was later in improvement; but perhaps has now seen its meridian splendor.

There seems to be a certain point of improvement beyond which every step in refinement is corruption; moral sentiment is postponed to wit, and sense is sacrificed to sound. This has been the case in all nations, and is now true of England. The candid among the nation acknowlege and lament the decline of true taste and science. Very few valuable writings appear in the present age; plays, novels, farces, and compilations fill the catalogue of new publications; and the library of a man of fashion consists of Chesterfield's Letters, Tristram Shandy, and a few comedies.

A gentleman in high office in London, in a letter to an eminent literary character in America, which I had the honor to read, informs, "that so low is the taste of the nation, that were Milton's Poem to be now first published, it would not find purchasers: Music and painting are the only arts that have royal encouragement." He says further, "that there is a national combination to oppose the fame of every American art, production and character." I would hope that this account is an exaggeration of the truth; but we have the best testimony to convince us that every thing is sacrificed to amusement and pleasure.

We ought not therefore to form our taste after such models: In order to write, think and act with propriety, we should go back half a century, to the style and morality of Addison and his cotemporaries; there we may find the most perfect models.

By making the present taste of Europe our standards, we not only debase our own, but we check the attempts of genius in this country.

Eminence is sometimes apt to impose errors upon people, whose respect for the character may silence all scruple, and prevent them from examining into the grounds of his opinion. Such is the implicit confidence reposed in the opinions of certain celebrated writers, that when an American ventures to call in question a received principle or opinion of theirs, his countrymen charge him with arrogance, and exclaim, how should this man be as good a judge of the subject as a foreigner! Such false notions of the perfection of particular character, fetter the mind, and in concert with credulity and idleness, prepare it for the reception of any errors, however enormous.

This same veneration for eminent foreigners, and the bewitching charms of fashion, have led the Americans to adopt the modern corruptions of our language. Very seldom have men examined the structure of the language, to find reasons for their practice. The pronunciation and use of words have been subject to the same arbitrary or accidental changes, as the shape of their garments. My lord wears a hat of a certain size and shape; he pronounces a word in a certain manner; and both must be right, for he is a fashionable man. In Europe this is right in dress; and men who have not an opportunity of learning the just rules of our language, are in some degree excuseable for imitating those whom they consider as superiors. But in men of science, this imitation can hardly be excused.

Our language was spoken in purity about eighty

years ago; since which time, great numbers of faults have crept into practice about the theater and court of London. An affected erroneous pronunciation has in many instances taken place of the true; and new words or modes of speech have succeeded the ancient correct English phrases.

Thus we have, in the modern English pronunciation, their natshures, conjunctshures, constitshutions, and tshumultshuous legislatshures; and a long catalogue of fashionable improprieties. These are a direct violation of the rules of analogy and harmony; they offend the ear, and embarrass the language. Time was, when these errors were unknown; they were little known in America before the revolution. I presume we may safely say, that our language has suffered more injurious changes in America, since the British army landed on our shores, than it had suffered before, in the period of three centuries. The bucks and bloods tell us that there is no proper standard in language; that it is all arbitrary. The assertion, however, serves but to show their ignorance. There are, in the language itself, decisive reasons for preferring one pronunciation to another; and men of science should be acquainted with these reasons. But if there were none, and every thing rested on practice, we should never change a general practice without substantial reasons: No change should be introduced, which is not an obvious improvement.

But our leading characters seem to pay no regard to rules, or their former practice. To know and embrace every change made in Great Britain, whether right or wrong, is the extent of their inquiries, and the height of their ambition. It is to this deference we may ascribe the long catalogue of errors in pronunciation

and of false idioms which disfigure the language of our mighty fine speakers. And should this imitation continue, we shall be hurried down the stream of corruption, with older nations, and our language, with theirs, be lost in an ocean of perpetual changes. The only hope we can entertain is, that America, driven by the shock of a revolution, from the rapidity of the current, may glide along near the margin with a gentler stream, and sometimes be wafted back by an eddy.

The foregoing remarks suggest some of the causes which operate to defeat the true end of the revolution. Every man sees and feels our political embarrassments; the foes of the revolution ascribe them all to that event, and the friends charge them upon the enmity and resentment of our parent country. Both are wrong. The revolution is, and will ultimately prove, a happy event for us and for the world. The English, as a nation, are wise and respectable: As citizens of the world, we should esteem them: As a commercial people, we should cultivate a friendly intercourse with them; but as a foreign nation, whose political circumstances are very different from ours, we should not make them, in all cases, our standard. I repeat the declaration I before made: The independence of this country is incomplete: There has been a total change in government, with little or no change in the principles which give energy to the operations of government.

In the preceding remarks, I have endeavored to shew in what respect the revolution of America is yet incomplete, and that an independence of manners and opinion is necessary to give full effect to an independence of government. I propose now to make some remarks on government, to state the effects of

the revolution on the morals of people, and the influence of money on mens' sense of justice and moral obligation.

It is perhaps a fundamental principle of government, that men are influenced more by habit, than by any abstract ideas of right and wrong. Few people examin into the propriety of particular usages or laws; or if they examin, few indeed are capable of comprehending their propriety. But every man knows what is a law or general practice, and he conforms to it, not because it is right or best, but because it has been the practice. It is for this reason that habits of obedience should not be disturbed. There are perhaps in every government, some laws and customs, which, when examined on theoretical principles, will be found unjust and even impolitic. But if the people acquiesce in those laws and customs, if they are attached to them by habit, it is wrong in the Legislature to attempt an innovation which shall alarm their apprehensions. There are multitudes of absurdities practised in society, in which people are evidently happy. Arraign those absurdities before the tribunal of examination; people may be convinced of their impropriety; they may even be convinced that better schemes may be projected; and yet it might be impossible to unite their opinions so as to establish different maxims. On the other hand, there are many good institutions, in which, however, there may be theoretical faults, which, if called into public view, and artfully represented, might shake the best government on earth.

Speculativ philosophers and historians have often described, and sometimes ridiculed the warmth with which nations have defended errors in religion and

government. With the most profound deference for wise and respectable men, I must think they are guilty of a mistake; and that the errors which nations fight to defend, exist only in the heads of these theorists. Whatever speculation may tell us, experience and the peace of society, require us to consider every thing as right, which a nation believes to be so. Every institution, every custom, may be deemed just and proper, which does not produce inconveniencies that the bulk of mankind may see and feel. The tranquillity of society therefore should never be disturbed for a philosophical distinction.

It will perhaps be objected, that these doctrines, if practised, would prevent all improvements, in science, religion and government. By no means; but they point out the method in which all improvements should be made, when opinion and fixed habits are to be overthrown, or changed. They show that all reformation should be left to the natural progress of society, or to the conviction of the mind. They show the hazard and impracticability of making changes, before the minds of the body of the people are prepared for the innovation. I speak not of despotic governments, where the will of the prince is enforced by an army; and yet even absolute tyrants have been assassinated for not attending to the spirit and habits of their subjects.

In vain do rulers oppose the general opinion of the people. By such opposition, Philip IId, of Spain, kept one part of his subjects, for half a century, butchering the other, and in the end, lost one third of his dominions. By not regarding the change of habits in the nation, Charles Ist, of England, lost his head. By carrying his changes too far, Cromwell began to oppose the spirit of the nation, and had he lived to

prosecute his system, that spirit would, in a few years, have brought his neck to the block. The general spirit of the nation restored to the throne, the son of the prince, whom that spirit had but a few years before arraigned and condemned. By opposing that spirit, James was obliged to leave his kingdom, and the sense of the nation still excludes the family which, by their own law of succession, has the best title to the throne. But there is no prescription against general opinion; no right that can enter the list against the sense of a nation; that sense, which after all our reasoning, will forever determin what is best.

The truth of these remarks is proved by examples in this country. An immense revenue might have been drawn from America without resistance, in almost any method but that which the British parliament adopted. But their first attempts were made upon articles of common necessity; the attempts were too visible; the people felt and resisted. Their apprehensions were alarmed; their fears, whether well founded or imaginary, were multiplied and confirmed by newspaper rhapsodies, and finally produced a combined opposition to all British taxation. Then Great Britain should have compounded; she did not; she opposed the general sense of three millions of her subjects, and lost the whole.

A dispute existed between Connecticut and Pensylvania, respecting a tract of land; a federal court decided the jurisdiction, or State claim, in favor of Pensylvania; five thousand inhabitants, seated on the lands, acknowlege the jurisdiction, but contend that their original purchase, and subsequent labor, entitle them to the lands. Notwithstanding the

invalidity of their State claim, the settlers determin to maintain their lands. The question of right is at once suspended, and the only inquiry is, which is the best policy, to indemnify a few individuals by a pecuniary composition, or sacrifice five thousand subjects. This question, left to the commonwealth, would be decided by a great majority, in favor of the settlers, and against the very principles of right on which the State holds the jurisdiction.

I am not competent to judge of the merits of the dispute between New York and Vermont; but if the usurpation of Vermont were a conceded fact, and that usurpation to be defended by arms, and the question of granting them independence were left to the State of New York, I am confident that nine tenths of the people would decide for the independence of Vermont against their own rights.

Thus it often happens, that a general opinion, grounded on rational expediency, will, and ought to decide political questions, contrary to the strict principles of justice and equity.

I would, by no means, be understood to defend, by such doctrines, the insurrections of a neighboring State. I reprobate every thing that wears the least appearance of opposition to lawful authority. It is evident however, that the Legislature of Massachusetts were too inattentive to the general spirit of the State. The murmurs of the people were heard long before they broke out into rebellion, and were treated with too much neglect. They were a proof at least that something was wrong. This the Legislature acknowleged in their late acts, and the complaints of the populace might once have been silenced by such conciliatory measures.

But an opposition so violent must suddenly cease, or

acquire system. In the latter case, the demands of the insurgents will rise in proportion to their strength; they will ask unreasonable concessions, and the sword must decide their claims. The insurgents took wrong steps to obtain redress; they should have rested their agrievances on petitions, and the event of an election; but one rash step leads to a second, and to a third. These fatal effects of popular discontent afford one useful lesson, that rulers should not attempt to carry a measure against the general voice of a people.[35] But a question will arise, how far may the people be opposed, when their schemes are evidently pernicious? I answer, this can never happen thro design; and errors, even of the populace, may gradually be removed. If the people cannot be convinced, by reason and argument, of the impolicy or injustice of a favorite scheme, we have only to wait for the consequences to produce conviction. All people are not capable of just reasoning on the great scale of politics; but all can feel the inconveniencies of wrong measures, and evils of this kind generally furnish their own remedy. All popular Legislatures are liable to great mistakes. Many of the acts of the American Legislatures, respecting money and commerce, will, to future generations, appear incredible. After repeated experiments, people will be better informed, and astonished that their fathers could make such blunders in legislation.

If the people of this State[36] are not already convinced, they certainly will be, that the addition of 150,000l. of paper, to the current specie of the State, did not increase the permanent value of circulating medium a single farthing. They were perhaps told that such a sum of paper would shut up the specie, or enable the merchant to export it; but their jealousy made them believe these the suggestions of

interest; and nothing but the experiment could satisfy their wishes. Every man of reflection must regret that he is subject to the evils consequent on popular mistakes in judgement; but this is the price of our independence and our forms of government.

Let us attend to the immediate and necessary consequences of the American revolution.

So great an event as that of detaching millions of people from their parent nation, could not have been effected without the operation of powerful causes. Nothing but a series of real or imaginary evils could have shaken the habits by which we were governed, and produced a combined opposition against the power of Great Britain. I shall not enumerate any of these evils; but observe that such evils, by twenty years operation upon the fears or feelings of the Americans, had alienated their affections or weakened those habits of respect, by which they were predisposed to voluntary obedience. When a government has lost respect, it has lost the main pillar of its authority. Not even a military force can supply the want of respect among subjects. A change of sentiment prepares the way for a change of government, and when that change of sentiment had become general in America, nothing could have prevented a revolution.

But it is more easy to excite fears than to remove them. The jealousy raised in the minds of Americans against the British government, wrought a revolution; but the spirit did not then subside; it changed its object, and by the arts of designing men, and the real distresses consequent on such a political storm, was directed against our own governments. The restraints imposed by respect and habits of obedience were broken thro, and the licentious

passions of men set afloat.

Nothing can be so fatal to morals and the peace of society, as a violent shock given to public opinion or fixed habits. Polemic disputes have often destroyed the friendship of a church, and filled it, not only with rancor, but with immorality. Public opinion therefore in religion and government, the great supports of society, should never be suddenly unhinged. The separation of America, however, from all dependence on European government, could not have been effected without previously attacking and changing opinion. It was an essential step, but the effects of it will not easily be repaired. That independence of spirit which preceded the commencement of hostilities, and which victory has strengthened; that love of dominion, inherent in the mind of man, which our forms of government are continually flattering; that licentiousness of inquiry which a jealousy of rights first produced and still preserves, cannot be controled and subdued, but by a long series of prudent and vigorous measures.

Perhaps the present age will hardly see the restoration of perfect tranquillity. But the spirit and principles, which wrought our separation from Great Britain, will mostly die with the present generation; the next generation will probably have new habits of obedience to our new governments; and habits will govern them, with very little support from law.

The force of habit in government is most strikingly illustrated by the example of Connecticut. Most of the laws, customs and institutions, which the people brought with them from England, or which they introduced, on their first settlement, remain to this day, with such small alterations only as would naturally be made in the progress of society and

population.

The government of Connecticut had formerly little more than a nominal dependence on England; independence therefore required but a little change of the old constitution. The habits of the people have not been materially changed; their respect for the government has not been suspended nor diminished. It would therefore be extremely difficult to raise an insurrection in that State against their own government;[37] for they have not been accustomed to dispute the propriety of their established maxims and laws. Whatever alterations in their constitution, a discerning Legislator might suggest, it would be highly impolitic to attempt any changes, which should disturb public opinion or alarm apprehension. When a law or custom becomes inconvenient, the people will feel the evil and apply a remedy.

Most of the other States had new constitutions of government to form; they had a kind of interregnum; an interval, when respect for all government was suspended; an interval fatal in the last degree, to morals and social confidence. This interval between the abolition of the old constitution and the formation of a new one, lasted longer in Massachusetts than in the other States, and there the effects are most visible. But perhaps it is impossible to frame a constitution of government, in the closet, which will suit the people; for it is frequent to find one, the most perfect in theory, the most objectionable in practice. Hence we often hear popular complaints against the present governments in America: And yet these may proceed rather from the novelty of the obedience required, than from any real errors or defects in the systems: It may be nothing but the want of habit which makes people

uneasy; the same articles which now produce clamors and discontent, may, after twenty years practice, give perfect satisfaction. Nay, the same civil regulation, which the present generation may raise a mob to resist, the next generation may raise a mob to defend.

But perhaps a more immediate and powerful cause of a corruption of social principles, is a fluctuation of money. Few people seem to attend to the connexion between money and morals; but it may doubtless be proved to the satisfaction of every reflecting mind, that a sudden increase of specie in a country, and frequent and obvious changes of value, are more fruitful sources of corruption of morals than any events that take place in a community.

America began the late war without funds of money, and its circulating specie was very inconsiderable. Commerce was regular, and *speculation*, a term unknown to the body of the people.

The emission of paper was an obvious and necessary expedient; yet it was bad policy to throw vast sums into circulation without taking some measures to recall it. It was the fate of America to receive in bills of credit, and in the course of three or four years, about twenty times the nominal value of its current specie; the bills depreciated in the same proportion, and the real value of the medium continued the same.

The first visible effect of an augmentation of the medium and the consequent fluctuation of value, was, a host of jockies, who followed a species of itinerant commerce; and subsisted upon the ignorance and honesty of the country people; or in other words, upon the difference in the value of the currency, in different places. Perhaps we may safely

estimate, that not less than 20,000 men in America, left honest callings, and applied themselves to this knavish traffic. A sudden augmentation of currency flattered people with the prospect of accumulating property without labor.

The first effect of too much money is to check manual labor, the only permanent source of wealth. Industry, which secures subsistence and advances our interest by slow and regular gains, is the best preservative of morals; for it keeps men employed, and affords them few opportunities of taking unfair advantages. A regular commerce has nearly the same effect as agriculture or the mechanic arts; for the principles are generally fixed and understood.

Speculation has the contrary effect. As its calculations for profit depend on no fixed principles, but solely on the different value of articles in different parts of the country, or accidental and sudden variations of value, it opens a field for the exercise of ingenuity in taking advantage of these circumstances. The speculator may begin with honest intentions; and may justify his business, by saying, that he injures no man, when he givs the current value of an article in one place, and sells it for its current value in another; altho in this case he is a useless member of society, as he livs upon the labor of others, without earning a farthing. But he does not stop here; he takes an advantage of ignorance and necessity; he will, if possible, monopolize an article to create a necessity. Repeated opportunities of this kind gradually weaken the force of moral obligation; and nine persons of ten, who enter into the business of speculation with a good character, will, in a few years, lose their principles, and probably, their reputation.

Speculation is pernicious to morals, in proportion as its effects are extensiv. Speculation in the English funds is practised on principles destructiv of justice and morals; but it consists in the transfer of large sums; the contingencies on which it depends are not frequent, and the business is confined to a few sharpers in the metropolis. Such a speculation affects not the body of the people. The medium circulating in the kingdom, has a fixed permanent value, and affords no opportunities for irregular gains.

Very different is speculation in America. Here its objects are in every person's hands; changes of value are frequent; opportunities of gain, numberless; and the evil pervades the community. The country swarms with speculators, who are searching all places, from the stores of the wealthy, to the recesses of indigence, for opportunities of making lucrativ bargains. Not a tavern can we enter, but we meet crowds of these people, who wear their character in their countenances.

But the speculators are not the only men whose character and principles are exposed by such a state of the currency; the honest laborer and the regular merchant are often tempted to forsake the established principles of advance. Every temptation of this kind attacks the moral principles, and exposes men to small deviations from the rectitude of commutativ justice.

Such are the sources of corruption in commercial intercourse. A relaxation of principle, in one instance, leads to every species of vice, and operates till its causes cease to exist, or till all the supports of social confidence are subverted. It is remarked by people very illiterate and circumscribed in their observation, that there is not now the same

confidence between man and man, which existed before the war. It is doubtless true; this distrust of individuals, a general corruption of manners, idleness, and all its train of fatal consequences, may be resolved into two causes: The sudden flood of money during the late war, and a constant fluctuation of the value of the currencies.

The effects of a sudden augmentation of the quantity of money in circulation were so obvious, during the war, and the example is so recent, that the subject requires no illustration, but a recollection of facts. Yet there is an example recorded in the History of France, so exactly in point, that I cannot omit it.

During the regency of the Duke of Orleans, one Law, who had fled from punishment in Scotland, and taken refuge in France, obtained, by his address, a great share of confidence in the councils of the regent. He formed a plan of drawing all the specie from circulation, and issuing bills upon the royal treasury. It is not necessary to name the expedients he used to effect his purpose. It is sufficient to observe, that by various methods, he drew most of the specie of the kingdom into the public treasury, and issued bills to about one hundred times the value of the specie, which had before circulated. The notes or securities depreciated as they were thrown into circulation, like our continental currency. The nature of a medium of trade, it seems, was not well understood: Such a sudden depreciation was a surprising phenomenon at that period; men of property, who were the holders of the paper, were alarmed; the kingdom was in confusion. When the bills had sunk to a fifth of their value, a royal edict was issued, ordaining that the remaining specie in circulation should be sunk to a level with paper. This

resembles, in some respects, the regulation of prices in America. An edict, so rash and absurd, increased the evils it was meant to remedy, and filled the kingdom with clamor.

In a short time, the paper was sunk as low as our continental currency, before its death.

The confusion was general; the regent and Law were obliged to fly the kingdom; and both died in obscurity, the one in Italy, and the other, if I mistake not, in the Netherlands. In France there was a total change of property; poor men made fortunes by speculation, and the rich were beggared. The result of the whole was, that the paper was called in at a discount, by means similar to the *forty for one* act of the United States.

But the principal view I have in stating this example is, to show the effect of a sudden inundation of money upon industry and morals. No sooner did the nation feel an increase of the quantity of money, but the kingdom was overrun with speculators; men who left useful occupations, for the prospect of rapid accumulations of wealth. Knavery, over reaching, idleness, prodigality, and every kind of vice prevailed, and filled the kingdom with distress, confusion, and poverty.

The South Sea bubble, in England, was a farce of a similar kind, but its effects were less extensiv.

The continental currency was not the sole cause of the idleness and speculation, which prevailed in this country, about the years 1780, 1781, and 1782. Vast quantities of specie were introduced by the French army, by the Spanish trade, and by a clandestine intercourse with the British garrisons. At the close of the war, there was more than double the quantity of

gold and silver in the country, which was necessary for the purposes of a regular commerce.

This extraordinary circulation of specie had its usual, its certain effect; it prompted multitudes to quit manual labor for trade. This circumstance, in conjunction with the disbanding of the army, which left great numbers of men without employment, and with a rage for foreign goods, which was always strong, and was then increased by a long war, filled our commercial towns with hosts of adventurers in business. The consequent influx of goods and enormous credit necessary to obtain them, are evils that deeply affect this country. I will not attempt a detail of the state of commerce in the United States; but observe that the necessary exportation of specie was the happiest event that could befal the United States; the only event that could turn industry into its proper channel, and reduce the commerce of the country to a proportion with the agriculture.

Dissipation was another consequence of a flood of money. No country perhaps on earth can exhibit such a spirit of dissipation among men, who derive their support from business, as America. It is supposed by good judges, that the expenses of subsistence, dress and equipage, were nearly doubled in the commercial towns, the two first years of the peace. I have no doubt the support of the common people was enhanced twenty five per cent. This augmentation of expenses, with a dimunition of productiv industry, are the consequences of too much money, and a scarcity is our only remedy.

Short sighted people complain of the present scarcity; but it is the only hope of our political salvation; and that Legislature which ventures to remove popular complaints, by a coinage of great

quantities of specie, or by its substitute, paper, checks industry, keeps alive a spirit of dissipation, and retards the increase of solid wealth. If this has been necessary, it is a necessity sincerely to be lamented.

But there is one source of idleness and corruption, which is general in America, and bids fair to be of long duration. I refer to the different species of federal and State securities, which are every where diffused, and of fluctuating value. These evidences of our debts open such prospects for rapid accumulations of property to every class of people, that men cannot withstand the temptation: Thousands are drawn from useful occupations into a course of life, which cannot possibly benefit society; which must render them useless, and probably will render them bad men, and dangerous members of a community.

What remedy can be applied to so great an evil, it is not for me to determin. But if I may offer my sentiments freely, I must acknowlege that I think no measure can produce so much mischief, as the circulation of a depreciated changeable currency. Let all our debts be placed on the footing of bank stock, and made transferable only at the treasury; or let the present evidences of it be called in, and new notes issued, payable only to the creditor or original holder; or let the securities be purchased at their current discount, let some method be adopted to draw them from circulation; for they destroy public and private confidence; they cut the sinews of industry; they operate like a slow poison, dissolving the *stamina* of government, moral principles.

No paper should circulate in a commercial country, which is not a representativ of ready cash; it must at

least command punctual interest, and security of the principal when demanded. Without these requisits, all notes will certainly depreciate. Most of our public securities want all the requisits of a paper currency. But if they did not; if they were equal in value to bank notes or specie, still the sums are much too large for a circulating medium in America. The amount of the continental and State certificates, with the emissions of paper by particular States, cannot be less than seventy millions of dollars, which is seven times the sum necessary for a circulation.

Were they equal in value to gold and silver, the whole medium would depreciate, specie as well as paper. But as they want every requisit of a paper currency, the whole depreciation falls upon the securities.

An alarming consequence of the State of our public debt remains to be considered. Want of confidence in the public, added to the vast quantity of paper, has sunk it to a third, sixth, or eighth part of its nominal value. Most of the creditors of the public have parted with their securities at a great discount, and are thus robbed of the monies which they earned by the sweat of the brow. Men of property have purchased them for a trifle, and in some States receive the interest in specie. In Massachusetts, this is the case with respect to some part of the State debt. When a man buys a note of twenty shillings value for five, and receives the interest, six per cent. in specie, he in fact receives twenty four per cent. on his money.

This is one source of the insurrection in Massachusetts. The people feel the injustice of paying such an interest to men who earned but a small part of it, and whose sole merit is, that they have more money than their fellow citizens who

suffer the loss by depreciation. Those men in particular, who fought for our independence, or loaned their property to save the country, view with indignant resentment, that law which obliges them to pay twenty four per cent. interest on the securities, which they have sold for a fourth, or an eighth part of their honest demands.

This cannot justify the violent steps taken by the people; because petitions, and united firmness in a constitutional way, would have procured redress. But I state the facts to shew the effects of speculation, or rather, of the want of faith in public engagements.

Such are the consequences of a variable medium; neglect to industry; application to irregular commerce; relaxation of principles in social intercourse; distrust of individuals; loss of confidence in the public, and of respect for laws; innumerable acts of injustice between man and man, and between the State and the subject; popular uneasiness, murmurs and insurrections. And such effects will exist till their cause shall be removed. Not the creation of a Supreme Power over the United States, is an object of more importance, than the annihilation of every species of fluctuating currency.

That instability of law, to which republics are prone, is another source of corruption. Multiplication and changes of law have a great effect in weakening the force of government, by preventing or destroying habits. Law acquires force by a steady operation, and government acquires dignity and respect, in proportion to the uniformity of its proceedings. Necessity perhaps has made our federal and provincial governments frequently shift their measures, and the unforeseen or unavoidable variations of public securities, with the impossibility

of commanding the resources of the continent, to fulfil engagements, all predict a continuation of the evil. But the whole wisdom of Legislatures should be exerted to devise a system of measures which may preclude the necessity of changes that tend to bring government into contempt.

A mild or lax execution of law may also have a bad effect in lessening the respect for its officers. In a monarchy, there is no reasoning with the executive; the will of the prince inspires terror. In our governments, the officers are often familiar, and will even delay justice as long as possible to assist the prisoner.

In some of the eastern States, the frequency and mildness of laws, have introduced very singular habits. The people of Connecticut respect the laws as much as any people; they would not be guilty of disobedience; they mean generally to pay their debts, but are not very anxious to be punctual. They suppose a creditor can wait for his money longer than the period when it is due, and think it hard if he will not.[38]

This mild execution of law, and a consequential habit of dilatoriness, which arise from the spirit of equality, are still prevalent amongst the body of the people. These gave rise to the late incorporation of several commercial towns, with large powers; an expedient which has answered the purpose of giving to commerce the advantage of energy and dispatch in the collection of debts. As most of the business is done in the cities, this effect will gradually extend itself, and form different habits.

The great misfortune of the multiplicity of laws and frequency of litigation, is, that they weaken a respect for the executiv authority, destroy the principle of

honor, and transfer the disgrace, which ought to follow delinquency in payment, from a man's reputation, to the administration of justice. The lawyers and courts are impeached, when the whole blame ought to fall upon the debtor for his impunctuality. Honor, a substitute for honesty, has more influence upon men than law; for in the one case, a man's character is at stake, and in the other, his property. When a man's character suffers not, by a failure of engagements, and by a public prosecution, the collection of debts must be slow. But when a man's reputation is suspended on the punctual discharge of his contracts, he will spare no pains to do it; and this is or ought to be the case in all commercial countries.

Extensiv credit, in a popular government, is always pernicious, and may be fatal. When the people are deeply or generally involved, they have power and strong temptations to introduce an abolition of debts; an agrarian law, or that modern refinement on the Roman plan, which is a substitute for both, a paper currency, issued on depreciating principles. Rhode Island is a melancholy proof of this truth, and New Hampshire narrowly escaped the deplorable evils. In governments like ours, it is policy to make it the interest of people to be honest. In short, the whole art of governing consists in binding each individual by his particular interest, to promote the aggregate interest of the community.

Massachusetts affords a striking example of the danger incurred by too many private debts. During the war the operation of justice was necessarily suspended, and debts were constantly multiplying and accumulating. When law came to be rigorously enforced, the people were distressed beyond

measure, particularly in the western counties, where people are poorer than in the parts of the State better settled, and nearer to market. These private debts crowded hard, and operated with the demands of the federal creditors, to push the people into violent measures.

The planters in Virginia owe immense sums of money to the British merchants. What is the consequence? a law, suspending the collection of British debts. The loss of their slaves is the ostensible excuse for this law; but a more solid reason must be, the utter impossibility of immediately discharging the debts. In our governments the men who owe the money, make the laws; and a general embarrassment of circumstances is too strong a temptation to evade or suspend the performance of justice. For this reason, the wisdom of the Legislature might cooperate with the interest of the merchant, to check a general credit. In some cases it might be safe and wise to withdraw the protection of law from debts of certain descriptions. It is an excellent law in one State, which ordains, that no tavern debt, of more than two days standing, shall be recoverable by law. It prevents tavern haunting and its consequences, idleness, drunkenness and quarrels. Perhaps laws of this kind have the best effect in introducing punctual payments. Their first effect is to prevent credit; but they gradually change a man's regard for his property, to a more activ and efficient principle, an attention to his character.

In the present anarchy in Massachusetts, monied men get credit with the merchant, and are punctual to fulfil engagements, as they are sensible that the merchant relies solely on their honor. The certain ultimate tendency of withdrawing the protection of

law from particular kinds of debts, is to discourage tricks and evasions, and introduce habits of punctuality in commerce.

The present state of our public credit hath the same effect. Repeated violations of public faith, the circulation of a variable medium of trade, the contempt of law, the perpetual fear of new legislativ schemes for discharging our debts, and of tender laws, have made men very cautious in giving credit, and when they do give it, they depend more on the honor of a man than on any security derived from law. This one happy effect of want of confidence in the public, is some small consolation for an infinite variety of political evils and distresses.

Laws to prevent credit would be beneficial to poor people. With respect to the contraction of debts, people at large, in some measure, resemble children; they are not judges even of their own interest. They anticipate their incomes, and very often, by miscalculation, much more than their incomes. But this is not the worst effect; an easy credit throws them off their guard in their expenses. In general we observe that a slow, laborious acquisition of property, creates a caution in expenditures, and gradually forms the miser. On the other hand, a sudden acquisition of money, either by gambling, lotteries, privateering, or marriage, has a tendency to open the heart, or throw the man off his guard, and thus makes him prodigal in his expenses. Perhaps this is ever the case, except when a penurious habit has been previously formed.

An easy and extensiv credit has a similar effect. When people can possess themselves of property without previous labor, they consume it with improvident liberality. A prudent man will not; but a

large proportion of mankind have not prudence and fortitude enough to resist the demands of pride and appetite. Thus they often riot on other men's property, which they would not labor to procure. They form habits of indolence and extravagance, which ruin their families, and impoverish their creditors.

Another effect of extensiv credit, is a multitude of lawyers. Every thing which tends to create disputes, to multiply debts, weaken a regard to commercial engagements, and place the collection of debts on law, rather than on honour, increases the encouragement of lawyers. The profession of law is honorable, and the professors, I scruple not to aver, as liberal, honest and respectable, as any class of men in the State. But their business must be considered as a public evil, except in the drafting of legal instruments, and in some real important disputes. Such is the habit of trusting to law, for the recovery of debts, that, in some of the eastern States, one half or two thirds of the lawyers are mere collectors. They bring forward suits for small debts, that are not disputed; they recover judgement upon default, they take out executions, and live upon their fees.

The evil is not so great in the middle States; but it is great in all the States. Never was there such a rage for the study of law. From one end of the continent to the other, the students of this science are multiplying without number. An infallible proof that the business is lucrativ.

The insurgents in Massachusetts enumerate lawyers among their grievances. They wish the Legislature to limit their number and their demands. Short sighted mortals! They seem not to consider that lawyers

grow out of their own follies, and that the only radical remedy for the evil is, to contract no more debts than they can pay, with strict punctuality.

The number of professional men in a State should be as few as possible; for they do not increase the property of the State, but liv on the property acquired by others.

There is little danger that the number of clergymen will be too great. In a few instances, religious parties may have multiplied their teachers to too great a number, and perhaps in some parts of the country, a few more ministers of the gospel would be very useful.

Physicians will multiply in proportion to the luxuries and idleness of men. They cannot be limited by law, for people will be as intemperate and as lazy as they please.

But an artful Legislature will take away some of the causes of litigation, and thus curtail the number of lawyers. We may always determin the degree of corruption, in commercial habits, by the number of civil suits in the courts of law. The multiplication of lawyers is a proof of private embarrassments in any State; it is a convincing proof that in America these embarrassments are numberless. The evil is of such magnitude in *some* States, as to suspend the operation of law, and in *all* it produces distrust among men, renders property unsafe, and perplexes our mutual intercourse. In this situation, with popular governments, and an unbounded rage for magnificent living, perhaps the only effectual remedy for a multitude of public evils, is the restraining of credit. It might even be useful to destroy all credit on the security of law, except debts of certain descriptions, where mortgages might be given. This

would not check business, but it would oblige people to exercise a principle of honor, and to have recourse to industry, and ready payment for articles which their necessities or their fancies require. We should then be better able to determin, whether bucks and bloods, in high life, "who roll the thundering chariot o'er the ground," are sporting with their own property, or that of honest creditors.

I cannot close these remarks without observing how much this country owes to particular classes of people for the practice of the commercial virtues. To the Friends, the Germans and the Dutch, this country is indebted for that industry and provident economy, which enables them to subsist without anxiety, and to be honest and punctual, without embarrassment.

Happy would it be for this country, if these virtues were more generally practised. Paper money and foreign credit are mere temporary expedients to keep up the *appearance of wealth* and splendor; but they are miserable substitutes for solid property. The only way to become rich at home and respectable abroad, is to become industrious, and to throw off our slavish dependence on foreign manners, which obliges us to sacrifice our opinions, our taste, and our interest, to the policy and aggrandizement of other nations.

# No. VIII.

## ON PAPER MONEY.

[Published at *Baltimore*, August 9, 1785.]

Messrs. PRINTERS,

I observed a paragraph of intelligence in your Journal, of the 26th of July, respecting the circulation of paper currency in North Carolina. I am not disposed to dispute the truth of the fact, that paper currency passes in that State at par with specie; but I should be very sorry to see it drawn into a precedent for other States.

*The scarcity of cash* is a general complaint, and superficial observers impute the evil to a wrong cause, while shallow reasoners would remedy it by an emission of paper credit.

The real state of our commerce is this; since the ratification of peace, the quantity of goods imported into the United States has been much greater than what was necessary for the consumption of the inhabitants. Perhaps I shall not be wide of the truth, when I suppose that one third of the importations would supply the demands of people. The consequence is, the other two thirds continue on hand as a superfluity. The merchant finds no market for his goods, and erroneously imputes the evil to a scarcity of cash. But the real truth is, people do not want his goods; they purchase what they want, and find cash or produce to make payment; but the surplus remains in store.

In every trading nation, there ought to be a due proportion between the commercial interest, the agricultural and the manufacturing. Whenever the

farmers and manufacturers are too numerous for the merchants, produce and manufactures will be plentiful and cheap; trade will of course be lucrativ. Whenever the merchants are too numerous for the laborers, the importations of the former will exceed the wants of the latter; of course goods will not find vent; and the merchant who owes nothing may lie and sleep in indolence, while the merchant who deals on credit *must fail*. The experience of almost every day proves the *truth of this reasoning*. I will suppose that the number of merchants, and the quantity of goods in Baltimore, are double to what they were two years ago; and the market for goods is nearly the same. The effect will be, that the same profit of business will be divided among double the number of men, while, at the same time, rents and the price of provision in market will be double. The clear profit of the merchant will therefore be reduced to one fourth part of what it was two years ago. I submit to the inhabitants of this *flourishing* town, whether this is a mere supposition, or a moderate state of facts; and whether this reasoning will not, in a greater or less degree, apply to every commercial town in the United States.

But is not money scarce? With respect to the quantity of goods in store, *money is very scarce*: With respect to the produce of the country, there is *money enough*. Almost every article of home produce will command cash; but the merchant cannot get cash for his goods. Money is the representativ of goods bought and sold. I will suppose, for the sake of argument, that two years ago there was cash enough in the country to purchase all the goods in market at the usual advance. I will suppose that the quantity of goods has been trebled since that time. In this case, had the quantity of money continued the same, there would

have been cash enough to purchase just one third of the goods. But suppose what is true, that at the time the quantity of goods increases in this proportion, the quantity of money in circulation diminishes in the same proportion. In this case there will be but one third of the cash to purchase three times the goods. Thus but one sixth part of the goods can be purchased by the circulating cash. The merchant must then lower the price of his goods to one sixth of their value, or keep them on hand. This reasoning, however mathematical, is just, and applies to all commercial countries. It is a fair state of facts in America. But though the quantity of money is greatly diminished, yet there is sufficient to represent the produce of the country, which in quantity continues the same. The price is however lowered by the diminution of the quantity of circulating cash.

Whether the quantity of cash is diminished, and the quantity of goods increased in the exact proportion above stated, is not material, the foregoing reasoning being sufficient to illustrate the principle. The probability is, that the disproportion between the goods in market and the cash in circulation, is greater than I have supposed.

The following propositions, I venture to assert, are generally, if not universally, true:

1. That the imports of a country should never exceed its exports. In other words, the value of the goods imported should never exceed the value of the superfluous produce, or that part of the produce which the inhabitants do not want for their own consumption.

2. That too great a quantity of cash in circulation, is a much greater evil than too small a quantity.

3. That too much money in a commercial country will inevitably produce a scarcity.

4. That the wealth of a country does not consist in cash, but in the produce of industry, viz. in agriculture and manufactures.

5. That in a commercial country, where people are industrious, there can never be, for any long time, a want of cash sufficient for a medium.

The first proposition is universally acknowleged to be true.

The second is less obvious, but equally true. Too much money raises the price of labor and of its effects; deprives us consequently of a foreign market; produces indolence and dissipation; than which greater evils cannot happen to a State. The sudden increase of money, by large emissions of paper credit, at the beginning of the late war, produced more luxury, indolence, corruption of morals, and other fatal effects, than all other causes that ever took place in America. We feel these evils to this moment. On the other hand, a scarcity of cash, tho it cramps commerce for a moment, always checks the evils before mentioned, lowers the price of labor, and produce will of course find a profitable market; it produces economy and industry, and consequently preserves the morals of the people; for industry goes further in preserving purity of morals, than all the sermons that were ever preached.

This leads to an illustration of the third proposition. If too much money in a country raises the price of labor and of produce, the consequence is, that people will go abroad for articles, because they are cheaper in foreign markets, and they will purchase as long as they can get cash. Importations will be multiplied till

the country is drained of cash, and then business will return to a new channel. The history of trade in America, the last two years, is an illustration of this proposition.

The fourth proposition, also, is illustrated by facts. I will suppose that ten millions of dollars are sufficient for a medium in America: Let that sum be instantaneously augmented to twenty millions, and the country is not a farthing richer, for the price of goods will be immediately doubled. *Two* dollars, in the latter case, purchase no more than *one* in the former. People ignorantly suppose that goods rise in value; when the fact is, money falls in value. Continental currency was a proof of this. There was cash enough for a medium in the country before the war; and the addition of two hundred millions of dollars did not increase the wealth of the country one farthing; nor would the whole purchase more than the ten millions of specie which circulated before the war. Had the paper all been Spanish milled dollars, the effect would have been the same, had they continued in the country, and not been hoarded.

The fifth proposition depends on this simple fact, that money is a fluid in the commercial world, rolling from hand to hand wherever it is wanted, and there is any thing to purchase it. Let the produce of a country excel, in the least degree, the consumption, and it will never want money.

Admitting the foregoing observations to be true, both the necessity and policy of emitting paper, vanish at once. Supposing paper currency to preserve its credit, still so far from increasing the medium of trade, that in a few months it will drive all the specie from the country. Bank notes and bills of exchange

are useful in facilitating a change or conveyance of property; but to issue paper credit, merely with a view to increase the circulating medium, in a country where the people may have just as much gold and silver as they are pleased to work for, is the height of folly. If people are indolent, or extravagant, all the paper currency under heaven will not make them rich, or supply their wants of cash. If people are industrious and frugal, and purchase no more foreign goods than they can pay for in superfluous produce, they will ever have cash enough. Their whole system of commerce stands on these single facts.

If the merchants bring more goods than people want, business *must be dull*; money with them *must be scarce*. At the close of the war, cash was plentiful and goods scarce. This made business lively, till people had procured a supply. Remittances were made in cash, so long as it could be obtained. That period is past, and the merchant must now look for remittances where alone they ought ever to be found, in the produce of the country. Business is just now returning into its proper channel, from which it had been diverted by the violence of war, and the fluctuations of paper credit. The rapid population of a country is an agreeable circumstance; but every profession ought to increase in a due proportion. Supposing ten thousand carpenters were to land in Baltimore at once, would they have business? Or would they not exclaim, *business is dull*, *money is scarce*? Every one might have a trifle of business, but they could not *all make fortunes*.

An event similar to this has taken place in Baltimore. The reputation for business which Baltimore had acquired just at the close of the war, brought merchants here from every part of the world, and

almost one half of the town has been built within two years. How, in the name of common sense, do the merchants expect to find business? The people who come to this market, multiply gradually, and double in about thirty years. But the merchants who supply the goods have doubled, if not trebled, in numbers and stock, within three years. There is, however, an expedient which will yet enable them all to liv by trade. Let every merchant send abroad to Ireland or Germany, and bring over his hundred able industrious farmers, and fix them on the fertile lands of Maryland, which now lie useless and uncultivated in the hands of the Nabobs: Or let three fourths of the traders quit the business. Either of these expedients will make cash plentiful; and one of them must take place.

I will just make one further remark; the want of a proper *union* among the States, will always render our commerce fluctuating and unprofitable. We may do as much business as we please; but if the duties and restrictions on our trade remain, and the flag of the United States is insulted as it has been, and each State is laying duties on the trade of its neighbor, our commerce cannot be reduced to a system, and our profits must be uncertain. The want of a *Continental Power* to guard the honor of the whole body, and reduce our measures to one uniform system, is the great source of endless calamities. We shall feel national abuse, till Congress are vested with powers sufficient to *govern* and *protect* us; and till that period, foreigners, like so many harpies, will prey upon our commerce, and disappoint the exertions of our industry.

# NO. IX.

## *On* REDRESS *of* GRIEVANCES.

NEWBURY PORT, 1786.

By some resolves of the discontented people of this State, (Massachusetts) it appears that the true cause of public grievances is mistaken, and consequently the mode of redress will be mistaken. It is laughable enough to hear the people gravely resolving, that the sitting of the general court at Boston is a grievance, when every body may recollect that about twelve years ago, the removal of the Legislature to Cambridge, was a grievance; an unconstitutional stretch of power, that threw the province into a bustle. A great change, since Hutchinson's time! Boston then was the only proper seat of the Legislature.

Lawyers, too, are squeezed into the catalogue of grievances. Why, sir, lawyers are a consequence; not a cause of public evils. They grow out of the laziness, dilatoriness in payment of debts, breaches of contract, and other vices of the people; just as mushrooms grow out of dunghills after a shower, or as distilleries spring out of the *taste* for New England rum. The sober, industrious, frugal Dutch, in New York, and the Quakers and Germans in Pensylvania, have no occasion for lawyers; a collector never calls upon them twice, and they feel no grievances. Before the war, there was, in Orange county, New York, but one action of debt tried in eighteen years. O happy people! happy times! no grievances.

Mr. Printer, I saw a man the other day, carrying a bushel or two of flaxseed. Flaxseed is a cash article, and cash pays taxes. The man wanted cash to pay his

taxes; he *must* have cash; but, Mr. Printer, half an hour afterwards, I saw him half drunk, and his saddle bags filled with coffee. But, sir, coffee pays no taxes.

Another, a few days ago, brought a lamb to market. Lambs command cash, and cash pays taxes; but the good countryman went to a store, and bought a feather; five shillings for a feather, Mr. Printer, and feathers pay no taxes. Is it not a *grievance*, sir, that feathers and ribbands, and coffee and new rum, will not pay taxes?

Now, Mr. Printer, in my humble opinion, there are but two effectual methods of redressing grievances; one depends on the people as individuals, and the other on the Supreme Executiv authority.

As to the first, let every person, whether farmer, mechanic, lawyer, or doctor, provide a small box, (*a small box* will be big enough) with a hole in the lid. When he receives a shilling, let him put six pence into the box, and use the other six pence in providing for his family; not rum or feathers, but good bread and meat. Let this box remain untouched, until the collector shall call. Then let it be opened, the tax paid, and the overplus of cash may be expended on gauze, ribbands, tea, and New England rum. Let the box then be put into its place again, to receive pence for the next collector. This method, Mr. Printer, will redress all grievances, without the trouble, noise and expense of town meetings, conventions and mobs.

As to the other method, sir, I can only say, were I at the head of the Executiv authority, I should soon put the question to a decisiv issue. It should be determined, on the first insurrection, whether our lives and our properties shall be secure under the law and the constitution of the State, or whether they

must depend on the mad resolves of illegal meetings. Honest men then would know whether they may rest in safety at home, or whether they must seek for tranquillity in some distant country.

# No. X.

## *The* DEVIL *is in you.*[39]

PROVIDENCE, 1786.

That the political body, like the animal, is liable to violent diseases, which, for a time, baffle the healing art, is a truth which we all acknowlege, and which most of us lament. But as most of the disorders, incident to the human frame, are the consequence of an intemperate indulgence of its appetites, or of neglecting the most obvious means of safety; so most of the popular tumults, which disturb government, arise from an abuse of its blessings, or an inattention to its principles. A man of a robust constitution, relying on its strength, riots in gratifications which weaken the *stamina vitæ*; the surfeiting pleasures of a few years destroy the power of enjoyment; and the full fed voloptuary feels a rapid transition to the meagre valetudinarian. Thus people who enjoy an uncommon share of political privileges, often carry their freedom to licentiousness, and put it out of their power to enjoy society by destroying its support.

*Too much health* is a *disease*, which often requires a very strict regimen; *too much liberty* is the worst of *tyranny*; and *wealth* may be accumulated to such a degree as to *impoverish* a State. If *all* men attempt to become *masters*, the *most* of them would necessarily become *slaves* in the attempt; and could *every man* on earth possess millions of joes, *every man* would be *poorer* than *any man* is now, and infinitely more wretched, because they could not procure the necessaries of life.

My countrymen, it is a common saying now, that *the devil is in you*. I question the influence of the devil, however, in these affairs. Divines and politicians agree in this, to father all evil upon the devil; but the effects ascribed to this prince of evil spirits, both in the moral and political world, I ascribe to the wickedness and ignorance of the human heart. Taking the word *Devil* in this sense, he is *in* you, and *among* you, in a variety of shapes.

In the first place, the *weakness of our federal government is the devil*. It prevents the adoption of any measures that are requisit for us, as a nation; it keeps us from paying our honest debts; it also throws out of our power all the profits of commerce, and this drains us of cash. Is not this the devil? Yes, my countrymen, an empty purse is the *devil*.

You say you are jealous of your rights, and dare not trust Congress. Well, that jealousy is an evil spirit, and all evil spirits are *devils*. So far the devil is in you. You act, in this particular, just like the crew of a ship, who would not trust the helm with *one* of their number, because he might *possibly* run her ashore, when by leaving her without a pilot, they were *certain* of shipwreck. You act just like men, who in raising a building, would not have a master workman, because he *might* give out wrong orders. You will be masters yourselves; and as you are not all ready to lift at the same time, one labors at a stick of timber, then another, then a third; you are then vexed that it is not raised; why let a master order thirteen of you to take hold together, and you will lift it at once. Every family has a *master* (or a *mistress* —I beg the ladies' pardon.) When a ship or a house is to be built, there is a master; when highways are repairing, there is a master; every little school has a

master; the continent is a great school; the boys are numerous, and full of roguish tricks, and there is no *master*. The boys in this great school play truant, and there is no person to chastise them. Do you think, my countrymen, that America is more easily governed than a school? You do very well in small matters; extend your reason to great ones. Would you not laugh at a farmer who would fasten a cable to a plough, and yet attempt to draw a house with a cobweb? "And Nathan said unto David, *thou art the man*." You think a master necessary to govern a *few* harmless children in a school or family; yet leave thousands of great rogues to be governed by *good advice*. Believe me, my friends, for I am *serious*; you *lose rights*, because you will not giv your magistrates authority to *protect them*. Your liberty is despotism, because it has no control; your power is nothing, because it is not united.

But further, luxury rages among you, and luxury is *the devil*. The war has sent this evil demon to impoverish people, and embarrass the public. The articles of rum and tea alone, which are drank in this country, would pay all its taxes. But when we add, sugar, coffee, feathers, and the whole list of baubles and trinkets, what an enormous expense? No wonder you want paper currency. My countrymen are all grown very tasty! Feathers and jordans must all be imported! Certainly gentlemen, the devil is among you. A Hampshire man, who drinks forty shillings worth of rum in a year, and never thinks of the expense, will raise a mob to reduce the governor's salary, which does not amount to three pence a man per annum. Is not this the devil?

My countrymen—A writer appeared, not long ago, informing you how to redress grievances.[40] He givs

excellent advice. Let every man make a little box, and put into it *four pence* every day. This in a year will amount to six pounds one shilling and eight pence, a sum more than sufficient to pay any poor man's tax. Any man can pay three or four pence a day, though no poor man can, at the end of a year, pay six pounds. Take my advice, every man of you, and you will hardly feel your taxes.

But further, a *tender law* is the *devil*. When I trust a man a sum of money, I expect he will return the full value. That Legislature which says my debtor may pay me with *one third* of the value he received, commits a deliberate act of villany; an act for which an *individual*, in any government, would be honored with a whipping post, and in most governments, with a gallows. When a man makes dollars, one third of which only is silver, and passes them for good coin, he must lose his ears, &c.

But Legislatures can, with the solemn face of rulers, and guardians of justice, boldly give currency to an *adulterated coin*, enjoin it upon debtors to cheat their creditors, and enforce their systematic knavery with legal penalties. The differences between the man who makes and passes counterfeit money, and the man who tenders his creditor one third of the value of the debt, and demands a discharge, is the same as between a thief and a robber. The first cheats his neighbor in the dark, and takes his property without his knowlege: The last boldly meets him at noon day, tells him he is a rascal, and demands his purse.

My countrymen, the devil is among you. Make *paper* as much as you please; make it a tender in all *future contracts*, or let it rest on its own bottom: But remember that past contracts are *sacred things*; that Legislatures have no right to interfere with them;

they have no right to say, a debt shall be paid at a discount, or in any manner which the parties never intended. It is the business of justice to fulfil the intention of parties in contracts, not to defeat them. To pay *bona fide* contracts for cash, in paper of little value, or in old horses, would be a dishonest attempt in an individual; but for Legislatures to frame laws to support and encourage such detestable villany, is like a judge who should inscribe the arms of a rogue over the feat of justice, or clergymen who should convert into bawdy-houses the temples of Jehovah. My countrymen, the world says, the devil is in you: Mankind detest you as they would a nest of robbers.

But lastly, mobs and conventions are devils. Good men love law and legal measures. Knaves only fear law, and try to destroy it. My countrymen, if a constitutional Legislature cannot redress a grievance, a mob never can. Laws are the security of life and property; nay, what is more, of liberty. The man who encourages a mob to prevent the operation of law, ceases to be *free or safe*; for the same principle which leads a man to put a bayonet to the breast of a judge, will lead him to take property where he can find it; and when the judge dare not act, where is the loser's remedy? Alas, my friends, too much liberty is no liberty at all. Giv me any thing but mobs; for mobs are the devil in his worst shape. I would shoot the leader of a mob, sooner than a midnight ruffian. People may have grievances, perhaps, and no man would more readily hold up his hand to redress them than myself; but mobs rebel against laws of their own, and rebellion is a crime which admits of no palliation.

My countrymen, I am a private, peaceable man. I have nothing to win or to lose by the game of paper

currency; but *I revere justice*. I would sooner pick oakum all my life, than stain my reputation, or pay my creditor one farthing less than his honest demands.

While you attempt to trade to advantage, without a *head* to combine all the States into systematic, uniform measures, the world will laugh at you for fools. While merchants take and giv credit, the world will call them idiots, and laugh at their ruin. While farmers get credit, borrow money, and mortgage their farms, the world will call them fools, and laugh at their embarrassments. While all men liv beyond their income, and are harrassed with duns and sheriffs, no man will pity them, or giv them relief. But when mobs and conventions oppose the courts of justice, and Legislatures make paper or old horses a legal tender in all cases, the world will exclaim with one voice—*Ye are rogues, and the devil is in you!*

# No. XI.

NEW LONDON, OCTOBER, 1786.

## DESULTORY THOUGHTS.

No government has preserved more general and uninterrupted tranquillity for a long period, than that of Connecticut. This is a strong proof of the force of habit, and the danger that ever attends great alterations of government or a suspension of law. Every system of civil policy must take its complexion from the spirit and manners of the people.

Whatever political constitutions may be formed on paper, or in the philosopher's closet, those only can be permanent which arise out of the genius of the people.

A jealous uneasy temper has sometimes appeared, among the people of this State; but as this has always proceeded from restless, ambitious men, whose designs have been reprobated as soon as detected, this uneasiness has always subsided without any violence to the Constitution. We do not advert to the time when the course of law has been forcibly obstructed in Connecticut.

In the middle and southern States the corrupt English mode of elections has been adopted: We see men meanly stoop to advertise for an office, or beg the votes of their countrymen. In those States elections are often mere riots; almost always attended with disputes and bloody noses, and sometimes with greater violence. In Connecticut, a man never advertises for an office, nor do we know that a man ever solicited a vote for himself. We cannot name the

election that produced a dispute, even in words.

It belongs to the unprincipled of other States and countries to deride religion and its preachers. It belongs to the coxcombs of courts, the productions of dancing schools and playhouses, to ridicule our bashful deportment and simplicity of manners. We revere the ancient institutions of schools and churches in this State. We revere the discipline which has given such a mild complexion to the manners of its inhabitants, and secured private satisfaction and public tranquillity.

*Paper money* is the present hobby horse of the States, and every State has more or less of the *paper madness*. What a pity it is mankind will not discern their right hands from their left. *Cash is scarce*, is the general cry. Well, this proves nothing more than that the balance of trade is against us, and that we eat, drink, and wear more foreign commodities than we can pay for in produce: That is, we spend more than we earn; or in other words, *we are poor*.

But nothing shows the folly of people more, than their attempts to remedy the evil by a *paper currency*. This is *ignorance*, it is *absurdity* in the extreme. Do not people know that the addition of millions and millions of money does not increase the value of a circulating medium one farthing. Do they not know that the value of a medium ought not to be increased beyond a certain ratio, even if it could be? and that to increase the circulating cash of one State beyond the circulating cash of other States, is a material injury to it. These propositions are as demonstrable as any problem in Euclid. Ten millions of dollars in specie were supposed to be the medium in America before the war. Congress issued at first five millions in bills. As these came *into* circulation, specie went

*out*; consequently they held their nominal and real value on par, for the nominal value of the medium was not much increased. Congress sent out another sum in bills; the nominal value of the medium was doubled, the bills sunk one half, and the real value of the medium remained the same. This was the subsequent progress; every emission sunk the real value of bills, and two hundred millions of dollars were, in the end, worth just ten millions in specie, and no more. Towards the close of the war, the specie in America was more than doubled; it sunk to less than half its former value, and the paper bills sunk in the same proportion; from forty to eighty for one, nearly. We had too much specie in the country, in the years 1782 and 1783; it ruined hundreds of merchants, and injured the community.

But it is said, we want a circulating medium. This is not true; we have too much in circulation. The specie and paper now circulating in America, amounts to fifty or sixty millions of dollars; whereas we want not more than ten or fifteen millions. The paper is therefore sunk in real value, so as to reduce the real value of the whole medium to that sum which is wanted. We may make millions of paper if we please; but we shall not add one farthing to the property of the State. Money is not wealth in a State, but the representativ of wealth. A paper currency may answer a temporary purpose of enabling people to pay debts; but it is not an advantage even to the debtor, unless it is depreciated; and in this case it is an injury to the creditor. If the paper retains its value, the debtor must sooner or later purchase it with the produce of his labor; and if it depreciates, it is the tool of knaves while it circulates; it ruins thousands of honest unsuspecting people; it gives the game to the idle speculator, who is a nuisance to the

State; it stabs public credit and private confidence; and what is worse than all, it unhinges the obligations which unite mankind. A fluctuation of medium in a State makes more fatal ravages among the morals of people, than a pestilence among their lives. O America! happy would it have been for thy peace, thy morals, thy industry, if, instead of a depreciation of paper bills and securities, stamped with public faith, millions of infernal spirits had been let loose among thy inhabitants! Never, never wilt thou experience the return of industry, economy, private confidence and public content, till every species of depreciated and fluctuating medium shall be annihilated; till Legislatures learn to revere justice, and dread a breach of faith more than the vengeance of vindictiv heaven!

Americans! you talk of a scarcity of cash. Well, the only remedy is, to enable Congress to place our commerce on a footing with the trade of other nations. Foreign States have nothing to do with Massachusetts or New York. They must make treaties with *United America*, or not make them at all. And while we boast of the independence of particular States, we lose all the benefits of independence. For fear that Congress would abuse their powers and enrich themselves, we, like the dog in the manger, will not even enrich ourselves. We complain of poverty, and yet *giv* the profits of our trade to foreign nations. Infatuated men! We have one truth to learn —*That nothing but the absolute power of regulating our commerce, vested in some federal head*, can ever restore to us cash, or turn the balance of trade in our favor. New York alone, by its advantageous situation, is growing rich upon the spoils of her neighbors, and impoverishing the continent to fill her own treasury.

Lawyers, you say, O deluded Americans! are an evil. Will you always be fools? Why lawyers are as good men as others: I venture to say further, that lawyers in this country have devised and brought about the wisest public measures that any State has adopted. My countrymen, the expense of supporting a hundred lawyers is a very great and a very needless expense. You pay to lawyers and courts every year thirty or forty thousand pounds. A great expense, indeed! But courts and lawyers are not to be blamed. The people are the cause of the evil, and they alone, as individuals, are able to remedy it. And yet the remedy is very simple. *Cease to run in debt*, or *pay your debts punctually*; then lawyers will cease to exist, and court houses will be shut. If you wish or expect any other remedy than this, you certainly will be disappointed. A man, who purposely rushes down a precipice and breaks his arm, has no right to say, that surgeons are an evil in society. A Legislature may unjustly limit the surgeon's fee; but the broken arm must be healed, and a surgeon is the only man to do it.

My friends, learn wisdom. You are peaceable yet, and let the distractions of your neighbors teach you to preserve your tranquillity.

Spend less money than you earn, and you will every day grow richer. Never run in debt, and lawyers will become farmers. Never make paper money, and you will not cheat your citizens, nor have it to redeem. Above all, pay your public debts, for independence and the confederation require it.

# No. XII.

NEW HAVEN, DECEMBER, 1786.

## ADVICE *to* CONNECTICUT FOLKS.

MY FRIENDS,

Times are hard; money is scarce; taxes are high, and private debts push us. What shall we do? Why, hear a few facts, stubborn facts, and then take a bit of advice.

In the year 1637, our good forefathers declared an offensiv war against the Pequot Indians. Their troops were ninety men. Weathersfield was ordered to furnish a hog for this army, Windsor a ram goat, and Hartford a hogshead of beer, and four or five gallons of strong water.[41]

This was ancient simplicity! Let us make a little estimation of the expenses annually incurred in Connecticut. (I say incurred, for we can contract debts, though we cannot pay them.)

I will just make a distinction between necessary and unnecessary expenses.

| | | Necessary. | Unnecessary. |
|---|---|---|---|
| | £. | £. | £. |
| Governor's Salary, | 300 | 300 | |
| Lieutenant governor's, | 100 | 100 | |

| | | | |
|---|---|---|---|
| Upper house, attendance and travel, 60 days a year, at 10l. a day, | 600 | 600 | |
| Lower house, attendance and travel, 170 members, at 6s. a day, 60 days, | 3,060 | 1,530 | 1,530 |
| Five judges of the Superior Court, at 24s. a day, suppose 150 days, | 900 | 900 | |
| Forty judges of Inferior Courts, at 9s. a day, suppose 40 days, | 720 | 720 | |
| Six thousand actions in the year, the legal expense of each, suppose 3l. | 18,000 | 1,000 | 17,000 |
| Gratuities to 120 lawyers, suppose 50l. each, | 6,000 | 1,000 | 5,000 |

| | | | |
|---|---|---|---|
| Two hundred clergymen, at 100l. each, | 20,000 | 20,000 | |
| Five hundred schools, at 20l. a year, | 10,000 | 10,000 | |
| Support of poor, | 10,000 | 10,000 | |
| Bridges and other town expenses, | 10,000 | 10,000 | |
| Contingencies and articles not enumerated, | 10,000 | 10,000 | |
| | £.89,680 | £.66,150 | £.23,530 |

Now comes RUM, my friends.

| | £. |
|---|---|
| 400,000 gallons of rum, at 4s. a gallon, | 80,000 |
| Allow for rum drank, on which excise is not paid, 50,000 gallons, at 4s. | 10,000 |
| | £.90,000 |

Ninety nine hundredths unnecessary.

This is a fact: Deny it if you can, good folks. Now, say not a word about taxes, judges, lawyers, courts, and women's extravagance. Your government, your courts, your lawyers, your clergymen, your schools, and your poor, do not all cost you so much as one paltry article, which does you little or no good, but is as destructiv of your lives as fire and brimstone.

But let us proceed.

| | £. |
|---|---|
| A million of pounds of sugar, estimated by the returns of excise masters, at 8d. | 33,333 |
| (This is double the quantity we want; but as it is pernicious neither to health nor morals, I let it pass.) | |
| 200,000lb. of tea, at 3s. 6d. | 35,000 |
| 2,000 ditto hyson, at 14s. | 1,400 |
| (Most of these unnecessary.) | |
| Coffee, molasses, spices, &c. | 10,000 |
| Dry goods, | 250,000 |
| | £.329,733 |

The whole settlement will stand thus:

| | £. |
|---|---|
| Necessary expenses, | 66,150 |
| Unnecessary, ditto, | 23,530 |
| Rum, and other distilled spirits, | 90,000 |
| Other foreign articles, | 329,733 |
| | £.510,413 |
| Interest of the federal and State debts, | £.130,000 |

Now, good people, I have a word of advice for you. I will tell you how to pay your taxes and debts, without feeling them.

1st. Fee no lawyers.

You say lawyers have too high fees. I say they have

not. They cost me not one farthing. Do as I have always done, and lawyers' fees will be no trouble at all. If I want a new coat, or my wife wants a new gown, we have agreed to wear the old ones until we have got cash or produce to pay for them. When we buy, we pay in hand; we get things cheaper than our neighbors; merchants never dun us, and we have no lawyers' fees to pay. When we see sheriffs and duns knocking at the doors of our neighbors, we laugh at their folly. Besides, I keep a little drawer in my desk, with money enough in it to pay the next tax; and I never touch a farthing until the collector calls. Now, good folks, if you will take the same method, you will save out of lawyers' fees and court charges, on the most moderate calculations, 20,000l. a year.

2dly. I allow my family but two gallons of rum a year. This is enough for any family, and too much for most of them. I drink cyder and beer of my own manufacture; and my wife makes excellent beer, I assure you. I advise you all to do the same. I am astonished at you, good folks. Not a mechanic or a laborer goes to work for a merchant, but he carries home a bottle of rum. Not a load of wood comes to town, but a gallon bottle is tied to the cart stake to be filled with rum. Scarcely a woman comes to town with tow cloth, but she has a wooden gallon bottle in one side of her saddle bags, to fill with rum. A stranger would think you to be a nation of Indians by your thirst for this paltry liquor. Take a bit of advice from a good friend of yours. Get two gallons of rum in a year; have two or three frolics of innocent mirth; keep a little spirit for a medicine, and let your common drink be the produce or manufacture of this country. This will make a saving of almost 400,000 gallons of rum, or 80,000l. a year.

3dly. Never buy any useless clothing.

Keep a good suit for Sundays and other public days; but let your common wearing apparel be good substantial cloths, and linens of your own manufacture. Let your wives and daughters lay aside their plumes. Feathers and fripperies suit the Cherokees or the wench in your kitchen; but they little become the fair daughters of America.[42] Out of the dry goods imported, you may save 50,000l. a year.

These savings amount to 150,000l. a year. This is more than enough to pay the interest of all our public debts.

My countrymen, I am not trifling with you: I am serious. You feel the facts I state; you know you are poor, and ought to know, the fault is all your own. Are you not satisfied with the food and drink which this country affords? The beef, the pork, the wheat, the corn, the butter, the cheese, the cyder, the beer, those luxuries which are heaped in profusion upon your tables? If not, you must expect to be poor. In vain do you wish for mines of gold and silver. A mine would be the greatest curse that could befal this country. There is gold and silver enough in the world, and if you have not enough of it, it is because you consume all you earn in useless food and drink. In vain do you wish to increase the quantity of cash by a mint, or by paper emissions. Should it rain millions of joes into your chimnies, on your present system of expenses, you would still have no money. It would leave the country in streams. Trifle not with serious subjects, nor spend your breath in empty wishes. Reform; economize. This is the whole of your political duty. You may reason, speculate, complain, raise mobs, spend life in railing at Congress and your

rulers; but unless you import less than you export, unless you spend less than you earn, you will eternally be poor.

# No. XIII.

NEW YORK, DECEMBER, 1787.

## *To the* DISSENTING MEMBERS *of the late* CONVENTION *of* PENNSYLVANIA.

GENTLEMEN,

Your long and elaborate publication, assigning the reasons for your refusing to subscribe the ratification of the *new Federal Constitution*, has made its appearance in the public papers, and, I flatter myself, will be read throughout the United States. It will feed the flame of opposition among the weak, the wicked, the designing, and the factious; but it will make many new converts to the proposed government, and furnish the old friends of it with new weapons of defence. The very attempt to excite uneasiness and disturbance in a State, about a measure legally and constitutionally adopted, after a long and ample discussion in a convention of the people's delegates, will create suspicions of the goodness of your cause. My address to you will not be so lengthy as your publication; your arguments are *few*, altho your harangue is *long* and *insidious*.

You begin with telling the world, that *no defect was discovered in the present confederation, till after the war*. Why did you not publish the truth? You know, gentlemen, that during six years of the war, we had *no confederation at all*. You know that the war commenced in April, 1775, and that we had *no confederation* till March, 1781. You know (for some of you are men of abilities and reading) or ought to know, a principle of *fear*, in time of war, operates more powerfully in binding together the States which have a common interest, than all the parchment

compacts on earth. Could we, then, discover the defects of our present confederation, with *two years'* experience only, and an enemy in our country? You know we could not.

I will not undertake to detect the falsehood of every assertion, or the fallacy of all your reasoning on each article. In the most of them the public will anticipate any thing I could say, and confute your arguments as fast as they read them. But, gentlemen, your reasoning against the *new Constitution* resembles that of Mr. Hume on miracles. You begin with some *gratis dicta*, which are denied; you assume *premises* which are *totally false*, and then reason on them with great address. Your whole reasoning, and that of all the opposers of the federal government, is built on this *false principle*, that the *federal Legislature* will be a body *distinct from* and *independent of* the people. Unless your opposition is grounded on *that principle*, it stands on *nothing*; and on any *other* supposition, your arguments are but *declamatory nonsense*.

But the principle is false. The Congress, under the proposed constitution, will have the *same interest* as the people; they are *a part* of the people; their interest is *inseparable* from that of the people; and this union of interest will eternally remain, while the right of election shall continue in the people. Over this right Congress will have no control: The time and manner of exercising that right are very wisely vested in Congress; otherwise a delinquent State might embarrass the measures of the Union. The safety of the public requires that the federal body should prevent any particular delinquency; but the *right of election* is above their control; it *must* remain in the people, and be exercised once in two, four or six years. A body thus organized, with thirteen

Legislatures watching their measures, and several millions of jealous eyes inspecting their conduct, would not be apt to betray their constituents. Yet this is not the best ground of safety. The first and almost only principle that governs men, is *interest*. *Love of our country* is a powerful auxiliary motiv to patriotic actions; but rarely or never operates against *private interest*. The only requisit to secure liberty, is to connect the *interest* of the *governors* with that of the *governed*. Blend these interests; make them inseparable, and both are safe from voluntary invasion. How shall this union be formed? This question is answered. The union is formed by the equal principles on which the people of these States hold their property and their rights. But how shall this union of interests be perpetuated? The answer is easy; bar all perpetuities of estates; prevent any exclusiv rights; preserve all preferment dependent on the choice of the people; suffer no power to exist independent of the people or their representativs. While there exists no power in a State, which is independent of the will of the electors, the rights of the people are secure. The only barrier against tyranny, that is necessary in any State, is *the election of legislators* by the yeomanry of that State. Preserve *that*, and every privilege is safe. The legislators thus chosen to represent the people, should have all the power that the people would have, were they assembled in one body to deliberate upon public measures. The distinction between the powers of the *people* and of their *representativs* in the Legislature, is as absurd in *theory*, as it proves pernicious in *practice*. A distinction, which has already countenanced and supported *one rebellion* in America; has prevented many *good* measures; has produced many *bad*; has created animosities in many States, and

embarrassments in all.[43] It has taught the people a lesson, which, if they continue to practise, will bring laws into contempt, and frequently mark our country with blood.

You object, gentlemen, to the powers vested in Congress. Permit me, to ask you, where will you limit their powers? What bounds will you prescribe? You will reply—*we will reserve certain rights, which we deem invaluable, and restrain our rulers from abridging them*. But, gentlemen, let me ask you, how will you define these rights? would you say, *the liberty of the press shall not be restrained*? Well, what is this liberty of the press? Is it an unlimited licence to publish *any thing and every thing* with impunity? If so, the author and printer of any treatise, however obscene and blasphemous, will be screened from punishment. You know, gentlemen, that there are books extant, so shockingly and infamously obscene and so daringly blasphemous, that no society on earth would be vindicable in suffering the publishers to pass unpunished. You certainly know that such cases *have* happened, and *may* happen again: Nay, you know that they are *probable*. Would not that indefinite expression, *the liberty of the press*, extend to the justification of every *possible publication*? Yes, gentlemen, you know, that under such a general license, a man who should publish a treatise to *prove his Maker a knave*, must be screened from legal punishment. I shudder at the thought! But the truth must not be concealed. The constitutions of several States *guarantee that very license*.

But if you attempt to define the *liberty of the press*, and ascertain what cases shall fall within that privilege, during the course of centuries, where will you *begin*? Or rather, where will you *end*? Here,

gentlemen, you will be puzzled. Some publications certainly *may* be a breach of civil law: You will not have the effrontery to deny a truth so obvious and intuitivly evident. Admit that principle; and unless you can define precisely the cases, which are, and are not a breach of law, you have no right to say, the liberty of the press shall not be restrained; for such a license would warrant *any breach of law*. Rather than hazard such an abuse of privilege, is it not better to leave the right altogether with your rulers and your posterity? No attempts have ever been made by a legislativ body in America, to abridge that privilege; and in this free enlightened country, no attempts could succeed, unless the public should be convinced that an abuse of it would warrant the restriction. Should this ever be the case, you have no right to say, that a future Legislature, or that posterity shall not abridge the privilege, or punish its abuses.

But you say, that trial by jury is an unalienable right, that ought not to be trusted with our rulers. Why not? If it is such a darling privilege, will not Congress be as fond of it, as their constituents? An elevation into that council, does not render a man insensible to his privileges, nor place him beyond the necessity of securing them. A member of Congress is liable to all the operations of law, except during his attendance on public business; and should he consent to a law, annihilating any right whatever, he deprives himself, his family and estate, of the benefit resulting from that right, as well as his constituents. This circumstance alone, is a sufficient security.

But, why this outcry about juries? If the people esteem them so highly, why do they ever neglect them, and suffer the trial by them to go into disuse? In some States, *Courts of Admiralty* have no juries,

nor Courts of Chancery at all. In the City Courts of some States, juries are rarely or never called, altho the parties may demand them; and one State, at least, has lately passed an act, empowering the parties to submit both *law* and *fact* to the court. It is found, that the judgment of a court gives as much satisfaction, as the verdict of a jury; for the court are as good judges of fact, as juries, and much better judges of law. I have no desire to abolish trials by jury, altho the original design and excellence of them, is in many cases superseded. While the people remain attached to this mode of deciding causes, I am confident, that no Congress can wrest the privilege from them.

But, gentlemen, our legal proceedings want a reform. Involved in all the mazes of perplexity, which the chicanery of lawyers could invent, in the course of five hundred years, our road to justice and redressis tedious, fatiguing and expensiv. Our judicial proceedings are capable of being simplified, and improved in almost every particular. For mercy's sake, gentlemen, do not shut the door against improvement. If the people of America, should ever spurn the shackles of opinion, and venture to leave the road, which is so overgrown with briers and thorns, as to strip a man's clothes from his back as he passes, I am certain they can devise a more easy, safe, and expeditious mode of administering the laws, than that which harasses every poor mortal, that is wretched enough to want *legal* justice. In States where very respectable merchants, have repeatedly told me, they had rather lose a debt of fifty pounds, than attempt to recover it by a legal process, one would think that men, who value liberty and property, would not restrain any government from suggesting a remedy for such disorders.

Another right, which you would place beyond the reach of Congress, is the writ of *habeas corpus*. Will you say that this right may not be suspended in *any* case? You dare not. If it may be suspended in any case, and the Congress are to judge of the necessity, what security have you in a declaration in its favor? You had much better say nothing upon the subject.

But you are frightened at a standing army. I beg you, gentlemen, to define a *standing army*. If you would refuse to giv Congress power to raise troops, to guard our frontiers, and garrison forts, or in short, to enlist men for any purpose, then we understand you; you tie the hands of your rulers, so that they cannot defend you against any invasion. This is protection, indeed! But if Congress can raise a body of troops for a year, they can raise them for a *hundred years*, and your declaration against *standing armies* can have no other effect, than to prevent Congress from denominating their troops, a *standing army*. You would only introduce into this country the English farce of mechanically passing an annual bill for the support of troops which are never disbanded.

You object to the indefinite power of taxation in Congress. You must then limit the exercise of that power by the sums of money to be raised; or leaving the sums indefinite, must prescribe the *particular mode* in which, and the *articles* on which the money is to be raised. But the sums cannot be ascertained, because the necessities of the States cannot be foreseen nor defined. It is beyond even *your* wisdom and profound knowlege, gentlemen, to ascertain the public exigencies, and reduce them to the provisions of a constitution. And if you would prescribe the mode of raising money, you will meet with equal difficulty. The different States have different modes

of taxation, and I question much whether even *your* skill, gentlemen, could invent a uniform system that would fit easy upon every State. It must therefore be left to experiment, with a power that can correct the errors of a system, and suit it to the habits of the people. And if no uniform mode will answer this purpose, it will be in the power of Congress to lay taxes in each State, according to its particular practice.

You know that requisitions on the States are ineffectual; that they cannot be rendered effectual, but by a compulsory power in Congress; that without an efficient power to raise money, government cannot secure person, property or justice; that such power is as safely lodged in your *Representativs* in Congress, as it is in your *Representativs* in your distinct Legislatures.

You would likewise restrain Congress from requiring *excessiv bail* or imposing *excessiv fines* and *unusual punishment*. But unless you can, in every possible instance, previously define the words *excessiv* and *unusual*; if you leave the discretion of Congress to define them on occasion, any restriction of their power by a general indefinit expression, is a nullity—mere *formal nonsense*. What consummate arrogance must you possess, to presume you can *now* make *better* provision for the government of these States, during the course of ages and centuries, than the future Legislatures can, on the spur of the occasion! Yet your whole reasoning on the subject implies this arrogance, and a presumption that you have a right to legislate for posterity!

But to complete the list of unalienable rights, you would insert a clause in your declaration, *that every body shall, in good weather, hunt on his own land, and*

*catch fish in rivers that are public property*. Here, gentlemen, you must have exerted the whole force of your genius! Not even the *all important* subject of *legislating for a world*, can restrain my laughter at this clause! As a supplement to that article of your bill of rights, I would suggest the following restriction: —"That Congress shall never restrain any inhabitant of America from eating and drinking, *at seasonable times*, or prevent his lying on his *left side*, in a long winter's night, or even on his back, when he is fatigued by lying on his *right*." This article is of just as much consequence as the eighth clause of your proposed bill of rights.

But to be more serious, gentlemen, you must have had in idea the forest laws in Europe, when you inserted that article; for no circumstance that ever took place in America, could have suggested the thought of a declaration in favor of hunting and fishing. Will you forever persist in error? Do you not reflect that the state of property in America, is directly the reverse of what it is in Europe? Do you not consider, that the forest laws in Europe originated in *feudal tyranny*, of which not a trace is to be found in America? Do you not know that in this country almost every farmer is lord of his own soil? That instead of suffering under the oppression of a monarch and nobles, a class of haughty masters, totally independent of the people, almost every man in America is a *lord himself*, enjoying his property in fee? Where then the necessity of laws to secure hunting and fishing? You may just as well ask for a clause, giving license for every man to till *his own land*, or milk *his own cows*. The barons in Europe procured forest laws to secure the right of hunting on *their own land*, from the intrusion of those who had no property in lands. But the distribution of land in

America, not only supersedes the necessity of any laws upon this subject, but renders them absolutely trifling. The same laws which secure the property in land, secure to the owner the right of using it as he pleases.

But you are frightened at the prospect of a *consolidation of the States*. I differ from you very widely. I am afraid, after all our attempts to unite the States, that contending interests, and the pride of State sovereignties, will either prevent our union, or render our federal government weak, slow and inefficient. The danger is all on this side. If any thing under heaven now endangers our liberties and independence, it is that single circumstance.

You harp upon that clause of the new constitution, which declares, that the laws of the United States, &c. shall be the supreme law of the land; when you know that the powers of the Congress are defined, to extend only to those matters which are in their nature and effects, *general*. You know, the Congress cannot meddle with the internal police of any State, or abridge its sovereignty. And you know, at the same time, that in all general concerns, the laws of Congress must be *supreme*, or they must be *nothing*.

# No. XIV.

PHILADELPHIA, MARCH, 1787.

## *On* TEST LAWS, OATHS *of* ALLEGIANCE *and* ABJURATION, *and* PARTIAL EXCLUSIONS *from* OFFICE.

To change the current of opinion, is a most difficult task, and the attempt is often ridiculed. For this reason, I expect the following remarks will be passed over with a slight reading, and all attention to them cease with a hum.

The revisal of the test law has at length passed by a respectable majority of the Representativs of this State. This is a prelude to wiser measures; people are just awaking from delusion. The time will come (and may the day be near!) when all test laws, oaths of allegiance, abjuration, and partial exclusions from civil offices, will be proscribed from this land of freedom.

Americans! what was the origin of these discriminations? What is their use?

They originated in savage ignorance, and they are the instruments of slavery. Emperors and generals, who wished to attach their subjects to their persons and government; who wished to exercise despotic sway over them, or prosecute villanous wars, (for mankind have always been butchering each other) found the solemnity of oaths had an excellent effect on poor superstitious soldiers and vassals; oracles, demons, eclipses; all the terrifying phenomena of nature, have at times had remarkable effects in securing the obedience of men to tyrants. Oaths of fealty, and farcical ceremonies of homage, were very

necessary to rivet the chains of feudal vassals; for the whole system of European tenures was erected on usurpation, and is supported solely by ignorance, superstition, artifice, or military force. Oaths of allegiance may possibly be still necessary in Europe, where there are so many contending powers contiguous to each other: But what is their use in America? To secure fidelity to the State, it will be answered. But where is the danger of defection? Will the inhabitants join the British in Nova Scotia or Canada? Will they rebel? Will they join the savages, and overthrow the State? No; all these are visionary dangers. My countrymen, if a State has any thing to fear from its inhabitants, the constitution or the laws must be wrong. Danger cannot possibly arise from any other cause.

Permit me to offer a few ideas to your minds; and let them be the subject of more than one hour's reflection.

An oath creates no new obligation. A witness, who swears to tell the whole truth, is under no new obligation to tell the whole truth. An oath reminds him of his duty; he swears to do as he ought to do; that is, he adds an express promise to an implied one. A moral obligation is not capable of addition or diminution.

When a man steps his foot into a State, he becomes subject to its general laws. When he joins it as a member, he is subject to all its laws. The act of entering into society, binds him to submit to its laws, and to promote its interest. Every man, who livs under a government, is under allegiance to that government. Ten thousand oaths do not increase the obligation upon him to be a faithful subject.

But, it will be asked, how shall we distinguish

between the friends and enemies of the government? I answer, by annihilating all distinctions. A good constitution, and good laws, make good subjects. I challenge the history of mankind to produce an instance of bad subjects under a good government. The test law in Pensylvania has produced more disorder, by making enemies in this State, than have cursed all the union besides. During the war, every thing gave way to force; but the feelings and principles of war ought to be forgotten in peace.

Abjuration! a badge of folly, borrowed from the dark ages of bigotry. If the government of Pensylvania is better than that of Great Britain, the subjects will prefer it, and abjuration is perfectly nugatory. If not, the subject will have his partialities in spite of any solemn renunciation of a foreign power.

But what right has even the Legislature to deprive any class of citizens of the benefits and emoluments of civil government? If any men have forfeited their lives or estates, they are no longer subjects; they ought to be banished or hung. If not, no law ought to exclude them from civil emoluments. If any have committed public crimes, they are punishable; if any have been guilty, and have not been detected, the oath, as it now stands, obliges them to confess their guilt. To take the oath, is an implicit acknowlegement of innocence; to refuse it, is an implicit confession that the person has aided and abetted the enemy. This is rank despotism. The inquisition can do no more than force confession from the accused.

I pray God to enlighten the minds of the Americans. I wish they would shake off every badge of tyranny. Americans!—The best way to make men honest, is to let them enjoy equal rights and privileges; never

suspect a set of men will be rogues, and make laws proclaiming that suspicion. Leave force to govern the wretched vassals of European nabobs, and reconcile subjects to your own constitutions by their excellent nature and beneficial effects. No man will commence enemy to a government which givs him as many privileges as his neighbors enjoy.

# No. XV.

## SKETCHES *of the* RISE, PROGRESS *and* CONSEQUENCES *of the late* REVOLUTION.

Written in the years 1787, 1788, and 1789; now republished, with material corrections, and a LETTER from the late COMMANDER in CHIEF, explaining the Circumstances and Proceedings, preparatory to the Capture of Lord CORNWALLIS.

America was originally peopled by uncivilized nations, which lived mostly by hunting and fishing. The Europeans, who first visited these shores, treating the nativs as wild beasts of the forest, which have no property in the woods where they roam, planted the standard of their respectiv masters where they first landed, and in their names claimed the country by *right of discovery*.[44] Prior to any settlement in North America numerous titles of this kind were acquired by the English, French, Spanish, and Dutch navigators, who came hither for the purposes of fishing and trading with the nativs. Slight as such titles were, they were afterwards the causes of contention between the European nations. The subjects of different princes often laid claim to the same tract of country, because both had discovered the same river or promontary; or because the extent of their respectiv claims was indeterminate.

While the settlements in this vast uncultivated country were inconsiderable and scattered, and the trade of it confined to the bartering of a few trinkets for furs, a trade carried on by a few adventurers, the interfering of claims produced no important controversy among the settlers or the nations of Europe. But in proportion to the progress of population, and the growth of the American trade,

the jealousies of the nations, which had made early discoveries and settlements on this coast, were alarmed; ancient claims were revived; and each power took measures to extend and secure its own possessions at the expense of a rival.

By the treaty of Utrecht in 1713, the English claimed a right of cutting logwood in the Bay of Campeachy, in South America. In the exercise of this right, the English merchants had frequent opportunities of carrying on a contraband trade with the Spanish settlements on the continent. To remedy this evil, the Spaniards resolved to annihilate a claim, which, though often acknowleged, had never been clearly ascertained. To effect this design, they captured the English vessels, which they found along the Spanish Main, and many of the British subjects were doomed to work in the mines of Potosi.

Repeated severities of this kind at length (1739) produced a war between England and Spain. Porto Bello was taken from the Spaniards, by Admiral Vernon. Commodore Anson, with a squadron of ships, sailed to the South Seas, distressed the Spanish settlements on the western shore of America, and took a galleon, laden with immense riches. But in 1741 a formidable armament, destined to attack Carthagena, under the command of Lord Cathcart, returned unsuccessful, with the loss of upwards of twelve thousand British soldiers and seamen; and the defeat of the expedition, raised a clamor against the minister, Sir Robert Walpole, which produced a change in the administration. This change removed the scene of war to Europe, so that America was not immediately affected by the subsequent transactions; except that Louisburgh, the principal fortress of Cape Breton, was taken from the French by General

Pepperell, assisted by Commodore Warren and a body of New England troops.

This war was ended in 1748 by the treaty of peace signed at Aix la Chapelle, by which restitution was made on both sides of all places taken during the war.

Peace, however, was of short duration. The French possessed Canada, and had made considerable settlements in Florida, claiming the country on both sides of the Missisippi, by right of discovery. To secure and extend their claims, they established a line of forts, on the English possessions, from Canada to Florida. They had secured the important pass at Niagara, and erected a fort at the junction of the Allegany and Monongahela rivers, called Fort Du Quesne. They took pains to secure the friendship and assistance of the nativs, encroachments were made upon the English possessions, and mutual injuries succeeded. The disputes among the settlers in America, and the measures taken by the French to command all the trade of the St. Lawrence river on the north, and of the Missisippi on the south, excited a jealousy in the English nation, which soon broke forth in open war.

In 1756, four expeditions were undertaken in America against the French. One was conducted by General Monckton, who had orders to drive the French from the encroachments on the province of Nova Scotia. This expedition was attended with success. General Johnson was ordered, with a body of troops, to take possession of Crown Point, but he did not succeed. General Shirley commanded an expedition against the fort at Niagara, but lost the season by delay. General Braddock marched against fort Du Quesne, but in penetrating through the

wilderness, he incautiously fell into an ambuscade and suffered a total defeat. General Braddock was killed, but a part of his troops were saved by the prudence and bravery of General Washington, at this time a Colonel, who then began to exhibit proofs of those military talents, by which he afterwards conducted the armies of America to victory, and his country to independence. The ill success of these expeditions left the English settlements in America exposed to the depredations of both the French and Indians. But the war now raged in Europe and the East Indies, and engaged the attention of both nations in those quarters.

It was not until the campaign in 1758, that affairs assumed a more favorable aspect in America. But upon a change of administration, Mr. Pitt was appointed Prime Minister, and the operations of war became more vigorous and successful. General Amherst was sent to take possession of Cape Breton; and after a warm siege, the garrison of Louisburgh surrendered by capitulation. General Forbes was successful in taking possession of fort Du Quesne, which the French thought fit to abandon. But General Abercrombie, who commanded the troops destined to act against the French at Crown Point and Ticonderoga, attacked the lines at Ticonderoga, where the enemy were strongly entrenched, and was defeated with a terrible slaughter of his troops. After his defeat, he returned to his camp at Lake George.

The next year, more effectual measures were taken to subdue the French in America. General Prideaux and Sir William Johnson began the operations of the campaign by taking the French fort near Niagara.[45] General Amherst took possession of the forts at Crown Point and Ticonderoga, which the French had

abandoned.

But the decisiv blow, which proved fatal to the French interests in America, was the defeat of the French army, and the taking of Quebec, by the brave general Wolfe. This hero was slain in the beginning of the action, on the plains of Abram, and Monsieur Montcalm, the French commander, likewise lost his life. The loss of Quebec was soon followed by the capture of Montreal, by General Amherst, and Canada has remained ever since in possession of the English.

Colonel Grant, in 1761, defeated the Cherokees in Carolina, and obliged them to sue for peace. The next year, Martinico was taken by Admiral Rodney and General Monkton; and also the islands of Grenada, St. Vincents, and others. The capture of these was soon followed by the surrender of the Havanna, the capital of the island of Cuba.

In 1763, a definitiv treaty of peace was concluded at Paris, between Great Britain, France and Spain, by which the English ceded to the French several islands in the West Indies, but were confirmed in the possession of all North America on this side the Missisippi, except New Orleans, and a small district of the neighboring country.

But this war, however brilliant the success, and glorious the event, proved the cause of great and unexpected misfortunes to Great Britain. Engaged with the combined powers of France and Spain, during several years, her exertions were surprising, and her expense immense. To discharge the debts of the nation, the parliament was obliged to have recourse to new expedients for raising money. Previous to the last treaty in 1763, the parliament had been satisfied to raise a revenue from the

American Colonies by monopoly of their trade.

At the beginning of the last war with France, commissioners from many of the colonies had assembled at Albany, and proposed that a great council should be formed by deputies from the several colonies, which, with a general Governor to be appointed by the crown, should be empowered to take measures for the common safety, and to raise money for the execution of their designs. This proposal was not relished by the British ministry; but in place of this plan, it was proposed, that the Governors of the colonies, with the assistance of one or two of their council, should assemble and concert measures for the general defence; erect forts, levy troops, and draw on the treasury of England for monies that should be wanted; but the treasury to be reimbursed by a tax on the colonies, to be laid by the English parliament. To this plan, which would imply an avowal of the right of parliament to tax the colonies, the provincial assemblies objected with unshaken firmness. It seems, therefore, that the British parliament, *before* the war, had it in contemplation to exercise the right they claimed of taxing the colonies at pleasure, without permitting them to be represented. Indeed it is obvious that they laid hold of the alarming situation of the colonies about the year 1754, and 1755, to force them into an acknowlegement of the right, or to the adoption of measures that might afterwards be drawn into precedent. The colonies however, with an uncommon foresight and firmness, defeated all their attempts. The war was carried on by requisitions on the colonies for supplies of men and money, or by voluntary contributions.

But no sooner was peace concluded, than the English

parliament resumed the plan of taxing the colonies; and to justify their attempts, said, that the money to be raised, was to be appropriated to defray the expense of defending them in the late war.

The first attempt to raise a revenue in America appeared in the memorable *stamp act*, passed March 22, 1765; by which it was enacted that certain instruments of writing, as bills, bonds, &c. should not be valid in law, unless drawn on stamped paper, on which a duty was laid. No sooner was this act published in America, than it raised a general alarm. The people were filled with apprehensions at an act which they supposed an attack on their constitutional rights. The colonies petitioned the king and parliament for a redress of the grievance, and formed associations for the purpose of preventing the importation and use of British manufactures, until the act should be repealed. This spirited and unanimous opposition of the Americans produced the desired effect; and on the 18th of March, 1766, the stamp act was repealed. The news of the repeal was received in the colonies with universal joy, and the trade between them and Great Britain was renewed on the most liberal footing.

The parliament, by repealing this act, so obnoxious to their American brethren, did not intend to lay aside the scheme of raising a revenue in the colonies, but merely to change the mode. Accordingly the next year, they passed an act, laying a certain duty on glass, tea, paper, and painters' colors; articles which were much wanted, and not manufactured, in America. This act kindled the resentment of the Americans, and excited a general opposition to the measure; so that parliament thought proper in 1770, to take off these duties, except three pence a pound

on tea. Yet this duty, however trifling, kept alive the jealousy of the colonists, and their opposition to parliamentary taxation continued and increased.

But it must be remembered that the inconvenience of paying the duty was not the sole, nor principal cause of the opposition, it was the *principle* which, once admitted, would have subjected the colonies to unlimitted parliamentary taxation, without the privilege of being represented. The *right*, abstractly considered, was denied; and the smallest attempt to establish the claim by precedent, was uniformly resisted. The Americans could not be deceived as to the views of parliament; for the repeal of the stamp act was accompanied with an unequivocal declaration, "that the parliament had a right to make laws of sufficient validity to bind the colonies in all cases whatsoever."

The colonies therefore entered into measures to encourage their own manufactures, and home productions, and to retrench the use of foreign superfluities; while the importation of tea was prohibited. In the royal and proprietary governments, the Governors and people were in a state of continual warfare. Assemblies were repeatedly called, and suddenly dissolved. While sitting, the assemblies employed the time in dating grievances and framing remonstrances. To inflame these discontents, an act of parliament was passed, ordaining that the Governors and Judges should receive their salaries of the crown; thus making them independent of the provincial assemblies, and removeable only at the pleasure of the king.

These arbitrary proceedings, with many others not here mentioned, could not fail of producing a rupture. The first act of violence, was the massacre at

Boston, on the evening of the fifth of March, 1770. A body of British troops had been stationed in Boston to awe the inhabitants, and enforce the measures of parliament. On the fatal day, when blood was to be shed, as a preclude to more tragic scenes, a riot was raised among some soldiers and boys; the former aggressing by throwing snow balls at the latter. The bickerings and jealousies between the inhabitants and soldiers, which had been frequent before, now became serious. A multitude was soon collected, and the controversy became so warm, that to disperse the people, the troops were embodied and ordered to fire upon the inhabitants. This fatal order was executed, and several persons fell a sacrifice. The people restrained their vengeance at the time; but this wanton act of cruelty and military despotism fanned the flame of liberty; a flame that was not to be extinguished but by a total separation of the colonies from their oppressiv and hostile parent.

In 1773, the spirit of the Americans broke out into open violence. The Gaspee, an armed schooner, belonging to his Britannic Majesty, had been stationed at Providence, in Rhode Island, to prevent smuggling. The vigilance of the commander irritated the inhabitants to that degree, that about two hundred armed men entered the vessel at night, compelled the officers and men to go on shore, and set fire to the schooner. A reward of five hundred pounds, offered by government for apprehending any of the persons concerned in this daring act, produced no effectual discovery.

About this time, the discovery and publication of some private confidential letters, written by the royal officers in Boston, to persons in office in England, served to confirm the apprehensions of the

Americans, with respect to the designs of the British government. It was now made obvious that more effectual measures would be taken to establish the supremacy of the British parliament over the colonies. The letters recommended decisiv measures, and the writers were charged, by the exasperated Americans, with betraying their trust and the people they governed.

As the resolutions of the colonies not to import or consume tea, had, in a great measure, deprived the English government of a revenue from this quarter, the parliament formed a scheme of introducing tea into America, under cover of the East India company. For this purpose an act was passed, enabling the company to export all sorts of teas, duty free, to any place whatever. The company departed from their usual mode of business and became their own exporters. Several ships were freighted with teas, and sent to the American colonies, and factors were appointed to receive and dispose of their cargoes.

The Americans, determined to oppose the revenue system of the English parliament in every possible shape, considered the attempt of the East India company to evade the resolutions of the colonies, and dispose of teas in America, as an indirect mode of taxation, sanctioned by the authority of parliament. The people assembled in various places, and in the large commercial towns, took measures to prevent the landing of the teas. Committees were appointed, and armed with extensiv powers to inspect merchants' books, to propose tests, and make use of other expedients to frustrate the designs of the East India company. The same spirit pervaded the people from New Hampshire to Georgia. In some places, the consignees of the teas were intimidated so

far as to relinquish their appointments, or to enter into engagements not to act in that capacity. The cargo sent to South Carolina was stored, the consignees being restrained from offering the tea for sale. In other provinces, the ships were sent back without discharging their cargoes.

But in Boston the tea shared a more violent fate. Sensible that no local measures could prevent its being landed, and that if once landed, it would be disposed of; a number of men in disguise, on the 18th of December 1773, entered the ships and threw overboard three hundred and forty chests of it, which was the proportion belonging to the East India company. No sooner did the news of this destruction of the tea reach Great Britain, than the parliament determined to punish that devoted town. On the king's laying the American papers before them, a bill was brought in and passed, "to discontinue the landing and discharging, lading and shipping of goods, wares and merchandizes at the town of Boston, or within the harbor."

This act, passed March 25, 1774, called the Boston port bill, threw the inhabitants of Massachusetts into the greatest consternation. The town of Boston passed a resolution, expressing their sense of this oppressiv measure, and a desire that all the colonies would concur to stop all importation from Great Britain. Most of the colonies entered into spirited resolutions, on this occasion, to unite with Massachusetts in a firm opposition to the unconstitutional measures of the parliament. The first of June, the day on which the port bill was to take place, was appointed to be kept as a day of humiliation, fasting and prayer throughout the colonies, to seek the divine direction and aid, in that

critical and gloomy juncture of affairs.

During the height of the consternation and confusion which the Boston port bill occasioned; at the very time when a town meeting was sitting to consider of it, General Gage, who had been appointed to the government of Massachusetts, arrived in the harbor. His arrival however did not allay the popular ferment, or check the progress of the measures then taking, to unite the colonies in opposition to the oppressiv act of parliament.

But the port bill was not the only act that alarmed the apprehensions of the Americans. Determined to compel the province of Massachusetts to submit to their laws, parliament passed an act for "the better regulating government in the province of Massachusetts Bay." The object of this act was to alter the government, as it stood on the charter of king William, to take the appointment of the executiv out of the hands of the people, and place it in the crown; thus making even the judges and sheriffs dependent on the king, and removeable only at his pleasure.

This act was soon followed by another, which ordained that any person, indicted for murder, or other capital offence, committed in aiding the magistrates in executing the laws, might be sent by the governor either to another colony, or to Great Britain for his trial.

This was soon followed by the Quebec bill; which extended the bounds of that province, and granted many privileges to the Roman Catholics. The object of this bill was, to secure the attachment of that province to the crown of England, and prevent its joining the colonies in their resistance to the laws of parliament.

But these measures did not intimidate the Americans. On the other hand they served to confirm their former apprehensions of the evil designs of government, and to unite the colonies in their opposition. A correspondence of opinion with respect to the unconstitutional acts of parliament, produced a uniformity of proceedings in the colonies. The people generally concurred in a proposition for holding a Congress by deputation from the several colonies, in order to concert measures for the preservation of their rights. Deputies were accordingly appointed, and met at Philadelphia, on the 26th of October, 1774.

In this first Congress, the proceedings were cool, deliberate and loyal; but marked with unanimity and firmness. Their first act was a declaration, or state of their claims as to the enjoyment of all the rights of British subjects, and particularly that of taxing themselves exclusivly, and of regulating the internal police of the colonies. They also drew up a petition to the king, complaining of their grievances and praying for a repeal of the unconstitutional and oppressiv acts of parliament. They signed an association to suspend the importation of British goods, and the exportation of American produce, until their grievances should be redressed. They sent an address to the inhabitants of Great Britain, and another to the people of America; in the former of which they enumerated the oppressiv steps of parliament, and called on their British brethren not to aid the ministry in enslaving their American subjects; and in the latter, they endeavored to confirm the people in a spirited and unanimous determination to defend their constitutional rights.

In the mean time, every thing in Massachusetts wore

the appearance of opposition by force. A new council for the Governor had been appointed by the crown. New judges were appointed, and attempted to proceed in the execution of their office. But the juries refused to be sworn under them; in some counties, the people assembled to prevent the courts from proceeding to business; and in Berkshire they succeeded, setting an example of resistance that has since been followed, in violation of the laws of the State.

In this situation of affairs, the day for the annual muster of the militia approached. General Gage, apprehensiv of some violence, had the precaution to seize the magazines of ammunition and stores at Cambridge and Charlestown, and lodged them in Boston. This measure, with the fortifying of that neck of land which joins Boston to the main land at Roxbury, caused a universal alarm and ferment. Several thousand people assembled, and it was with difficulty they could be restrained from falling upon the British troops.

On this occasion, an assembly of delegates from all the towns in Suffolk county, was called; and several spirited resolutions were agreed to. These resolutions were prefaced with a declaration of allegiance; but they breathed a spirit of freedom that does honor to the delegates. They declared that the late acts of parliament and the proceedings of General Gage, were glaring infractions of their rights and liberties, which their duty called them to defend by all lawful means.

This assembly remonstrated against the fortification of Boston neck, and against the Quebec bill; and resolved upon a suspension of commerce, and encouragement of arts and manufactures, the holding

of a provincial Congress, and a submission to the measures which should be recommended by the Continental Congress. They recommended that the collectors of taxes should not pay any money into the treasury, without further orders; they also recommended peace and good order, as they meant to act merely upon the defensiv.

In answer to their remonstrance, General Gage assured them that he had no intention to prevent the free egress and regress of the inhabitants to and from the town of Boston, and that he would not suffer any person under his command to injure the person or property of any of his majesty's subjects.

Previous to this, a General Assembly had been summoned to meet; and notwithstanding the writs had been countermanded by the Governor's proclamation, on account of the violence of the times and the resignation of several of the new counsellors, yet representativs were chosen by the people, who met at Salem, resolved themselves into a provincial Congress, and adjourned to Concord.

This Congress addressed the Governor with a rehearsal of their distresses, and took the necessary steps for defending their rights. They regulated the militia, made provision for supplying the treasury, and furnishing the people with arms; and such was the enthusiasm and union of the people, that the recommendations of the provincial Congress had the force of laws.

General Gage was incensed at these measures; he declared, in his answer to the address, that Britain could never harbor the black design of enslaving her subjects, and published a proclamation in which he insinuated that such proceedings amounted to rebellion. He also ordered barracks to be erected for

the soldiers; but he found difficulty in procuring laborers, either in Boston or New York.

In the beginning of 1775, the fishery bills were passed in parliament, by which the colonies were prohibited to trade with Great Britain, Ireland or the West Indies, or to take fish on the banks of Newfoundland.

In the distresses to which these acts of parliament reduced the town of Boston, the unanimity of the colonies was remarkable, in the large supplies of provision, furnished by the inhabitants of different towns from New Hampshire to Georgia, and shipped to the relief of the sufferers.

Preparations began to be made, to oppose by force, the execution of these acts of parliament. The militia of the country were trained to the use of arms; great encouragement was given for the manufacture of gunpowder, and measures were taken to obtain all kinds of military stores.

In February, Colonel Leslie was sent with a detachment of troops from Boston, to take possession of some cannon at Salem. But the people had intelligence of the design, took up the draw bridge in that town, and prevented the troops from passing, until the cannon were secured; so that the expedition failed.

In April, Colonel Smith, and Major Pitcairn were sent with a body of about nine hundred troops, to destroy the military stores which had been collected at Concord, about twenty miles from Boston. It is believed, that another object of this expedition, was to seize on the persons of Messrs. Hancock and Adams, who, by their spirited exertions, had rendered themselves very obnoxious to General

Gage. At Lexington, the militia were collected on a green, to oppose the incursion of the British forces. These were fired upon by the British troops, and eight men killed on the spot.

The militia were dispersed, and the troops proceeded to Concord; where they destroyed a few stores. But on their return, they were incessantly harrassed by the Americans, who, inflamed with just resentment, fired upon them from houses and fences, and pursued them to Boston. The loss of the British in this expedition, in killed, wounded and prisoners, was two hundred and seventy three men.

Here was spilt the *first blood* in the late war; a war which severed America from the British empire. *Lexington* opened the first scene of this great drama, which, in its progress, exhibited the most illustrious characters and events, and closed with a revolution, equally glorious for the actors, and important in its consequences to mankind.

This battle roused all America. The militia collected from all quarters, and Boston, in a few days was besieged by twenty thousand men. A stop was put to all intercourse between the town and country, and the inhabitants were reduced to great want of provisions. General Gage promised to let the people depart, if they would deliver up their arms. The people complied; but when the General had obtained their arms, the perfidious man refused to let the people go.

In the mean time, a small number of men, to the amount of about two hundred and forty, under the command of Colonel Allen, and Colonel Easton, without any public orders, surprised and took the British garrisons at Ticonderoga and Crown Point, without the loss of a man on either side.

During these transactions, the Generals Howe, Burgoyne, and Clinton, arrived at Boston from England, with a number of troops. In June following, our troops attempted to fortify Bunker's hill, which lies near Charlestown, and but a mile and an half from Boston. They had, during the night, thrown up a small breast work, which sheltered them from the fire of the British cannon. But the next morning, the British army was sent to drive them from the hill, and, landing under cover of their cannon, they set fire to Charlestown, which was consumed, and marched to attack our troops in the entrenchments. A severe engagement ensued, in which the British, according to their own accounts, had seven hundred and forty killed, and eleven hundred and fifty wounded. They were repulsed at first, and thrown into disorder; but they finally carried the fortification, with the point of the bayonet. The Americans suffered a small loss, compared with the British; the whole loss in killed, wounded, and prisoners, being but about four hundred and fifty.

The loss most lamented on this bloody day, was that of Dr. Warren, who was at this time a Major General, and commanded the troops on this occasion. He died like a brave man, fighting valiantly at the head of his party, in a little redoubt at the right of our lines.

General Warren, who had rendered himself conspicuous by his universal merit, abilities, and eloquence, had been a delegate to the first general Congress, and was at this time President of the provincial Congress of Massachusetts. But quitting the humane and peaceable walk of his profession as a physician, and breaking through the endearing ties of family connexions, he proved himself equally calculated for the field, as for public business or

private study.

About this, time, the Continental Congress appointed George Washington, Esq. a nativ of Virginia, to the chief command of the American arm. This gentleman had been a distinguished and successful officer in the preceding war, and he seemed destined by heaven to be the savior of his country. He accepted the appointment with a diffidence which was a proof of his prudence and his greatness. He refused any pay for eight years laborious and arduous service; and by his matchless skill, fortitude and perseverance, conducted America thro indescribeable difficulties, to independence and peace.

While true merit is esteemed, or virtue honored, mankind will never cease to revere the memory of this Hero; and while gratitude remains in the human breast, the praises of WASHINGTON shall dwell on every American tongue.

General Washington, with other officers appointed by Congress, arrived at Cambridge, and took command of the American army in July. From this time, the affairs of America began to assume the appearance of a regular and general opposition to the forces of Great Britain.

In autumn, a body of troops, under the command of General Montgomery, besieged and took the garrison at St. John's, which commands the entrance into Canada. The prisoners amounted to about seven hundred. General Montgomery pursued his success, and took Montreal; and designed to push his victories to Quebec.

A body of troops, commanded by General Arnold, was ordered to march to Canada, by the river Kennebeck, and through the wilderness. After

suffering every hardship, and the most distressing hunger, they arrived in Canada, and were joined by General Montgomery, before Quebec. This city, which was commanded by Governor Carleton, was immediately besieged. But there being little hope of taking the town by a siege, it was determined to storm it.

The attack was made on the last day of December, but proved unsuccessful, and fatal to the brave General, who, with his aid, was killed in attempting to scale the walls.

Of the three divisions which attacked the town, one only entered, and that was obliged to surrender to superior force. After this defeat, General Arnold, who now commanded the troops, continued some months before Quebec, altho his troops suffered incredibly by cold and sickness. But the next spring, the Americans were obliged to retreat from Canada.

About this time, the large and flourishing town of Norfolk, in Virginia, was wantonly burnt by order of lord Dunmore, the then royal Governor of that province.

General Gage went to England in September, and was succeeded in the command, by General Howe.

Falmouth, a considerable town in the province of Maine, in Massachusetts, shared the fate of Norfolk; being laid in ashes by order of the British admiral.

The British king entered into treaties with some of the German princes for about seventeen thousand men, who were to be sent to America the next year, to assist in subduing the colonies. The parliament also passed an act, forbidding all intercourse with America; and while they repealed the Boston port and fishery bills, they declared all American property

on the high seas, forfeited to the captors. This act induced Congress to change the mode of carrying on the war; and measures were taken to annoy the enemy in Boston. For this purpose, batteries were opened on several hills, from whence shot and bombs were thrown into the town. But the batteries which were opened on Dorchester point had the best effect, and soon obliged General Howe to abandon the town. In March, 1776, the British troops embarked for Halifax, and General Washington entered the town in triumph.

In the ensuing summer, a small squadron of ships commanded by Sir Peter Parker, and a body of troops under the Generals Clinton and Cornwallis, attempted to take Charleston, the capital of South Carolina. The ships made a violent attack upon the fort on Sullivan's Island, but were repulsed with great loss, and the expedition was abandoned.

In July, Congress published their declaration of independence, which separated America from Great Britain. This great event took place two hundred and eighty four years after the first discovery of America by Columbus; one hundred and sixty six, from the first effectual settlement in Virginia; and one hundred and fifty six from the first settlement of Plymouth, in Massachusetts, which were the earliest English settlements in America.

Just after this declaration, General Howe with a powerful force arrived near New York, and landed the troops upon Staten Island. General Washington was in New York with about thirteen thousand men, who were encamped either in the city or the neighboring fortifications.

The operations of the British began by the action on Long Island, in the month of August. The Americans

were defeated, and General Sullivan and lord Sterling, with a large body of men, were made prisoners. The night after the engagement, a retreat was ordered, and executed with such silence, that the Americans left the island without alarming their enemies, and without loss.

In September, the city of New York was abandoned by the American army, and taken by the British.

In November, Fort Washington, on York Island, was taken, and more than two thousand men made prisoners. Fort Lee, opposit to Fort Washington, on the Jersey shore, was soon after taken, but the garrison escaped.

About the same time, General Clinton was sent with a body of troops to take possession of Rhode Island; and succeeded. In addition to all these losses and defeats, the American army suffered by desertion, and more by sickness, which was epidemic, and very mortal.

The northern army at Ticonderoga, was in a disagreeable situation, particularly after the battle on Lake Champlain, in which the American force, consisting of a few light vessels, under the command of Generals Arnold and Waterbury, was totally dispersed. But General Carleton, instead of pursuing his victory, landed at Crown Point, reconnoitered our posts at Ticonderoga and Mount Independence, and returned to winter quarters in Canada.

The American army might now be said to be no more. All that now remained of an army, which at the opening of the campaign, amounted to at least twenty five thousand men, did not now exceed three thousand. The term of their engagements being expired, they returned, in large bodies, to their

families and friends; the few, who from personal attachment, local circumstances, or superior perseverance and bravery, continued with the Generals Washington and Lee, were too inconsiderable to appear formidable in the view of a powerful and victorious enemy.

In this alarming and critical situation of affairs, General Lee, through an imprudent carelessness, which ill became a man in his important station, was captured by a party of the British light horse, commanded by Colonel Harcourt; this unfortunate circumstance gave a severe shock to the remaining hopes of the little army, and rendered their situation truly distressing.

While these things were transacting in New Jersey, General Washington, far from being discouraged by the loss of General Lee, and always ready to improve every advantage to raise the drooping spirits of his handful of men, had made a stand on the Pensylvania side of the Delaware. Here he collected his scattered forces, called in the assistance of the Pensylvania militia, and on the night of the 25th of December, (1776) when the enemy were lulled into security by the idea of his weakness, and by the inclemency of the night, which was remarkably boisterous, as well as by the fumes of a Christmas eve, he crossed the river, and at the breaking of day, marched down to Trenton, and so completely surprised them, that the greater part of the detachment which were stationed at this place, surrendered after a short resistance. The horsemen and a few others made their escape at the opposit end of the town. Upwards of nine hundred Hessians were taken prisoners at this time.

This successful expedition first gave a favorable turn

to our affairs, which, after this, seemed to brighten thro the whole course of the war. Soon after, General Washington attacked the British troops at Princeton, and obtained a complete victory; not, however, without being bravely opposed by Colonel Mawhood.

The address in planning and executing these enterprises, reflected the highest honor on the commander, and the success revived the desponding hopes of America. The loss of General Mercer, a gallant officer, at Princeton, was the principal circumstance that allayed the joys of victory.

The following year, 1777, was distinguished by very memorable events, in favor of America. On the opening of the campaign, Governor Tryon was sent with a body of troops, to destroy the stores at Danbury, in Connecticut. This plan was executed, and the town mostly burnt. The enemy suffered in their retreat, and the Americans lost General Wooster, a brave and experienced officer.

General Prescot was taken from his quarters, on Rhode Island, by the address and enterprise of Colonel Barton, and conveyed prisoner to the continent.

General Burgoyne, who commanded the northern British army, took possession of Ticonderoga, which had been abandoned by the Americans. He pushed his successes, crossed Lake George, and encamped upon the banks of the Hudson, near Saratoga. His progress, however, was checked, by the defeat of Colonel Baum, near Bennington, in which the undisciplined militia of Vermont, under General Stark, displayed unexampled bravery, and captured almost the whole detachment.

The militia assembled from all parts of New England,

to stop the progress of General Burgoyne.

These, with the regular troops, formed a respectable army, commanded by General Gates. After two severe actions, in which the Generals Lincoln and Arnold, behaved with uncommon gallantry, and were wounded, General Burgoyne found himself enclosed with brave troops, and was forced to surrender his whole army, amounting, according to some, to ten thousand, and according to others, to five thousand seven hundred and fifty two men, into the hands of the Americans. This memorable event happened on the 17th of October, 1777; and diffused an universal joy over America, and laid a foundation for the treaty with France.

But before these transactions, the main body of the British forces had embarked at New York, sailed up the Chesapeak, and landed at the head of Elk river. The army soon began their march for Philadelphia. General Washington had determined to oppose them, and for this purpose made a stand, first at Red Clay Creek, and then upon the heights, near Brandywine Creek. Here the armies engaged, and the Americans were overpowered, and suffered great loss. The enemy soon pursued their march, and took possession of Philadelphia towards the close of September.

Not long after, the two armies were again engaged at Germantown, and in the beginning of the action, the Americans had the advantage; but by some unlucky accident, the fortune of the day was turned in favor of the British. Both sides suffered considerable losses; on the side of the Americans, was General Nash.

In an attack upon the forts at Mud Island and Red Bank, the Hessians were unsuccessful, and their commander, Colonel Donop, killed. The British also

lost the Augusta, a ship of the line. But the forts were afterwards taken, and the navigation of the Delaware opened. General Washington was reinforced, with part of the troops which had composed the northern army, under General Gates; and both armies retired to winter quarters.

In October, the same month in which General Burgoyne was taken at Saratoga, General Vaughan, with a small fleet, sailed up Hudson's river, and wantonly burnt Kingston, a beautiful Dutch settlement, on the west side of the river.

The beginning of the next year, 1778, was distinguished by a treaty of alliance between France and America; by which we obtained a powerful and generous ally. When the English ministry were informed that this treaty was on foot, they dispatched commissioners to America, to attempt a reconciliation. But America would not now accept their offers. Early in the spring, Count de Estaing, with a fleet of fifteen sail of the line, was sent by the court of France to assist America.

General Howe left the army, and returned to England; the command then devolved upon Sir Henry Clinton.

In June, the British army left Philadelphia, and marched for New York. On their march they were annoyed by the Americans; and at Monmouth, a very regular action took place, between part of the armies; the enemy were repulsed with great loss, and had General Lee obeyed his orders, a signal victory must have been obtained. General Lee, for his ill conduct that day, was suspended, and was never afterwards permitted to join the army.

General Lee's conduct, at several times before this, had been very suspicious. In December 1776, he lay at Chatham, about eleven miles from Elizabeth Town, with a brigade of troops, when a great quantity of baggage was stored at Elizabeth Town, under a guard of only five hundred Hessians. General Lee was apprised of this, and might have surprised

the guard and taken the baggage. But he neglected the opportunity, and after several marches and counter marches between Troy, Chatham and Morristown, he took up his quarters at or near White's tavern, where he was surprised and taken prisoner by a party of the British horse. He was heard to say repeatedly, that General Washington would ruin a fine army. It was suspected that he had designs to supplant the General, and his friends attempted to place him at the head of the army. General Washington's prudent delays and cautious movements afforded General Lee's friends many opportunities to spread reports unfavorable to his character. It was insinuated, with some success, that General Washington wanted courage and abilities. Reports of this kind, at one time, rendered General Lee very popular, and it is supposed he wished to frustrate General Washington's plans, in order to increase the suspicions already entertained of his generalship, and turn the public clamor in his own favor. His conduct at Monmouth, must have proceeded from such a design; for he commanded the flower of the American army, and was not destitute of courage.

In August, General Sullivan, with a large body of troops, attempted to take possession of Rhode Island, but did not succeed. Soon after, the stores and shipping at Bedford in Massachusetts, were burnt by a party of the British troops. The same year, Savannah, then the capital of Georgia, was taken by the British, under the command of Colonel Campbell.

In the following year (1779) General Lincoln was appointed to the command of the southern army.

Governor Tryon and Sir George Collier made an incursion into Connecticut, and burnt, with wanton

barbarity, the towns of Fairfield and Norwalk. But the American arms were crowned with success, in a bold attack upon Stoney Point, which was surprised and taken by General Wayne, in the night of the 15th of July. Five hundred men were made prisoners, with little loss on either side.

A party of British forces attempted this summer, to build a fort on Penobscot river, for the purpose of cutting timber in the neighboring forests. A plan was laid by Massachusetts, to dislodge them, and a considerable fleet collected for the purpose. But the plan failed of success, and the whole marine force fell into the hands of the British, except some vessels which were burnt by the Americans themselves.

In October, General Lincoln and Count de Estaing made an assault upon Savannah; but they were repulsed with considerable loss. In this action, the celebrated Polish Count Pulaski, who had acquired the reputation of a brave soldier, was mortally wounded.

In this summer, General Sullivan marched with a body of troops, into the Indians' country, and burnt and destroyed all their provisions and settlements that fell in their way.

On the opening of the campaign, the next year, (1780) the British troops left Rhode Island. An expedition under General Clinton and Lord Cornwallis, was undertaken against Charleston, South Carolina, where General Lincoln commanded. This town, after a close siege of about six weeks, was surrendered to the British commander; and General Lincoln, and the whole American garrison were made prisoners.

General Gates was appointed to the command in the

southern department, and another army collected. In August, Lord Cornwallis attacked the American troops at Camden, in South Carolina, and routed them with considerable loss. He afterwards marched through the southern States, and supposed them entirely subdued.

The same summer, the British troops made frequent incursions from New York into the Jersies; ravaging and plundering the country.

In July, a French fleet, under Monsieur d'Ternay, with a body of land forces, commanded by Count de Rochambeau, arrived at Rhode Island, to the great joy of the Americans.

This year was also distinguished by the infamous treason of General Arnold. General Washington having some business to transact at Wethersfield, in Connecticut, left Arnold to command the important post of West Point; which guards a pass in Hudson's river, about sixty miles from New York. Arnold's conduct in the city of Philadelphia, the preceding winter, had been censured; and the treatment he received in consequence, had given him offence.

He determined to take revenge; and for this purpose, he entered into a negociation with Sir Henry Clinton, to deliver West Point, and the army, into the hands of the British. While General Washington was absent, he dismounted the cannon in some of the forts, and took other steps to render the taking of the post easy for the enemy.

But by a providential discovery, the whole plan was defeated. Major Andre, aid to General Clinton, a brave officer, who had been sent up the river as a spy, to concert the plan of operations with Arnold, was taken, condemned by a court martial, and

executed. Arnold made his escape, by getting on board the Vulture, a British vessel, which lay in the river. His conduct has stamped him with infamy; and, like all traitors, he is despised by all mankind. General Washington arrived in camp just after Arnold had made his escape, and restored order in the garrison.

After the defeat of General Gates in Carolina, General Greene was appointed to the command in the southern department. From this period, things in that quarter wore a more favorable aspect. Colonel Tarleton, the activ commander of the British legion, was defeated by General Morgan, the intrepid commander of the rifle men.

After a variety of movements, the two armies met at Guilford, in Carolina. Here was one of the best fought actions during the war. General Greene and Lord Cornwallis exerted themselves at the head of their respectiv armies; and although the Americans were obliged to retire from the field of battle, yet the British army suffered an immense loss, and could not pursue the victory. This action happened on the 15th March, 1781.

In the spring, Arnold the traitor, who was made a Brigadier General in the British service, with a small number of troops, sailed for Virginia, and plundered the country. This called the attention of the French fleet to that quarter; and a naval engagement took place between the English and French, in which some of the English ships were much damaged, and one entirely disabled.

After the battle of Guilford, General Greene moved towards South Carolina, to drive the British from their posts in that State. Here Lord Rawdon obtained an inconsiderable advantage over the Americans,

near Camden. But General Greene more than recovered this advantage, by the brilliant and successful action at the Eutaw Springs; where General Marian distinguished himself, and the brave Colonel Washington was wounded and taken prisoner.

Lord Cornwallis, finding General Greene successful in Carolina, marched to Virginia, collected his forces, and fortified himself in Yorktown. In the mean time Arnold made an incursion into Connecticut, burnt a part of New London, took Fort Griswold by storm, and put the garrison to the sword. The garrison consisted chiefly of men suddenly collected from the little town of Groton, which, by the savage cruelty of the British officer who commanded the attack, lost, in one hour, almost all its heads of families. The brave Colonel Ledyard, who commanded the fort, was slain with his own sword, after he had surrendered.

The Marquis de la Fayette, the brave and generous nobleman, whose services command the gratitude of every American, had been dispatched with about two thousand light infantry, from the main army, to watch the motions of lord Cornwallis in Virginia. He prosecuted this expedition with the greatest military ability. Although his force was much inferior to that of the enemy, he obliged them to leave Richmond and Williamsburgh, and to seek protection under their shipping.

About the last of August, Count de Grasse arrived with a large fleet in the Chesapeak, and blocked up the British troops at Yorktown. Admiral Greaves, with a British fleet, appeared off the Capes, and an action succeeded; but it was not decisiv.

General Washington had before this time moved the

main body of his army, together with the French troops, to the southward; and as soon as he heard of the arrival of the French fleet in the Chesapeak, he made rapid marches to the head of Elk, where embarking, the troops soon arrived at Yorktown.

A close siege immediately commenced, and was carried on with such vigor, by the combined forces of America and France, that lord Cornwallis was obliged to surrender. This glorious event which took place on the 19th of October, 1781, decided the contest in favor of America; and laid the foundation of a general peace.[46]

A few months after the surrender of Cornwallis, the British evacuated all their posts in South Carolina and Georgia, and retired to the main army in New York.

The next spring, (1782) Sir Guy Carleton arrived in New York, and took the command of the British army, in America. Immediately on his arrival, he acquainted General Washington and Congress, that negociations for a peace had been commenced at Paris.

On the 30th of November, 1782, the provisional articles of peace were signed at Paris; by which Great Britain acknowleged the independence and sovereignty of the United States of America; and these articles were afterwards ratified by a definitiv treaty.

Thus ended a long and arduous conflict, in which Great Britain expended near an hundred millions of money, with an hundred thousand lives, and won nothing. America endured every cruelty and distress from her enemies; lost many lives and much treasure; but delivered herself from a foreign

dominion, and gained a rank among the nations of the earth.

Holland acknowleged the independence of the United States on the 19th of April, 1782; Sweden, February 5th, 1783; Denmark, the 25th of February; Spain, in March, and Russia in July, 1783.

No sooner was peace restored by the definitiv treaty, and the British troops withdrawn from the country, than the United States began to experience the defects of their general government. While an enemy was in the country, fear, which had first impelled the colonies to associate in mutual defence, continued to operate as a band of political union. It gave to the resolutions and recommendations of Congress the force of laws, and generally commanded a ready acquiescence on the part of the State legislatures. Articles of confederation and perpetual union had been framed in Congress, and submitted to the consideration of the States, in the year 1778. Some of the States immediately acceded to them; but others, which had not unappropriated lands, hesitated to subscribe a compact, which would giv an advantage to the States which possessed large tracts of unlocated lands, and were thus capable of a great superiority in wealth and population. All objections however had been overcome, and by the accession of Maryland in March, 1781, the articles of confederation were ratified, as the frame of government for the United States.

These articles, however were framed during the rage of war, when a principle of common safety supplied the place of a coerciv power in government; by men who could have had no experience in the art of governing an extensiv country, and under circumstances the most critical and embarrassing. To

have offered to the people at that time, a system of government armed with the powers necessary to regulate and control the contending interests of thirteen States, and the possessions of millions of people, might have raised a jealousy between the States or in the minds of the people at large, that would have weakened the operations of war, and perhaps have rendered a union impracticable. Hence the numerous defects of the confederation.

On the conclusion of peace, these defects began to be felt. Each State assumed the right of disputing the propriety of the resolutions of Congress, and the interest of an individual State was placed in opposition to the common interest of the union. In addition to this source of division, a jealousy of the powers of Congress began to be excited in the minds of people.

This jealousy of the privileges of freemen, had been roused by the oppressiv acts of the British parliament; and no sooner had the danger from this quarter ceased, than the fears of people changed their object, and were turned against their own rulers.

In this situation, there were not wanting men of industry and talents, who had been enemies to the revolution, and who embraced the opportunity to multiply the apprehensions of people and increase the popular discontents. A remarkable instance of this happened in Connecticut. As soon as the tumults of war had subsided, an attempt was made to convince the people, that the act of Congress passed in 1778, granting to the officers of the army, half pay for life, was highly unjust and tyrannical; and that it was but the first step towards the establishment of pensions and an uncontrolable despotism. The act of

Congress, passed in 1783, commuting half pay for life for five years full pay, was designed to appease the apprehensions of people, and to convince them that this gratuity was intended merely to indemnify the officers for their losses by the depreciation of the paper currency; and not to establish a precedent for the granting of pensions. This act, however, did not satisfy the people, who supposed that the officers had been generally indemnified for the loss of their pay, by the grants made them from time to time by the legislatures of the several States. Besides the act, while it gave five years full pay to the officers, allowed but one year's pay to the privates; a distinction which had great influence in exciting and continuing the popular ferment, and one that turned a large share of the public rage against the officers themselves.

The moment an alarm was raised respecting this act of Congress, the enemies of our independence became activ in blowing up the flame, by spreading reports unfavorable to the general government, and tending to create public dissensions. Newspapers, in some parts of the country, were filled with inflammatory publications; while false reports and groundless insinuations were industriously circulated to the prejudice of Congress and the officers of the late army. Among a people feelingly alive to every thing that could affect the rights for which they had been contending, these reports could not fail of having a powerful effect; the clamor soon became general; the officers of the army, it was believed, had attempted to raise their fortunes on the distresses of their fellow citizens, and Congress become the tyrants of their country.

Connecticut was the seat of this uneasiness; altho

other States were much agitated on the occasion. But the inhabitants of that State, accustomed to order and a due subordination to the laws, did not proceed to outrages; they took their usual mode of collecting the sense of the State; assembled in town meetings; appointed committees to meet in convention, and consult what measures should be adopted to procure a redress of their grievances. In this convention, which was held at Middletown, some nugatory resolves were passed, exploiting a disapprobation of the half pay act, and the subsequent commutation of the grant for five years whole pay. The same spirit also discovered itself in the assembly, at their October session, in 1783. A remonstrance against the acts in favor of the officers, was framed in the house of representativs, and notwithstanding the upper house refused to concur in the measure, it was sent to Congress.

During this situation of affairs, the public odium against the officers, was augmented by another circumstance. The officers, just before the disbanding of the army, had formed a society, called by the name of the *Cincinnati*, after the Roman Dictator, Cincinnatus, which, it was said, was intended to perpetuate the memory of the revolution, the friendship of the officers, and the union of the States; and also to raise a fund for the relief of poor widows and orphans, whose husbands and fathers had fallen during the war, and for their descendants. The society was divided into State societies, which were to meet on the 4th of July, and with other business, depute a number of their members to convene annually in general meeting. The members of the institution were to be distinguished by wearing a medal, emblematical of the design of the society, and the honors and advantages were to be hereditary in

the eldest male heirs, and in default of male issue, in the collateral male heirs. Honorary members were to be admitted, but without the hereditary advantages of the society, and provided their number would never exceed the ratio of one to four of the officers or their descendants.

Whatever were the real views of the framers of this institution, its design was generally understood to be harmless and honorable. The ostensible views of the society could not however skreen it from popular jealousy. A spirited pamphlet appeared in South Carolina, the avowed production of Mr. Burke, one of the judges of the supreme court in that State, in which the author attempted to prove that the principles, on which the society was formed, would, in process of time, originate and establish an order of nobility in this country, which would be repugnant to the genius of our republican governments, and dangerous to liberty. This pamphlet appeared in Connecticut, during the commotions raised by the half pay and commutation acts, and contributed not a little to spread the flame of opposition. Nothing could exceed the odium which prevailed at this time, against the men who had hazarded their persons and properties in the revolution.

Notwithstanding the discontents of the people were general, and ready to burst forth in sedition, yet men of information, viz. the officers of government, the clergy, and persons of liberal education, were mostly opposed to the unconstitutional steps taken by the committees and convention at Middletown. They supported the propriety of the measures of Congress, both by conversation and writing, proved that such grants to the army were necessary to keep the troops together, and that the expense would not be

enormous nor oppressiv. During the close of the year 1783, every possible exertion was made to enlighten the people, and such was the effect of the arguments used by the minority, that in the beginning of the following year, the opposition subsided, the committees were dismissed, and tranquillity restored to the State. In May, the legislature were able to carry several measures which had before been extremely unpopular. An act was passed, granting the import of five per cent. to Congress; another giving great encouragement to commerce, and several towns were incorporated with extensiv privileges, for the purpose of regulating the exports of the State, and facilitating the collection of debts.

The opposition to the Congressional acts in favor of the officers, and to the order of the Cincinnati, did not rise to the same pitch in the other States as in Connecticut; yet it produced much disturbance in Massachusetts, and some others. Jealousy of power had been universally spread among the people of the United States. The destruction of the old forms of governments, and the licentiousness of war had, in a great measure, broken their habits of obedience; their passions had been inflamed by the cry of despotism; and like centinels, who have been suddenly surprised by the approach of an enemy, the rustling of a leaf was sufficient to giv them an alarm. This spirit of jealousy, which has not yet subsided, and which will probably continue visible during the present generation, operated with other causes to relax the energy of our federal operations.

During the war, vast sums of paper currency had been emitted by Congress, and large quantities of specie had been introduced, towards the close of the war, by the French army, and the Spanish trade. This

plenty of money enabled the States to comply with the first requisitions of Congress; so that during two or three years, the federal treasury was, in some measure, supplied. But when the danger of war had ceased, and the vast importations of foreign goods had lessened the quantity of circulating specie, the States began to be very remiss in furnishing their proportion of monies. The annihilation of the credit of the paper bills had totally stopped their circulation, and the specie was leaving the country in cargoes, for remittances to Great Britain; still the luxurious habits of the people, contracted during the war, called for new supplies of goods, and private gratification seconded the narrow policy of State interest in defeating the operations of the general government.

Thus the revenues of Congress were annually diminishing; some of the States wholly neglecting to make provision for paying the interest of the national debt; others making but a partial provision, until the scanty supplies received from a few of the rich States, would hardly satisfy the demands of the civil list.

This weakness of the federal government, in conjunction with the flood of certificates or public securities, which Congress could neither fund nor pay, occasioned them to depreciate to a very inconsiderable value. The officers and soldiers of the late army were obliged to receive for wages these certificates, or promissary notes, which passed at a fifth, or eighth, or a tenth of their nominal value; being thus deprived at once of the greatest part of the reward due for their services. Some indeed profited by speculations in these evidences of the public debt; but such as were under a necessity of

parting with them, were robbed of that support which they had a right to expect and demand from their countrymen.

Pensylvania indeed made provision for paying the interest of her debts, both State and federal; assuming her supposed proportion of the continental debt, and giving the creditors her own State notes in exchange for those of the United States. The resources of that State are immense, but she has not been able to make punctual payments, even in a depreciated paper currency.

Massachusetts, in her zeal to comply fully with the requisitions of Congress, and satisfy the demands of her own creditors, laid a heavy tax upon the people. This was the immediate cause of the rebellion in that State, in 1786. But a heavy debt lying on the State, added to burdens of the same nature, upon almost every incorporation within it; a decline, or rather an extinction of public credit; a relaxation and corruption of manners, and a free use of foreign luxuries; a decay of trade and manufactures, with a prevailing scarcity of money; and, above all, individuals involved in debt to each other: These were the real, though more remote causes of the insurrection. It was the tax which the people were required to pay, that caused them to feel evils which we have enumerated: This called forth all their other grievances; and the first act of violence committed, was the burning or destroying of a tax bill. This sedition threw the State into a convulsion which lasted about a year; courts of justice were violently obstructed; the collection of debts was suspended; and a body of armed troops, under the command of General Lincoln, was employed during the winter of 1786, to disperse the insurgents. Yet so numerous

were the latter in the counties of Worcester, Hampshire and Berkshire, and so obstinately combined to oppose the execution of law by force, that the Governor and Council of the State thought proper not to intrust General Lincoln with military powers, except to act on the defensiv, and to repel force with force, in case the insurgents should attack him. The leaders of the rebels however were not men of talents; they were desperate, but without fortitude; and while they were supported with a superior force, they appeared to be impressed with that consciousness of guilt, which awes the most daring wretch, and makes him shrink from his purpose. This appears by the conduct of a large party of the rebels before the magazine at Springfield; where General Shepard with a small guard, was stationed to protect the continental stores. The insurgents appeared upon the plain, with a vast superiority of numbers, but a few shot from the artillery made the multitude retreat in disorder, with the loss of four men. This spirited conduct of General Shepard, with the industry, perseverance and prudent firmness of General Lincoln, dispersed the rebels, drove the leaders from the State, and restored tranquillity. An act of indemnity was passed in the Legislature for all the insurgents, except a few leaders, on condition they should become peaceable subjects, and take the oath of allegiance. The leaders afterwards petitioned for pardon, which, from motivs of policy, was granted by the Legislature.

But the loss of public credit, popular disturbances, and insurrections, were not the only evils which were generated by the peculiar circumstances of the times. The emissions of bills of credit and tender laws, were added to the black catalogue of political disorders.

The expedient of supplying the deficiencies of specie, by emissions of paper bills, was adopted very early in the colonies. The expedient was obvious and produced good effects. In a new country, where population is rapid, and the value of lands increasing, the farmer finds an advantage in paying legal interest for money; for if he can pay the interest by his profits, the increasing value of his lands will, in a few years, discharge the principal.

In no colony was this advantage more sensibly experienced than in Pensylvania. The emigrants to that province were numerous; the natural population rapid; and these circumstances combined, advanced the value of real property to an astonishing degree. As the first settlers there, as well as in other provinces, were poor, the purchase of a few foreign articles drained them of specie. Indeed for many years, the balance of trade must have necessarily been greatly against the colonies.

But bills of credit, emitted by the State and loaned to the industrious inhabitants, supplied the want of specie, and enabled the farmer to purchase stock. These bills were generally a legal tender in all colonial or private contracts, and the sums issued did not generally exceed the quantity requisit for a medium of trade; they retained their full nominal value in the purchase of commodities. But as they were not received by the British merchants, in payment for goods, there was a great demand for specie and bills, which occasioned the latter at various times to appreciate. Thus was introduced a difference between the English sterling money and the currencies of the colonies which remains to this day.[47]

The advantages the colonies had derived from bills of

credit, under the British government, suggested to Congress, in 1775, the idea of issuing bills for the purpose of carrying on the war. And this was perhaps their only expedient. Money could not be raised by taxation; it could not be borrowed. The first emissions had no other effect upon the medium of commerce, than to drive the specie from circulation. But when the paper substituted for specie, had, by repeated millions, augmented the sum in circulation, much beyond the usual sum of specie, the bills began to lose their value. The depreciation continued in proportion to the sums emitted, until seventy, and even one hundred and fifty nominal paper dollars, were hardly an equivalent for one Spanish milled dollar. Still from the year 1775 to 1781, this depreciating paper currency was almost the only medium of trade. It supplied the place of specie, and enabled Congress to support a numerous army; until the sum in circulation amounted to two hundred millions of dollars. But about the year 1780, specie began to be plentiful, being introduced by the French army, a private trade with the Spanish islands, and an illicit intercourse with the British garrison at New York. This circumstance accelerated the depreciation of the paper bills, until their value had sunk almost to nothing. In 1781, the merchants and brokers in the southern States, apprehensiv of the approaching fate of the currency, pushed immense quantities of it suddenly into New England, made vast purchases of goods in Boston, and instantly the bills vanished from circulation.

The whole history of this continental paper is a history of public and private frauds. Old specie debts were often paid in a depreciated currency, and even new contracts for a few weeks or days were often discharged with a small part of the value received.

From this plenty and fluctuating state of the medium, sprung hosts of speculators and itinerant traders, who left their honest occupations for the prospect of immense gains, in a fraudulent business, that depended on no fixed principles, and the profits of which could be reduced to no certain calculations.

To increase these evils, a project was formed to fix the prices of articles, and restrain persons from giving or receiving more for any commodity than the price stated by authority. These regulating acts were reprobated by every man acquainted with commerce and finance; as they were intended to prevent an effect without removing the cause. To attempt to fix the value of money, while streams of bills were incessantly flowing from the treasury of the United States, was as ridiculous as an attempt to restrain the rising of water in rivers amidst showers of rain.

Notwithstanding all opposition, some States framed and attempted to enforce these regulating acts. The effect was, a momentary apparent stand in the price of articles; innumerable acts of collusion and evasion among the dishonest; numberless injuries done to the honest; and finally a total disregard of all such regulations, and the consequential contempt of laws and the authority of the magistrate.

During these fluctuations of business, occasioned by the variable value of money, people lost sight, in some measure, of the steady principles which had before governed their intercourse with each other. Speculations followed and relaxed the rigor of commercial obligations.

Industry likewise had suffered by the flood of money which had deluged the States. The prices of produce had risen in proportion to the quantity of money in circulation, and the demand for the commodities of

the country. This made the acquisition of money easy, and indolence and luxury, with their train of desolating consequences, spread themselves among all descriptions of people.

But as soon as hostilities between Great Britain and America were suspended, the scene was changed. The bills emitted by Congress had long before ceased to circulate; and the specie of the country was soon drained off to pay for foreign goods, the importations of which exceeded all calculation. Within two years from the close of the war, *a scarcity of money* was the general cry. The merchants found it impossible to collect their debts, and make punctual remittances to their creditors in Great Britain; and the consumers were driven to the necessity of retrenching their superfluities in living and of returning to their ancient habits of industry and economy.

This change was however progressiv and slow. In many of the States which suffered by the numerous debts they had contracted, and by the distresses of war, the people called aloud for emissions of paper bills to supply the deficiency of a medium. The depreciation of the continental bills, was a recent example of the ill effects of such an expedient, and the impossibility of supporting the credit of paper, was urged by the opposers of the measure as a substantial argument against adopting it. But nothing would silence the popular clamor; and many men of the first talents and eminence, united their voices with that of the populace. Paper money had formerly maintained its credit, and been of singular utility; and past experience, notwithstanding a change of circumstances, was an argument in its favor that bore down all opposition.

Pensylvania, although one of the richest States in the

union, was the first to emit bills of credit, as a substitute for specie. But the revolution had removed the necessity of it, at the same time that it had destroyed the means by which its former credit had been supported. Lands, at the close of the war, were not rising in value; bills on London could not so readily be purchased, as while the province was dependent on Great Britain; the State was split into parties, one of which attempted to defeat the measures most popular with the other; and the depreciation of continental bills, with the injuries which it had done to individuals, inspired a general distrust of all public promises.

Notwithstanding a part of the money was loaned on good landed security, and the faith of that wealthy State pledged for the redemption of the whole at its nominal value, yet the advantages of specie as a medium of commerce, especially as an article of remittance to London, soon made a difference of ten per cent. between the bills of credit and specie. This difference may be considered rather as an appreciation of gold and silver, than a depreciation of paper; but its effects, in a commercial State, must be highly prejudicial. It opens the door to frauds of all kinds, and frauds are usually practised on the honest and unsuspecting, especially upon all classes of laborers.

This currency of Pensylvania is receivable in all payments at the custom house, and for certain taxes, at its nominal value; yet it has sunk to two thirds of this value, in the few commercial transactions where it is received.

North Carolina, South Carolina, and Georgia, had recourse to the same wretched expedient to supply themselves with money; not reflecting that industry,

frugality, and good commercial laws are the only means of turning the balance of trade in favor of a country, and that this balance is the only permanent source of solid wealth and ready money. But the bills they emitted shared a worse fate than those of Pensylvania; they expelled almost all the circulating cash from the States; they lost a great part of their nominal value; they impoverished the merchants, and embarrassed the planters.

The State of Virginia had too much wisdom to emit bills; but tolerated a practice among the inhabitants of cutting dollars and smaller pieces of silver, in order to prevent it from leaving the State. This pernicious practice prevailed also in Georgia.[48]

Maryland escaped the calamity of a paper currency. The house of delegates brought forward a bill for the emission of bills of credit to a large amount; but the senate firmly and successfully resisted the pernicious scheme. The opposition between the two houses was violent and tumultuous; it threatened the State with anarchy; but the question was carried to the people, and the good sense of the senate finally prevailed.

New Jersey is situated between two or the largest commercial towns in America, and consequently drained of specie. This State also emitted a large sum in bills of credit, which served to pay the interest of the public debt; but the currency depreciated, as in other States.

Rhode Island exhibits a melancholy proof of that licentiousness and anarchy which always follows a relaxation of the moral principles. In a rage for supplying the State with money, and filling every man's pocket without obliging him to earn it by his diligence, the Legislature passed an act for making one hundred thousand pounds in bills; a sum much

more than sufficient for a medium of trade in that State, even without any specie. The merchants in Newport and Providence opposed the act with firmness; their opposition added fresh vigour to the resolution of the assembly, and induced them to inforce the scheme by a legal lender of a most extraordinary nature. They passed an act, ordaining that if any creditor should refuse to take their bills, for any debt whatever, the debtor might lodge the sum due, with a justice of the peace, who should giv notice of it in the public papers; and if the creditor did not appear and receive the money within six months from the first notice, his debt should be forfeited. This act astonished all honest men, and even the promoters of paper money making in other States, and on other principles, reprobated this act of Rhode Island, as wicked and oppressiv. But the State was governed by faction. During the cry for paper money, a number of boisterous ignorant men, were elected into the Legislature, from the smaller towns in the State. Finding themselves united with a majority in opinion, they formed and executed any plan their inclination suggested; they opposed every measure that was agreeable to the mercantile interest; they not only made bad laws to suit their own wicked purposes, but appointed their own corrupt creatures to fill the judicial and executiv departments. Their money depreciated sufficiently to answer all their vile purposes in the discharge of debts; business almost totally ceased; all confidence was lost; the State was thrown into confusion at home, and was execrated abroad.

Massachusetts Bay had the good fortune, amidst her political calamities, to prevent an emission of bills of credit. New Hampshire made no paper; but in the distresses which followed her loss of business after

the war, the Legislature made horses, lumber, and most articles of produce a legal tender in the fulfilment of contracts. It is doubtless unjust to oblige a creditor to receive any thing for his debt, which he had not in contemplation at the time of the contract. But as the commodities which were to be a tender by the law of New Hampshire, were of an intrinsic value, bearing some proportion to the amount of the debt, the injustice of the law was less flagrant, than that which enforced the tender of paper in Rhode Island. Indeed a similar law prevailed for some time in Massachusetts; and in Connecticut it is optional with the creditor, either to imprison the debtor, or take land on an execution, at a price to be fixed by three indifferent freeholders; provided no other means of payment shall appear to satisfy the demand. It must not however be omitted, that while the most flourishing commercial States introduced a paper medium, to the great injury of honest men, a bill for an emission of paper in Connecticut, where there is very little specie, could never command more than one eighth of the votes of the Legislature. The movers of the bill have hardly escaped ridicule; so generally is the measure reprobated as a source of fraud and public mischief.

The Legislature of New York, a State that had the least necessity and apology for making paper money, as her commercial advantages always furnish her with specie sufficient for a medium, issued a large sum in bills of credit, which support their value better than the currency of any other State. Still the paper has raised the value of specie, which is always in demand for exportation, and this difference of exchange between paper and specie, exposes commerce to most of the inconveniencies resulting from a depreciated medium.

Such is the history of paper money thus far; a miserable substitute for real coin, in a country where the reins of government are too weak to compel the fulfilment of public engagements; and where all confidence in public faith is totally destroyed.

While the States were thus endeavoring to repair the loss of specie, by empty promises, and to support their business by shadows, rather than by reality, the British ministry formed some commercial regulations that deprived them of the profits of their trade to the West Indies and to Great Britain. Heavy duties were laid upon such articles as were remitted to the London merchants for their goods, and such were the duties upon American bottoms, that the States were almost wholly deprived of the carrying trade. A prohibition was laid upon the produce of the United States, shipped to the English West India Islands in American built vessels, and in those manned by American seamen. These restrictions fell heavy upon the eastern States, which depended much upon ship building for the support of their trade; and they materially injured the business of the other States.

Without a union that was able to form and execute a general system of commercial regulations, some of the States attempted to impose restraints upon the British trade that should indemnify the merchant for the losses he had suffered, or induce the British ministry to enter into a commercial treaty, and relax the rigor of their navigation laws. These measures however produced nothing but mischief. The States did not act in concert, and the restraints laid on the trade of one State operated to throw the business into the hands of its neighbor. Massachusetts, in her zeal to counteract the effect of the English navigation laws, laid enormous duties upon British goods

imported into that State; but the other States did not adopt a similar measure; and the loss of business soon obliged that State to repeal or suspend the law. Thus when Pensylvania laid heavy duties on British goods, Delaware and New Jersey made a number of free ports to encourage the landing of goods within the limits of those States; and the duties in Pensylvania served no purpose, but to create smuggling.

Thus divided, the States began to feel their weakness. Most of the Legislatures had neglected to comply with the requisitions of Congress for furnishing the federal treasury; the resolves of Congress were disregarded; the proposition for a general import to be laid and collected by Congress was negatived first by Rhode Island, and afterwards by New York. The British troops continued, under pretence of a breach of treaty on the part of America, to hold possession of the forts on the frontiers of the States, and thus commanded the fur trade. Many of the States individually were infested with popular commotions or iniquitous tender laws, while they were oppressed with public debts; the certificates or public notes had lost most of their value, and circulated merely as the objects of speculation; Congress lost their respectability, and the United States their credit and importance.

In the midst of these calamities, a proposition was made in 1785, in the house of delegates, in Virginia, to appoint commissioners, to meet such as might be appointed in the other States, who should form a system of commercial regulations for the United States, and recommend it to the several Legislatures for adoption. Commissioners were accordingly appointed and a request was made to the

Legislatures of the other States to accede to the proposition. Accordingly several of the States appointed commissioners, who met at Annapolis in the summer of 1786, to consult what measures should be taken to unite the States in some general and efficient commercial system. But as the States were not all represented, and the powers of the commissioners were, in their opinion, too limited to propose a system of regulations adequate to the purposes of government, they agreed to recommend a general convention to be held at Philadelphia the next year, with powers to frame a general plan of government for the United States. This measure appeared to the commissioners absolutely necessary. The old confederation was essentially defectiv. It was destitute of almost every principle necessary to giv effect to legislation.

It was defectiv in the article of legislating over States, instead of individuals. All history testifies that recommendations will not operate as laws, and compulsion cannot be exercised over States, without violence, war and anarchy. The confederation was also destitute of a sanction to its laws. When resolutions were passed in Congress, there was no power to compel obedience by fine, by suspension of privileges or other means. It was also destitute of a guarantee for the State governments. Had one State been invaded by its neighbor, the union was not constitutionally bound to assist in repelling the invasion, and supporting the constitution of the invaded State. The confederation was further deficient in the principle of apportioning the quotas of money to be furnished by each State; in a want of power to form commercial laws, and to raise troops for the defence and security of the union; in the equal suffrage of the States, which placed Rhode

Island on a footing in Congress with Virginia; and to crown all the defects, we may add the want of a judiciary power, to define the laws of the union, and to reconcile the contradictory decisions of a number of independent judicatories.

These and many inferior defects were obvious to the commissioners, and therefore they urged a general convention, with powers to form and offer to the consideration of the States, a system of general government that should be less exceptionable. Accordingly in May, 1787, delegates from all the States, except Rhode Island, assembled at Philadelphia; and chose General Washington for their president. After four months deliberation, in which the clashing interests of the several States, appeared in all their force, the convention agreed to recommend a plan of federal government, &c.

As soon as the plan of the federal constitution was submitted to the Legislatures of the several States, they proceeded to take measures for collecting the sense of the people upon the propriety of adopting it. In the small State of Delaware, a convention was called in November, which, after a few days deliberation, ratified the constitution, without a dissenting voice.

In the convention of Pensylvania, held the same month, there was a spirited opposition to the new form of government. The debates were long and interesting. Great abilities and firmness were displayed on both sides; but, on the 13th of December, the constitution was received by two thirds of the members. The minority were dissatisfied, and with an obstinacy that ill became the representativs of a free people, published their reasons of dissent, which were calculated to inflame

a party already violent, and which, in fact, produced some disturbances in the western parts of the State. But the opposition has since subsided.

In New Jersey, the convention which met in December, were unanimous in adopting the constitution; as was likewise that of Georgia.

In Connecticut there was some opposition; but the constitution was, on the 9th of January, 1788, ratified by three fourths of the votes in convention, and the minority peaceably acquiesced in the decision.

In Massachusetts, the opposition was large and respectable. The convention, consisting of more than three hundred delegates, were assembled in January, and continued their debates, with great candor and liberality, about five weeks. At length the question was carried for the constitution by a small majority, and the minority, with that manly condescension which becomes great minds, submitted to the measure, and united to support the government.

In New Hampshire, the federal cause was, for some time doubtful. The greatest number of the delegates in convention, were at first on the side of the opposition; and some, who might have had their objections removed by the discussion of the subject, instructed to reject the constitution. Altho the instructions of constituents cannot, on the true principles of representation, be binding upon a deputy, in any legislativ assembly, because his constituents are but a *part* of the State, and have not heard the arguments and objections of the *whole*; whereas, his act is to affect the *whole* State, and therefore is to be directed by the sense or wisdom of the whole, collected in the legislativ assembly; yet the delegates in the New Hampshire convention

conceived, very erroneously, that the sense of the freemen in the towns, those little districts, where no act of legislation can be performed, imposed a restraint upon their own wills.[49] An adjournment was therefore moved, and carried. This gave the people opportunity to gain a farther knowlege of the merits of the constitution, and at the second meeting of the convention, it was ratified by a respectable majority.

In Maryland, several men of abilities appeared in the opposition, and were unremitted in their endeavors to persuade the people, that the proposed plan of government was artfully calculated to deprive them of their dearest rights; yet in convention it appeared that five sixths of the voices were in favor of it.

In South Carolina, the opposition was respectable; but two thirds of the convention appeared to advocate and vote for the constitution.

In Virginia, many of the principal characters opposed the ratification of the constitution with great abilities and industry. But after a full discussion of the subject, a small majority, of a numerous convention, appeared for its adoption.

In New York, two thirds of the delegates in convention were, at their first meeting, determined to reject the constitution. Here, therefore, the debates were the most interesting, and the event extremely doubtful. The argument was managed with uncommon address and abilities on both sides of the question. But during the session, the ninth and tenth States had acceded to the proposed plan, so that by the constitution, Congress were empowered to issue an ordinance for organizing the new government. This event placed the opposition on new ground; and the expediency of uniting with the

other States; the generous motivs of conciliating all differences, and the danger of a rejection, influenced a respectable number, who were originally opposed to the constitution, to join the federal interest. The constitution was accordingly ratified by a small majority; but the ratification was accompanied here, as in Virginia, with a bill of rights, declaratory of the sense of the convention, as to certain great principles, and with a catalogue of amendments, which were to be recommended to the consideration of the new Congress, and the several State Legislatures.

North Carolina met in convention in July, to deliberate on the new constitution. After a short session they rejected it, by a majority of one hundred and seventy six, against seventy six.

Rhode Island was doomed to be the sport of a blind and singular policy. The Legislature, in consistency with the measures which had been before pursued, did not call a convention, to collect the sense of the State upon the proposed constitution; but in an unconstitutional and absurd manner, submitted the plan of government to the consideration of the people. Accordingly it was brought before town meetings, and in most of them rejected. In some of the large towns, particularly in Newport and Providence, the people collected and resolved, with great propriety, that they could not take up the subject; and that the proposition for embracing or rejecting the federal constitution, could come before no tribunal but that of the *State* in convention or legislature.

From the moment the proceedings of the general convention at Philadelphia transpired, the public mind was exceedingly agitated, and suspended

between hope and fear, until nine States had ratified the plan of a federal government. Indeed, the anxiety continued until Virginia and New York had acceded to the system. But this did not prevent the demonstrations of joy, on the accession of each State.

On the ratification in Massachusetts, the citizens of Boston, in the elevation of their joy, formed a procession in honor of the happy event, which was novel, splendid and magnificent. This example was afterwards followed, and in some instances improved upon, in Baltimore, Charleston, Philadelphia, New Haven, Portsmouth and New York, successivly. Nothing could equal the beauty and grandeur of these exhibitions. A ship was mounted upon wheels, and drawn thro the streets; mechanics erected stages, and exhibited specimens of labor in their several occupations, as they moved along the road; flags with emblems, descriptiv of all the arts and of the federal union, were invented and displayed in honor of the government; multitudes of all ranks in life assembled to view the majestic scenes; while sobriety, joy and harmony marked the brilliant exhibitions, by which the Americans celebrated the establishment of their empire.

In March, 1789, the delegates from the eleven ratifying States, convened in New York, where convenient and elegant accommodations had been furnished by the citizens. On opening the ballots for President, it appeared that the late Commander in Chief of our armies was unanimously elected to the dignified office. This event diffused universal joy among the friends to the union.

The deliberations of the first American Legislature were marked with wisdom, spirit, and generally with candor. The establishment of a revenue and judiciary

system, with other national measures; the wise appointments to offices; the promptness and energy of the executiv, with a growing popular attachment to the general government, open the fairest prospect of peace, union and prosperity to these States; a prospect that is brightened by the accession of North Carolina to the government in November, 1789.

# No. XVI.

## REMARKS *on the* METHOD *of* BURYING *the* DEAD *among the* NATIVS *of this* COUNTRY; *compared with that among the ancient* BRITONS.

Being an Extract of a Letter to the Rev. Dr. STILES, President of Yale College, dated New York, January 20, 1788.

[NOTE. *I had embraced the idea, that the remarkable fortifications on the Muskingum, might be justly ascribed to the Spaniards, under Ferdinand de Soto, who penetrated into Florida, about the year 1540; which opinion I endeavored to maintain as probably well founded, and wrote three or four letters on the subject, to Dr. Stiles, which were published in 1789. It is now very clear that my opinion was* not *well founded; but that* Chicaca, *which I had supposed to be Muskingum, ought to have been written* Chicaça, *with a cedilla, as it is in the original Spanish; and pronounced* Chikesaw. *This determins the place of Soto's winter quarters, the second year after landing, to be in the territories of the present* Chikesaws. *Those letters, therefore, are not worth republishing; but the following extract, on a different subject, may be considered as worthy of preservation.*]

But how shall we account for the mounts, caves, graves, &c. and for the contents, which evince the existence of the custom of burning the dead or their bones; can these be ascribed to the Spaniards? I presume, Sir, you will be of opinion they cannot. Capt. Heart says,[50] these graves are small mounts of earth, from some of which human bones have been taken; in one were found bones in the natural position of a man, buried nearly east and west, and a

quantity of ising glass on his breast; in the other graves, the bones were irregular, some calcined by fire, others burnt only to a certain degree, so as to render them more durable; in others the mouldered bones retain their shape, without any substance; others are partly rotten and partly the remains of decayed bones; in most of the graves were found stones evidently burnt, pieces of charcoal, Indian arrows and pieces of earthen ware, which appeared to be a composition of shells and cement.

That these mounts and graves are the works of the nativ Indians, is very evident, for such small mounts are scattered over every part of North America. "It was customary with the Indians of the West Jersey," says Mr. Smith, page 137, "when they buried the dead, to put family utensils, bows and arrows, and sometimes wampum into the grave, as tokens of their affection. When a person of note died far from the place of his own residence, they would carry his bones to be buried there. They washed and perfumed the dead, painted the face, and followed singly; left the dead in a fitting posture, and covered the grave pyramidically. They were very curious in preserving and repairing the graves of their dead, and pensivly visited them."

It is said by the English, who are best acquainted with the manners of the nativs, that they had a custom of collecting, at certain stated periods, all the bones of their deceased friends, and burying them in some common grave. Over these cemetaries or general repositories of the dead, were erected those vast heaps of earth or mounts, similar to those which are called in England *barrows*, and which are discovered in every part of the United States.

The Indians seem to have had two methods of

burying the dead; one was, to deposit one body (or at most but a small number of bodies) in a place, and cover it with stones, thrown together in a careless manner. The pile thus formed would naturally be nearly circular, but those piles that are discovered are something oval. In the neighborhood of my father's house, about seven miles from Hartford, on the public road to Farmington, there is one of those *Carrnedds* or heaps of stone. I often passed by it in the early part of my youth, but never measured its circumference or examined its contents. My present opinion is, that its circumference is about twenty five feet. The inhabitants in the neighborhood report, as a tradition received from the nativs, that an Indian was buried there, and that it is the custom for every Indian that passes by to cast a stone upon the heap. This custom I have never seen practised, but have no doubt of its existence; as it is confirmed by the general testimony of the first American settlers.[51]

The other mode of burying the dead, was to deposit a vast number of bodies, or the bones which were taken from the single scattered graves, in a common cemetary, and over them raise vast *tumuli* or barrows, such as the mount at Muskingum, which is 390 feet in circumference, and 50 feet high. The best account of these cemetaries may be found in Mr. Jefferson's Notes on Virginia, which will appear the most satisfactory to the reader in his own words.

"I know of no such thing existing as an Indian monument, for I would not honor with that name, arrow points, stone hatchets, stone pipes, and half shapen images. Of labor on the large scale, I think there are no remains as respectable as would be a common ditch for the draining of lands, unless it be the barrows, of which many are to be found all over

this country. These are of different sizes, some of them constructed of earth, and some of loose stones. That they were repositories of the dead has been obvious to all; but on what particular occasion constructed, was matter of doubt. Some have thought they covered the bones of those who have fallen in battles, fought on the spot of interment. Some ascribe them to the custom, said to prevail among the Indians, of collecting at certain periods the bones of all their dead, wherever deposited at the time of death. Others again supposed them the general sepulchre for towns, conjectured to have been on or near these grounds, and this opinion was supported by the quality of the lands in which they are found, (those constructed of earth being generally in the softest and most fertile meadow grounds on river sides) and by a tradition said to be handed down from the aboriginal Indians, that when they settled in a town, the first person who died was placed erect, and earth put about him so as to cover and support him; that when another died, a narrow passage was dug to the first, the second reclined against him, and the cover of earth replaced, and so on. There being one of these in my neighborhood, I wished to satisfy myself whether any, and which of these opinions were just; for this purpose I determined to open and examin it thoroughly. It was situated on the low grounds of the Rivanna, about two miles above its principal fork, and opposit to some hills on which had been an Indian town. It was of a spheroidical form, of about forty feet diameter at the base, and had been of about twelve feet altitude, tho now reduced by the plow to seven and a half; having been under cultivation about a dozen years.

"Before this, it was covered with trees of twelve inches diameter, and round the base was an

excavation of five feet depth and width, from whence the earth had been taken, of which the hillock was formed. I first dug superficially in several parts of it, and came to collections of human bones at different depths, from six inches to three feet, below the surface. These were lying in the utmost confusion; some vertical, some oblique, some horizontal, and directed to every point of the compass, entangled and held together in clusters by the earth. Bones of the most distant parts were found together; as for instance, the small bones of the foot in the hollow of a scull; many sculls were sometimes in contact, lying on the face, on the side, on the back, top or bottom, so as on the whole, to giv the idea of bones emptied promiscuously from a bag or basket, and covered over with earth, without any attention to their order. The bones, of which the greatest numbers remained, were sculls, jaw bones, teeth, the bones of the arms, thighs, legs, feet and hands. A few ribs remained, some vertibræ of the neck and spine, without their processes, and one instance only of the bone which serves as the base to the vertebral column (the os sacrum)."

After making some remarks on the state of putrefaction in which the bones appeared, and on the discovery of the bones of infants, Mr. Jefferson goes on, "I proceeded then to make a perpendicular cut thro the body of the barrow, that I might examin its internal structure. This passed about three feet from its center, was opened to the former surface of earth, and was wide enough for a man to walk thro and examin its sides.

"At the bottom, that is on the level of the circumjacent plain, I found bones; above these a few stones brought from a cliff, a quarter of a mile off,

and from the river one eighth of a mile off. Then a large interval of earth, then a stratum of bones, and so on. At one end of the section, were four strata of bones plainly distinguishable; at the other, three; the strata in one part not ranging with those in another. The bones nearest the surface were least decayed. No holes were discovered in any of them, as if made with bullets, arrows or other weapons. I conjectured that in this barrow might have been a thousand skeletons. Every one will readily seize the circumstances above related, which militate against the opinion, that it covered the bones only of persons fallen in battle; and against the tradition also which would make it the common sepulchre of a town, in which the bodies were placed upright, and touching each other. Appearances certainly indicate, that it has derived both origin and growth from the accustomary collection of bones and deposition of them together; that the first collection had been deposited on the common surface of the earth, that a few stones were put over it, and then a covering of earth, that the second had been laid on this, had covered more or less of it in proportion to the number of bones, and was then also covered with earth, and so on. The following are the particular circumstances, which giv it this aspect. 1 The number of bones. 2 The strata in one part having no correspondence with those in another. 3 The different states of decay in these strata, which seem to indicate a difference in the time of inhumation. 4 The existence of infant bones among them.

"But on whatever occasion they may have been made, they are of considerable notoriety among the Indians; for a party passing about thirty years ago, thro the part of the country where this barrow is, went thro the woods directly to it, without any

instructions or inquiry, and having staid about it some time, with expressions which were construed to be those of sorrow, they returned to the high road which they had left about half a dozen miles, to pay this visit, and pursued their journey. There is another barrow, much resembling this, in the low grounds of the south branch of the Shenandoah, where it is crossed by the road leading from the Rockfish Gap to Staunton. Both of these have within these dozen years, been cleared of their trees and put under cultivation, are much reduced in their height, and spread in width, by the plow, and will probably disappear in time. There is another on a hill in the blue ridge of mountains, a few miles north of Wood's Gap, which is made up of small stones thrown together. This has been opened, and found to contain human bones, as the others do. There are also others in other parts of the country."

From this account of Mr. Jefferson, to whose industry and talents the sciences and his country will ever be indebted, we may fairly conclude that the mounts at Muskingum are the work of the nativ Indians. It is however necessary to notice two or three particulars, in the appearance of those at Muskingum, which are not discovered (or not mentioned by Mr. Jefferson) in the structure of that which he examined. These are the ising glass, the earthen ware, the charcoal, and the calcination of the bones by fire. As to the first it is well known that the ising glass is found only in particular parts of America, and the savages in other parts could not obtain it. Mr. Jefferson mentions no discovery of earthen ware, but it was used by the Indians in every part of America. The piece you once shewed me, sir, is a specimen of what is found wherever there has been an Indian town. Pieces of it are dug up

frequently in the meadows on Connecticut river. It appears to be formed of pure clay, or of shells and cement, hardened by fire, and as we might naturally suppose, without glazing. By sections of vessels which remain, it is evident they were wrought with great ingenuity, and into beautiful and convenient forms.

The charcoal and calcination of some bones are a proof that there has existed, among the savages of America, a custom of burning the dead, or their bones, after the dissolution of the flesh. It does not appear that this custom was general, but it is not at all surprising to find that such a practice has existed in this country; since it has been frequent among the uncivilized nations on the eastern continent.

I am sensible, sir, that you have entertained an opinion that the story of Madoc, the Welch Prince, may be true, and that it is possible the fortifications at Muskingum may be the work of his colony. Of the truth of this conclusion there is perhaps no direct evidence, and yet collateral evidence may be obtained, that it is not chimerical. There is such a surprising affinity between the Indian mounts and the barrows or cemetaries which are remaining in England, but particularly in Wales and Anglesey, the last retreat of the original Britons, that we can hardly resolve it into a common principle of analogy that subsists between nations in the same stage of society; but incredulity itself will acknowlege the probability, that the primitiv inhabitants of Britain and America had a common stock from which they were derived, long since the age of the first parent: Not that I believe North America to be peopled so late as the twelfth century, the period of Madoc's migration, but supposing America to have been settled two or three

thousand years before that period, a subsequent colony might pass the Atlantic and bring the Roman improvements in fortification.

Waving further conjectures, I beg leave to describe the analogy between the barrows in England and Wales, and in America. This will be striking, and cannot fail to entertain a curious reader, because it is attended with positiv proofs.

In England, Scotland, Wales, and the island Anglesey, there are numbers of monuments erected by the ancients; but the most remarkable are generally found in the two latter, whither the old Britons retreated from their Roman and Saxon conquerors; and *Anglesey*, the ancient *Mona*, is supposed to have been the chief seat of the Druids. The remains of most consequence are the *cromlechs*, the *tumuli*, and the *cumuli* or *carrnedds*. *Cromlech*, if the word is derived from the British roots *krom laech*, signifies a *bending stone*.[52] This is the common opinion, as Rowland observes.[53] If we trace the origin to the Hebrew, the root of the old British,[54] we shall find it not less significativ; for *cærem luach* signify *devoted stone*, or *altar*. These *cromlechs* consist of large stones, pitched on end in the earth, as supporters, upon which is laid a broad stone of a vast size. The supporters stand in a bending posture, and are from three to seven feet high. The top stone is often found to be of twenty or thirty tons weight, and remains to this day on the pillars. Numbers of these are found in Wales and Anglesey; but none is more remarkable than that in Wiltshire, called *stone henge*, for a full description of which I must beg leave to refer you to Camden's Britannia, vol. I, page 119. These cromlechs are doubtless works of great antiquity; but for what purpose they were erected, at such an

immense expense of time and labor as would be necessary to convey stones of thirty tons weight a considerable distance, and raise them several feet, is not easily determined. The probability is that they were altars for sacrifice, as pieces of burnt bones and ashes are found near them. They might also be used in other ceremonies, under the druidical system, as the ratification of covenants, &c. As this kind of monuments is not found in America, I will wave a further consideration of it; observing only, that it was an ancient practice among the eastern nations, to raise heaps of stones, as witnesses of agreements, and sacrifice upon them, as a solemn ratification of the act of the parties. Many instances of this ceremony are mentioned in the old testament. The covenant between Jacob and Laban was witnessed by a heap of stones, which served also as a boundary between their respectiv claims. "*And Jacob offered sacrifice upon the mount*, that is, the heap, *and called his brethren to eat bread*." Gen. xxxi, 54. A similar custom seems to have prevailed among the primitiv Britons.

But the *tumuli*, barrows or mounts of earth, which remain in multitudes in England and Wales, are constructed exactly in the manner of the barrows, described by Mr. Jefferson and Mr. Heart. One of these in Wiltshire, Camden thus describes.[55] "Here Selbury, a round hill, rises to a considerable height, and seems by the fashion of it, and the sliding down of the earth about it, to have been cast up by mens hands. Of this fort there are many in this country, round and copped, which are called *burrows* or *barrows*; perhaps raised in memory of the soldiers slain there. For *bones are found in them*, and I have read, it was a custom among the northern people, that every soldier who survived a battle, should

bring a helmet full of earth towards the raising of monuments for their slain fellows."

This is said to be the largest and most uniform barrow in the country, and perhaps in England; and I regret that the height and circumference are not mentioned. I am however informed verbally by a gentleman who has visited England, that some of these tumuli appear to have been nearly one hundred feet high.[56] There are also in the same country several kinds of barrows of different sizes; some surrounded with trenches; others not; some with stones set round them, others without any; the general figure of them is nearly circular, but a little oval.

In Penbrokeshire, in Wales, Camden informs us[57] "there are divers ancient tumuli, or artificial mounts for urn burial, whereof the most notable I have seen, are those four, called *krigeu kemaes*, or the burrows of *kemeas*. One of these a gentlemen of the neighborhood, out of curiosity, and for the satisfaction of some friends, caused lately to be dug; and discovered therein five urns, which contained a considerable quantity of burnt bones and ashes." If there is any difference between these barrows, and those at Muskingum, it is this, that in Wales the bones were lodged in urns; probably this was the fate of the bodies of eminent men only, or it proves a greater degree of improvement in Britain than appears among the American savages.

In Caermardhinshire, there is a barrow of a singular kind. It is called, *krig y dyrn* (probably the king's barrow.[58]) The circumference at bottom is sixty paces, and its height about six yards. It rises by an easy ascent to the top, which is hollow. This is a heap of earth, raised over a *carrnedd* or pile of

stones. In the center of the cavity on the top, there is a large flat stone, about nine feet by five; beneath this was found a *kist vaen*, a kind of stone chest, four feet and a half by three, and made up of stones, and within and about it were found a few pieces of brick and stones. This might have been the tomb of a druid, or prince.

The *cumuli* of stones or *caernedds*, as they are called by the Welsh, from *keren nedh*, a *coped heap*, are scattered over the west of England and Wales, and appear to have been raised in the manner of our Indian heaps, and for the same purpose, viz. to preserve the memory of the dead. Every Indian in this country that passes one of these heaps, throws a stone upon it. Rowland remarks that the same custom exists among the vulgar Welch to this day; and if I mistake not, Camden takes notice of the same practice. Rowland says, "in these *coel ceithic*, (certain festivals) people use, even to this day, to throw and offer each one his stone, tho they know not the reason. The common tradition is, that these heaps cover the graves of men, signal either for eminent virtues, or notorious villanies, on which every person looked on himself obliged as he passed by, to bestow a stone, in veneration of his good life, or in detestation of his vileness." This practice now prevails in Wales and Anglesey, merely as a mark of contempt.

The *carrnedds* in America answer exactly the description of those in Wales, and the practice of throwing upon the heap each man his stone as he passes by, exists among the Indians, in its purity; that is, as *a mark of respect*.

It is said by authors that mounts and piles of stones, are found likewise in Denmark and Sweden; but in

construction they differ from those found in Britain. Yet from the foregoing descriptions, taken from authentic testimony, it appears, that between the barrows in England and America, the manner of constructing them in both, and the purposes to which they were applied, there is an analogy, rarely to be traced in works of such consequence, among nations whose intercourse ceased at Babel; an analogy that we could hardly suppose would exist among nations descended from different stocks. This analogy however, without better evidence, will not demonstrate the direct descent of the Indians from the ancient Celts or Britons. But as all the primitiv inhabitants of the west of Europe were evidently of the same stock, it is natural to suppose they might pass from Norway to Iceland, from Iceland to Greenland, and from thence to Labrador; and thus the North American savages may claim a common origin with the primitiv Britons and Celts. This supposition has some foundation, and is by no means obviated by Cook's late discoveries in the Pacific ocean.[59]

These are however but conjectures. Future discoveries may throw more light upon these subjects. At present, a few facts only can be collected to amuse a contemplativ mind, and perhaps lead to inquiries which will result in a satisfactory account of the first peopling of America, and of the few remains of antiquity which it affords.

# No. XVII.

NEW YORK, FEBRUARY, 1788.

## *On the* REGULARITY *of the* CITY *of* PHILADELPHIA.

"Well, how do you like Boston?" said an American to a Londoner, who had just arrived, and walked thro the town. "Extremely," replied the Englishman; "it resembles London in the crookedness and narrowness of the streets; I am always pleased with a careless irregularity and variety."

"How do you like Boston," says a nativ of the town to a Philadelphian. "I am much pleased with the people," replies the gentleman; "but the streets are so crooked, narrow and irregular, that I have good luck to find my way, and keep my stockings clean."

An Englishman and a Bostonian, walking together in Philadelphia, were heard to say, "how fatiguing it is to pass thro this town! such a sameness in the whole! no variety! when you have seen one street, you have seen the whole town!"

These remarks, which are heard every day, illustrate most strikingly the force of habit and tradition. The influence of habit is every where known and felt; any prepossessions therefore in favor of our nativ town, is not a matter of surprise. But that a traditionary remark or opinion should be handed from one generation to another, and lead nations into error, without a detection of its falsity, is a fact as astonishing as it is real. Such is the opinion of the writers on the fine arts; "that variety is pleasing;" an opinion embraced without exception, and applied promiscuously to the works of nature and of art. I

have rarely met with a person, not an inhabitant of Philadelphia, who would not say he was disgusted with its regularity; and I am confident that the opinion must proceed from that common place remark, *that variety is pleasing*; otherwise men could not so unanimously condemn what constitutes its *greatest beauty*.

That in the productions of nature, variety constitutes a principal part of beauty, and a fruitful source of pleasure, will not be denied: But the beauty and agreeableness of works of art depend on another principle, viz. *utility or convenience*. The *design* of the work, or the end proposed by it, must be attentivly considered before we are qualified to judge of its *beauty*.

This kind of beauty is called by Lord Kaim,[60] *relativ beauty*. He observes very justly, that "*intrinsic* beauty is a perception of sense merely; for to perceive the beauty of a spreading oak, or of a flowing river, no more is required but singly an act of vision. *Relativ beauty* is accompanied with an act of understanding and reflection; for of a fine instrument or engine, we perceive not the *relativ* beauty, until we are made acquainted with its use and destination." A plow has not the least *intrinsic* beauty; but when we attend to its *use*, we are constrained to consider it as a *beautiful instrument*, and such a view of it furnishes us with agreeable sensations.

The single question therefore, with respect to a town or city, is this: *Is it planned and constructed for the greatest possible convenience*? If so, it is completely beautiful. If wide and regular streets are more useful and convenient than those that are narrow and crooked, then a city constructed upon a regular plan is the most beautiful, however uniform the streets in

their directions and appearance.

I have often heard a comparison made between the level roads of Holland and the uniform streets of Philadelphia. A *dull sameness* is said to render both disagreeable. Yet if a person will attentivly consider the difference, I am persuaded he will be convinced that his taste is but *half correct*; that is, that a just remark with respect to a level open country, is improperly applied to a commercial city. *Variety* in the works of nature is pleasing; but never in the productions of art, unless in copies of nature, or when that variety does not interfere with *utility*. A level champaign country is rarely convenient or useful; on the other hand, it is generally more barren than a country diversified with hills and vales. There is not generally any advantage to be derived from a wide extended plain; the principle of *utility*, therefore does not oppose and supersede the taste for variety, and a tedious *sameness* is left to have its full effect upon the mind of a spectator. This is the fact with respect to the roads in Holland.

But it is otherwise in a city, which is built for the express purpose of accommodating men in business. We do not consider it as we do a landscape, an imitation of a natural scene, and designed to please the eye; but we attend to its uses in artificial society, and if it appears to be calculated for the convenience of all classes of citizens, the plan and construction must certainly be beautiful, and afford us agreeable sensations.

The regularly built towns in America are Philadelphia, Charleston, in South Carolina, and New Haven. All these may be esteemed beautiful, tho not perfectly so. Philadelphia wants a public square or place of resort for men of business, with a spacious

building for an exchange. This should be near Market street, in the center of business. The gardens at the State House are too small for a public walk in that large city. The whole line of bank houses[61] is the effect of ill timed parsimony. The houses are inconvenient, and therefore not pleasing to the eye; at the same time they render Water street too narrow.

But whatever faults may be found in the construction or plan of the city, its general appearance is agreeable, and its *regularity* is its greatest beauty. Whenever I hear a person exclaim against the uniformity that pervades that city, I suppose him the dupe of a common place remark, or that he believes a city built merely to please the eye of a spectator.

*Charleston* is situated upon low ground; but just above high water mark. The soil is sand, which, with a scarcity of stone, has prevented the streets from being paved. The plan of the city is regular, but some of the streets are too narrow. As it is almost surrounded with water and low marshy ground, it was necessary to attend to every circumstance that should contribute to preserve a pure air. For this purpose, it was the original design of the citizens, to prevent any buildings from being erected on the wharves, in front of the town; thus leaving a principal street, called the bay, open to the sea breezes. Since the revolution, this design has been partially dispensed with; and some buildings erected on the water side of the bay, and particularly one in front of the Exchange, which stands at the head of Broad street, and commands an extensiv view of the town on one side, and of the harbor on the other. Should stores and warehouses be raised on the wharves, to such a height as to intercept a view of

the harbor from the bay, they would diminish the beauty of the town, and in some degree prevent the agreeable effect of the cool breezes from the sea.

*New Haven* was laid out on a most beautiful plan, which has however suffered in the execution. The streets cross each other at right angles, as in Philadelphia; and divide the city into convenient squares. But in the center is a large public square, the sides of which are more than three hundred yards in length, and adorned with rows of trees. Thro the center of this square runs a line of elegant public buildings, viz. the state house, two churches and a school house. This square is a capital ornament to the town; but is liable to two exceptions. First, it is too large for the populousness of the city, which contains about 500 buildings. In so small a town, it must generally be empty, and consequently givs the town an appearance of solitude or dullness. In the second place, that half of the square which lies west of the public buildings, is occupied mostly by the church yard, which is enclosed with a circular fence. This reduces the public ground on the opposit side to a paralellogram, which is a less beautiful figure than a square; and annihilates the beauty of the western division which it occupies. Notwithstanding these circumstances, the green or public ground in the center of New Haven, renders it perhaps the most beautiful small settlement in America.

# No. XVIII.

NEW YORK, MAY, 1788.

## *A* DISSERTATION *concerning the* INFLUENCE *of* LANGUAGE *on* OPINIONS, *and of* OPINIONS *on* LANGUAGE.[62]

The design of this dissertation is to show how far truth and accuracy of thinking are concerned in a clear understanding of *words*. I am sensible that in the eye of prejudice and ignorance, grammatical researches are the business of school boys; and hence we may deduce the reason why philosophers have generally been so inattentiv to this subject. But if it can be proved that the *mere use of words* has led nations into error, and still continues the delusion, we cannot hesitate a moment to conclude, that grammatical enquiries are worthy of the labor of *men*.

The Greek name of the Supreme Being, *Theos*, is derived from *Theo, to run, or move one's self*. Hence we discover the ideas which the Greeks originally entertained of God, viz. that he was the *great principle of motion*. The same word, it is said, was primarily appropriated to the stars, as moving bodies; and it is probable that, in the early ages of Greece, the heavenly bodies might be esteemed Deities, and denominated *Theoi, moving bodies* or *principles*. The Latin word *Deus* was used to denote those inferior beings which we call *spirits* or *angels*, or perhaps *one God* among several. To giv the true idea of *Deus* in French and English, the word should be rendered *le Dieu, the God*. This at least may be said of the word, in its true *original* sense; however it may have been used in the later ages of Rome.

The English word *God*, is merely the old Saxon adjectiv *god*, now spelt and pronounced *good*.

The German *Gott* is from the same root. The words *God* and *good* therefore are synonimous. The derivation of the word leads us to the notions which our ancestors entertained of the Supreme Being; supposing him to be the principle or author of good, they called him, by way of eminence, *Good*, or *the Good*. By long use and the progress of knowlege, the word is become the name of the great Creator, and we have added to it ideas of other attributes, as justice, power, immutability, &c. Had our heathen ancestors entertained different ideas of the Deity; had they, for instance, supposed justice to have been his leading attribute, if I may use the term, they would have called him *the just*; and this appellation, by being uniformly appropriated to a certain invisible being, or supposed cause of certain events, would in time have lost the article *the*, and *just* would have become the *name* of the Deity. Such is the influence of opinion in the formation of language.

Let us now compare the names of the Deity in the three languages; the Greek, *Theos*, denoting a *moving being*, or the *principle of action*, evinces to us that the Greeks gave the name to the *cause of events*, without having very clear ideas of the nature or attributes of that cause. They supposed the great operations of nature to have each its cause; and hence the plurality of causes, *theoi*, or moving principles.

The Romans borrowed the same word, *Deus*, and used it to denote the celestial *agents* or *gods* which they supposed to exist, and to superintend the affairs of the universe.

Our northern ancestors had an idea that all favorable

events must have an efficient cause; and to this cause they gave the name of *God* or *good*. Hence we observe that the English and German words *God* and *Got* do not convey precisely the same idea, as the *Theos* and *Deus* of the Greeks and Romans. The former cannot be used in the plural number; as they are the names of a single indivisible being; the latter were used as names common to a number of beings.

The word *Demon*, in Greek, was used to signify subordinate deities, both good and evil. The Jews, who had more perfect ideas of the Supreme Being, supposed there could be but one good Deity, and consequently that all the *demons* of the Greeks must be *evil* beings or *devils*. In this sense alone they used the word, and this restricted sense has been communicated thro Christian countries in modern ages. The opinion of the Jews, therefore, has had a material effect upon language, and would lead us into an error respecting the Greek mythology; unless we should trace the word *demon* to its primitiv signification.

The word *devil*, in English, is merely a corruption of *the evil*, occasioned by a rapid pronunciation. This will not appear improbable to those who know, that in some of the Saxon dialects, the character which we write *th* is almost invariably written and pronounced *d*. Hence we learn, the notion which our ancestors entertained of the *cause of evil*, or of unfortunate events. They probably ascribed such events to a malignant principle, or being, which they called, by way of eminence, *the evil*; and these words, corrupted by common use, have given name to the being or principle.

I would only observe here that the etymology of these two words, *God* and *devil*, proves that the

Manichean doctrine of a *good* and *evil* principle prevailed among our northern ancestors. It has prevailed over most of the eastern countries in all ages, and Christianity admits the doctrine, with this improvement only, that it supposes the *evil* principle to be subordinate to the *good*. The supreme cause of events, Christians believe to be *good* or *God*, for the words are radically the same; the *cause of evil* they believe to be subordinate; yet, strange as it may seem, they suppose the *subordinate evil* principle to be the most prevalent.

We are informed by Ludolph, that the Ethiopeans, having but one word for *nature* and *person*, could not understand the controversy about Christ's two natures. This is not surprising; nations, in a savage state, or which have not been accustomed to metaphysical disquisitions, have no terms to communicate abstract ideas, which they never entertained; and hence the absurdity of attempting to christianize savages. Before men can be Christians they must be civilized; nay, they must be philosophers. It is probable that many who are called Christians, are in the state of the Ethiopians, with respect to the same doctrin; and that they pass thro life, without ever having any clear ideas of the different natures of Christ. Yet the distinction is constantly made in words; and that distinction passes for a difference of ideas. Such is the influence of language on opinion.

The words *soul*, *mind* and *spirit*, are constantly used by people, and probably the difference of words has given rise to an opinion that there is an actual difference of things. Yet I very much question whether the persons who use these words every day, annex any distinct ideas to them; or if they do,

whether they could explain the difference.

The Greeks believed in the doctrin of transmigration. They had observed the metamorphosis of the caterpillar, and supposing the same soul to animate the different bodies, and believing the soul to be perpetual or immortal, they made the butterfly the hieroglyphic of the soul: Hence the Greek word for soul, *psuke*, came to signify also a *butterfly*.

For want of attending to the true etymology of the word *glory*, false opinions have gained an establishment in the world, and it may be hazardous to dispute them. It is said that the *glory* of God does not depend on his creatures, and that the glory of the good man depends not on the opinion of others. But what is glory? The Greek word *doxe* explains it. It is derived from *dokeo, to think*; and signifies the *good opinion of others*. This is its *true* original meaning; a man's glory therefore consists in having the good opinion of men, and this cannot generally be obtained, but by meritorious actions. The *glory* of God consists in the exalted ideas which his creatures entertain of his being and perfections. His *glory* therefore depends *wholly on his creatures*. The word is indeed often used to signify the greatness, splendor or excellence of the divine character. In this sense the *divine glory* may be independent of created beings; but it is not the primitiv sense of the word, nor the sense which answers to the original meaning of the Greek *doxe*, and the Latin *gloria*.

No right in England and America is so much celebrated as that of *trial by peers*; by which is commonly understood, *trial by equals*. The right is valuable, but is not derived from the primitiv custom of *trial by equals*; on the contrary, it is very questionable whether such a custom existed prior to

Alfred. Yet the *trial by peers* existed long before, and can be traced back to the date of the Christian era. The truth is, the word *peer* is not derived from the Latin *par*, equal; but from the German, or Teutonic *bar* or *par*, which signified a landholder, freeman or judge. The *bars* were that class of men who held the *fees* or property in estates; and from whom the word *baron* and the attendant privileges are derived. We have the same root in *baron*, *baronet*, *parliament*, *parish*, and many other words, all implying some degree of authority, eminence or jurisdiction. From the same word *bar* or *par*, (for *B* and *P* are convertible letters) the word *peer* is derived, as it is used in the common expressions *house of peers*, *trial by peers*. It signified originally, not *equals*, but *judges* or barons. The *house of peers* in England derives its appellation and its jurisdiction from the ancient mode of trial by *bars* or barons; for it is the final resort in all judicial cases. Yet the ancient English lawyers, supposing the word to be from the Latin *par*, equal, have explained it in that sense, and multiplied encomiums without end upon the excellence of the privilege. The privilege is valuable, but its excellence, if it consists in a *trial by equals*, is modern, compared with the original custom, which was a *trial by barons*, or principal landholders.

It is probable that our modern writers, misunderstanding the term *voluptas*, have passed too severe censures upon epicures. The true primitiv meaning of *voluptas* was that of *pleasurable sensations* arising from innocent gratifications. Our modern word *voluptuousness* carries with it a much stronger idea, and hence we are led into an error reflecting the doctrine of Epicurus, who might confine his ideas of pleasure to innocent gratifications.

We have been accustomed from childhood to hear the expressions, *the dew falls*; *the dews of heaven*; and it is probable that nine people out of ten, have never suspected the inaccuracy of the phrases. But *dew* is merely the perspiration of the earth; it *rises* instead of *falling*, and rises during the night.[63]

It was also supposed that *manna* in the eastern countries, came from above, and it is called in scripture *bread from heaven*. Yet *manna* is a gum, exuding from plants, trees and bushes, when pierced by certain insects. The truth of this fact was not discovered, till the middle of the sixteenth century.

Every man knows, when the prices of goods rise, it is said they become *dear*; yet when the prices rise in consequence of an overflowing sum of money in circulation, the fact is that the *value of money falls*, and the value of goods remains the same. This erroneous opinion had an amazing effect in raising popular clamor, at the commencement of the late revolution.

I will name but one other instance, which has a material influence upon our moral and religious opinions. It is said in scripture that *God hardened Pharaoh's heart*. How? Was there a miracle in the case? By no means. The manner of speaking leads us into the mistake. The first cause is mentioned, and not the intermediate cause or causes. So we should say, that *General Washington attacked the British troops at Monmouth*; altho he was at a great distance when the attack was commenced, and only *ordered* the attack. I suspect that similar modes of speaking in scripture often lead superficial minds into mistakes, and in some instances, giv occasion to infidels to scoff at passages, which, if rightly understood, would silence all objections.

This is a fruitful theme, and would lead an ingenious inquirer into a wide field of investigation. But I have neither time nor talents to do it justice; the few hints here suggested may have some effect in convincing my readers of the importance and utility of all candid researches into the origin and structure of speech; and pave the way for further investigations, which may assist us in correcting our ideas and ascertaining the force and beauty of our own language.

# No. XIX.

PHILADELPHIA, 1787.

## *On* VOCAL MUSIC.

The establishment of schools for teaching psalmody in this city is a pleasing institution; but people seem not to understand the design, or rather are not aware of the advantages which may result from it, if properly conducted and encouraged. Most people consider music merely as a source of pleasure; not attending to its influence on the human mind, and its consequent effects on society. But it should be regarded as an article of education, *useful* as well as ornamental.

The human mind is formed for activity; and will ever be employed in business or diversions. Children are perpetually in motion, and all the ingenuity of their parents and guardians should be exerted to devise methods for restraining this activ principle, and directing it to some *useful* object, or to *harmless trifles*. If this is not done, their propensity to action, even without a vicious motiv, will hurry them into follies and crimes. Every thing innocent, that attracts the attention of children, and will employ their minds in leisure hours, when idleness might otherwise open the way to vice, must be considered as a valuable employment. Of this kind is vocal music. There were instances of youth, the last winter, who voluntarily attended a singing school in preference to the theatre. It is but reasonable to suppose, that if they would neglect a theatre for singing, they would neglect a thousand amusements, less engaging, and more pernicious.

Instrumental music is generally prefered to vocal,

and considered as an elegant accomplishment. It is indeed a pleasing accomplishment; but the preference given to it, is a species of the same false taste, which places a son under the tuition of a *drunken clown*, to make him a gentleman of *strict morals*.

Instrumental music may exceed vocal in some nice touches and distinctions of sound; but when regarded as to its effects upon the mind and upon society, it is as inferior to vocal, as sound is inferior to sense. It is very easy for a spruce beau to display a contempt for vocal music, and to say that human invention has gone beyond the works of God Almighty. But till the system of creation shall be new modelled, the human voice properly cultivated will be capable of making the most perfect music. It is neglected; sol faing is unfashionable, and that is enough to damn it: But people who have not been acquainted with the perfection of psalmody, are incapable of making a suitable comparison between vocal and instrumental music. I have often heard the best vocal concerts in America, and the best instrumental concerts; and can declare, that the music of the latter is as inferior to that of the former, as the merit of a *band box macaroni* is to that of a Cato.

Instrumental music affords an agreeable amusement; and as an amusement it ought to be cultivated. But the advantage is private and limited; it pleases the ear, but leaves no impression upon the heart.

The design of music is to awaken the passions, to soften the heart for the reception of sentiment. To awaken passion is within the power of instruments, and this may afford a temporary pleasure; but society derives no advantage from it, unless some useful sentiment is left upon the heart.

Instruments are secondary in their use; they were invented originally, not to supercede, but to assist the voice. The first histories of all nations were written in verse, and sung by their bards. In later ages, the *oaten reed*, the *harp* and the *lyre*, were found to improve the pleasures of music; but the neglect of the voice and of sentiment was reserved for modern corruption. Ignorant indeed is the man, and possessed of a wretched taste, who can seriously despise the humble pleasures of vocal music, and prefer the bare harmony of sounds. Sentiment should ever accompany music; the sounds should ever correspond with the ideas, otherwise music loses all its force. Union of sentiment, with harmony of sounds, is the perfection of music. Every string of the human heart may be touched; every passion roused by the different kinds of sounds; the courage of the warrior; the cruelty of the tyrant; anger; grief; love, with all its sensibilities, are subject to the influence of music. Even brutes acknowlege its effects; but while they in common with man feel the effects of a harmony of mere sounds, man enjoys the superior felicity of receiving sentiment; and while he relishes the pleasures of chords in sound, he imbibes a disposition to communicate happiness to society.

Seldom indeed do men reflect on the connexion between the chords of music and the social affections. Morality is to immorality, what harmony is to discord. Society detests vice, and the ear is offended with discordant sounds. Society is pleased and happified with virtue, and the ear is delighted with harmony. This beautiful analogy points out the utility of cultivating music as a science. Harsh discordant sounds excite the peevish malevolent passions; harmonious sounds correct and soften the rougher passions.

Every person will acknowlege, that love refines the heart, and renders it more susceptible, and more capable of social virtue. It is for this reason that men who have particular attachments to women, or associate much with ladies of delicacy, are more disposed to do acts of kindness, in every sphere of life, than those who seldom frequent ladies company. On the other hand, anger, jealousy, envy, are dissocial passions; and even when they are excited by a single object, they poison the heart, and disqualify it for exciting the social affections towards any of the human race. Every institution, therefore, calculated to prepare the human heart for exerting the social virtues, and to suppress or check the malignant passions, must be highly beneficial to society; and such I consider establishments in favor of vocal music. Happy, indeed, should I feel, could I see youth devoted every where to the refinement of their voices and morals; to see them prefer moral or religious pieces to the indecent songs or low diversions which taint the mind in early life, and diffuse their pernicious influence through society.

If the poison of the tarantula may be counteracted by music; if the Spanish ladies are won by nocturnal serenades; if the soldier is inspired with courage by the martial sounds of the trumpet, and the Christian impressed with devout sentiments by the solemn tones of the organ; what advantage may society derive from the softening harmony of choirs of voices, celebrating the praises of social virtue! Happy days! when *false taste* and *false opinions* shall vanish before the progress of *truth*; when princes shall resume their ancient and honorable task of teaching the young to be *good* and *great*; when an Addison shall be preferred to a Chesterfield; when the wealth of nations shall be no longer lavished upon fiddlers

and dancers; when the characters of a *Benezet* and a WASHINGTON shall obscure the glories of a Cæsar; and when no man shall be ashamed to be *good*, because it is unfashionable.

# No. XX.

NEW YORK, JUNE, 1788.

## *On* MORALITY.

"The principles of morality are little understood among savages," says Lord Kaimes, "and if they arrive to maturity among enlightened nations, it is by slow degrees."

With submission to that writer, I would advance another position equally true, "that the principles of eating and drinking are little understood by savages, and if they arrive to maturity among civilized nations, it is by slow degrees."

The truth is, morality consists in discharging the social duties of life; and so far as the state of savages requires an intercourse of duties, the moral principles seem to be as perfect in them as in more enlightened nations. Savages in a perfectly rude state have little or no commerce; the transactions between man and man are confined to very few objects, and consequently the laws which regulate their intercourse and distribute justice, must be few and simple.[64] But the crime of murder is as severely punished by savages, as by civilized nations. Nay, I question whether it is possible to name the barbarous tribe, which suffers an individual to take the life of another, upon as easy terms as the modern feudal Barons in Europe may do that of a vassal; or with the same impunity that a planter in the West Indies takes the life of a slave. I speak of a time of peace, and of the conduct of savages towards their own tribes. As to war, every nation of savages has its arbitrary customs, and so has every civilized nation. Savages

are generally partial and capricious in the treatment of their prisoners; some they treat with a singular humanity; and others they put to death with the severest cruelty. Well, do not civilized people the same? Did a savage ever endure greater torments, than thousands of prisoners during the late war? But not to mention the practice of a single nation, at a single period; let us advert to a general rule among civilized nations; that it is lawful to put to death prisoners taken in a garrison by storm. The practice grounded on this rule, is as direct and as enormous a violation of the laws of morality, as the slow deliberate tortures exercised by the most barbarous savages on earth.

Well, what are the ideas of savages respecting *theft*? How do they differ from those of an enlightened people? Many things are possessed in common, as provisions taken in hunting, corn, &c. Ferdinand de Soto relates, that the tribes (and he visited hundreds in Florida) had public granaries of corn laid up for winter, which was distributed by authority to each family, according to its number. But for an individual to take from this common stock without license, was considered as a criminal defrauding of the public. And with regard to the few articles, in which individuals acquire private property, the savages have as correct ideas of *meum* and *tuum*, of theft, trespass, &c. and are as careful to guard private property from invasion, by laws and penalties, as any civilized people. The laws of the Creeks, the Cherokees, the Six Nations, &c. with regard to these and many other crimes, in point of reason and equity, stand on a footing with those of the most civilized nations; and in point of execution and observance, their administration would do honor to any government. Among most savage nations there is

a kind of monarchy which is efficient in administration; and among those tribes which have had no intercourse with civilized nations, and which have not been deceived by the tricks of traders; the common arts of cheating, by which millions of enlightened people get a living or a fortune, are wholly unknown. This is an incontrovertible fact. I lately became acquainted with a lad of about twelve years old, who was taken captiv by the Indians in 1778, while a child, and had continued with them till about ten years old. He had no recollection of the time when he was taken, and consequently his mind could not have been corrupted among the English. When he was restored, agreeable to the treaty, he was a perfect savage; but what I relate the circumstance for, is this; the lad was not addicted to a single vice. He was instant and cheerful in obeying commands; having not even a disposition to refuse or evade a compliance. He had no inclination to lie or steal; on the other hand, he was always surprised to find a person saying one thing and meaning another. In short, he knew not any thing but honesty and undisguised frankness and integrity. A single instance does not indeed establish a general rule; but those who are acquainted with the nativs of America can testify that this is the general character of savages who are not corrupted by the vices of civilized nations.

But it is said savages are revengeful; their hatred is hereditary and perpetual. How does this differ from the hatred of civilized nations? I question much whether the principle of revenge is not as perfect in enlightened nations, as in savages. The difference is this; a savage hunts the man who has offended him, like a wild beast, and assassinates him wherever he finds him; the *gentleman* pursues his enemy or his

rival with as much rancor as a savage, and even stoops to notice little affronts, that a savage would overlook; but he does not stab him privately; he hazards his own life with that of his enemy, and one or both are very *honorably* murdered. The principle of revenge is equally activ in both cases; but its operation is regulated by certain arbitrary customs. A savage is open and avows his revenge, and kills privately; the polite and well bred take revenge in a more *honorable* way, when *life* is to be the price of satisfaction; but in cases of small affronts, they are content with privately stabbing the reputation or ruining the fortunes of their enemies. In short, the passions of a savage are under no restraint; the passions of enlightened people are restrained and regulated by a thousand civil laws and accidental circumstances of society.

But it will be objected, if savages understood principles of morality, they would lay such passions under restraint. Not at all: Civil and political regulations are not made, because the things prohibited are in their own nature wrong; but because they produce inconveniencies to society. The most enlightened nations do not found their laws and penalties on an abstract regard to *wrong*; nor has government any concern with that which has no influence on the peace and safety of society. If savages, therefore, leave every man to take his own revenge, it is a proof that they judge it the best mode of preventing the necessity of it; that is, they think their society and government safer under such a license, than under regulations which should control the passions of individuals. They may have their ideas of the nature of revenge independent of society; but it will be extremely difficult to prove, that, abstracted from a regard to a Deity and to

society, there is such a thing as *right* and *wrong*. I consider *morality* merely as it respects *society*; for if we superadd the obligations of a divine command, we blend it with *religion*; an article in which Christians have an infinit advantage over savages.

Considering moral duties as founded solely on the constitution of society, and as having for their sole end the happiness of social beings, many of them will vary in their nature and extent, according to the particular state and circumstances of any society.

Among the ancient Britons, a singular custom prevailed; which was, a community of wives by common consent. Every man married one woman; but a number, perhaps ten or twelve, relations or neighbors, agreed to possess their wives in common. Every woman's children were accounted the children of her husband; but every man had a share in the common defence and care of this little community. [65] Was this any breach of morality? Not in the least. A British woman, in the time of Severus, having become intimate with Julia Augusta, and other ladies, at the court of Rome, had observed what passed behind the curtain; and being one day reproached for this custom of the Britons, as infamous in the women, and barbarous in the men; she replied, "We do that *openly* with the *best* of our men, which you do *privately* with the *worst* of yours." This custom, so far from being infamous or barbarous, originated in public and private convenience. It prevented jealousy and the injuries of adultery, in a state where private wrongs could not easily be prevented or redressed. It might be an excellent substitute for penal laws and a regular administration of justice. But there is a better reason for the custom, which writers seem to have

overlooked; and this is, that a community multiplied the chances of subsistence and security. In a savage life, subsistence is precarious, for it depends on contingent supplies by hunting and fishing. If every individual, therefore, should depend solely on his own good luck, and fail of success, his family must starve. But in a community of twelve, the probability that some one would procure provisions is increased as twelve to one. Hence the community of provisions among most savage nations.[66]

The Britons, when the Romans first visited their island, did not attend much to the cultivation of the earth. "Interiores plerique," says Cæsar, "frumenta non serunt, sed lacte et carne vivunt." By establishing a community of goods, they secured themselves against the hazard of want; and by a community of wives and offspring, they confirmed the obligations of each to superintend the whole; or rather, changed into a natural obligation what might otherwise depend on the feebler force of positiv compact. Besides, it is very possible that personal safety from the invasion of tribes or individuals, might be another motiv for establishing these singular communities. At any rate, we must suppose that the Britons had good civil or political reasons for this custom; for even savages do not act without reason. And if they found society more safe and happy, with such a custom than without it, it was most undoubtedly right.

Should it be said, that a community is prohibited by divine command; I would answer that it is not presumable that the old Britons had any positiv revelation; and I do not know that the law of nature will decide against their practice. The commands given to the Jews were positiv injunctions; but they

by no means extend to all nations, farther than as they are founded on *immutable principles* of right and wrong in all societies. Many of the Mosaic precepts are of this kind; they are unlimited in their extent, because they stand on principles which are unlimited in their operation.

Adultery is forbidden in the Jewish laws; and so it is in the codes of other nations. But adultery may be defined differently by different nations; and the criminality of it depends on the particular positiv institutions, or accidental circumstances of a nation. The same reasons that would render a similar custom in civilized modern nations highly criminal, might render it innocent and even necessary among the old Britons. A prohibition to gather sticks on the Sabbath, under a penalty of death for disobedience, might be founded on good reasons among the ancient Jews; but it would be hard to prove that a modern law of the same kind, would be warrantable in any nation.

# No. XXI.

NEW YORK, JUNE, 1788.

## *A* LETTER *from a* LADY, *with* REMARKS.

*sir*,

As you have, in your writings, discovered that you take a particular interest in the happiness of ladies, I hope you will not deem it a deviation from delicacy, if one of them offers you her grateful acknowlegements, and requests you to giv your sentiments upon what will be here related.

About four years ago, I was visited by a gentleman who professed an unalterable attachment for me. He being a genteel, sensible and handsome man, I thought myself justifiable in treating him with complacency. After I was convinced by his constant attention and frequent professions, that I was a favorite, he used frequently to upbraid me, for being so silent and reserved: It shewed, he said, a want of confidence in him; for I must be sensible he derived the greatest pleasure imaginable in my conversation, and why would I then deprive him of the greatest happiness by absenting myself, when he paid a visit, refusing to chat with my usual freedom. Tho he professed himself to be an admirer of candor, and a strict adherer to the rules of honor, still I could not but doubt his sincerity from the extravagance of his expressions. This he considered as an affront, saying that no man of *honor* would express sentiments that were not genuine. I found myself unwilling to say any thing that should be disagreeable, and disposed to make him understand by an attention that I supposed him entitled to, that he was prefered to any

other person. He continued his visits in this manner for about eighteen months, conducting himself with the greatest delicacy, affection and respect. During this time, he never expressed a wish to be united, which made me uneasy, as I knew that all my friends thought us engaged. At last I told him his attention was too particular; I knew not what construction to put upon it. He replied that I was too particular in my ideas; it was a convincing proof to him, with my resenting *trifling liberties*, that I had not an affection for him, and that he was not the man I wished to be connected with; therefore he would not trouble me any longer with his company, and wished me a good night.

This, Sir, you must suppose, distressed me greatly; I viewed myself injured and trifled with, but knew not how to obtain redress. My attachment and pride were so great that I would not allow my friends to call him to an account for his behavior; tho I now despise his conduct, and would refuse him the hand of which he has proved himself unworthy, still I feel hurt at the treatment I have received. You, Sir, as a friend to our sex, and one who wishes to preserve the peace of mind of unsuspecting girls, will do them an essential service, by your animadversions on these facts, and guarding our sex from similar impositions.

These circumstances would not have been related, were I not rendered discontented and wretched at home, in consequence of refusing the offers of three other gentlemen; either of whom would doubtless have been acceptable, had not my affections been preengaged to one who has proved himself worthless. Their characters and situations in life are equal to my wishes; but I cannot do them so much injustice and myself so much injury, as to giv my

hand unaccompanied with my heart. In consulting my own inclinations I have incurred the displeasure of all my family; they treat me with great inattention, and are continually reflecting on my want of spirit and resolution. I am confident, Sir, that every generous mind will pity your unhappy and distressed friend,

CONSTANTIA.

*To* CONSTANTIA.

While I acknowlege myself honored by your correspondence, and happy in an opportunity of rendering you or your sex the least service, permit me, in compliance with your request, which shall be to me a sacred law, to offer my sentiments with a frankness, corresponding with that which marks the relation of your misfortunes. For altho I feel the warmest indignation at every species of deception, and particularly at that long continued inexplicitness which is *deliberate deception*, and which is the cause of your wretchedness, candor and truth require that censure should fall where it is due.

If the slightest blame can fall on you, it is that you indulged the visits of a gentleman for *eighteen months without an explicit and honorable declaration of his intention*. A *delicate*, *affectionate* and *respectful* attention to a lady, for one quarter of that period, is sufficient to make an impression on her mind, and decide her choice: At the same time, it might not render an attachment on her part, so strong as to make a separation very painful; it might not giv the world an opinion that an engagement exists, or subject the lady to the necessity of dismissing other suitors. It is therefore prudent at least for a lady to conduct herself in such a manner as to bring her admirer to an explicit declaration of his designs. A

man of *real honor* and principle would not wait for a stratagem on the part of the lady, or for a frank demand of an explanation of his conduct. A tolerable acquaintance with the human heart would enable him to discover when a declaration would be *agreeable* to the lady, and after this discovery, he would not keep her a moment in suspense. A man of generous feelings, who has a lively attachment, looks with anxiety for some proof that his addresses are agreeable, and that a declaration of his intentions will be well received. No sooner does he find this proof, than he hastens to unbosom himself to the dear object of his wishes, and communicate the happiness he so ardently desires to receive. When therefore a man neglects such a declaration, after he has had convincing proofs that his offers would be well received, it may and should be taken for granted that his intentions are not honorable, and the lady should treat him accordingly. If therefore, my unhappy friend, you deserve the least degree of censure, it is because you delayed too long to take measures for undeceiving yourself. Yet this delay is a proof of your unsuspecting confidence and sincere attachment; and faults, proceeding from such amiable causes, are almost changed to virtues; in your sex, they entitle the sufferer to forgivness and to love.

You inform me, Constantia, that the man who has injured you, professed to *adhere to the rules of honor*. Never, Constantia, trust a man who deals largely in that hackneyed virtue, *honor*. *Honor*, in the fashionable sense of the word, is but another name for *villany*. The *man of honor* would not be guilty of the least impropriety in public company; he would not for the world neglect the least punctilio of the customary etiquette, but he would, without

hesitation or remorse, blow out the brains of a friend, for treading on his toe, or rob an amiable woman of her reputation and happiness to gratify his vanity.

If a man talks too much of his *honor*, he is to be avoided, like the midnight ruffian. He that really possesses a virtue never boasts of it, for he does not suspect the world think him destitute of it. Numerous professions are commonly mere substitutes for what is professed.

The man, who has given you so much uneasiness, never deserved the confidence he won; he must be destitute of principle, of virtue, and of attachment to you. His deliberate ill usage proves him to be callous to every tender emotion, and to deserve your contempt. Will not a generous pride and detestation expel the least sentiment of respect for him from your breast? Can you not forget that you have been misled, and will not your innocence buoy you above misfortunes? That you have refused good offers, is to be regretted; but your friends, if they know the reason, as they ought, will not pain you by disingenuous reflections. On the other hand, they will assist you in finding objects to amuse you and dissipate your own melancholy reflections. Smile away the anxiety that shuts your heart against other impressions. Base as men are, there may be some found who despise the character of him who has given even an hour's pain; there may be one who knows *your* worth, and may be disposed to reward your *constancy*.

It is a mortifying reflection to an honest mind, that *bad* hearts are so often suffered to giv pain to the *good*; that the *trifling* and the *base* of our sex are not constrained, by necessity, to associate only with the

*trifling* and the *base* of yours, and that the good, the generous and the constant should be exposed to the abuses of the fickle and designing. But such is the constitution of society, and for the evils of it, we have no remedy, but cautious circumspection to prevent, or patient fortitude to support the adverse events of our conditions.

No man can entertain a more cordial detestation of the smallest disposition to annoy the peace of mind and disturb the tranquillity of mankind, than myself; the design of existence here is to sooth the evils, and multiply the felicities of each other, and he must be a villain indeed, who can deliberately attempt to poison the sources of pleasure, by crossing and disappointing the social passions.

To your sex, Constantia, permit me to giv a word of caution; never to make any inquiries about a man's family, fortune or accomplishments, till you know whether he is a man of *principle*. By *principle*, I mean, a disposition of heart to conduct with strict propriety, both as a moral being and as a member of civil society; that is, a disposition to increase the happiness of all around him. If he appears to wish for his own gratification, at the expense even of a servant's happiness, he is an unsocial being, he is not a fit associate for men, much less for amiable women. If he is a man of *principle*, then proceed to inquire into his standing in life. *With* principle he may make a woman happy in almost any circumstances; *without* it, *birth*, *fortune* and *education* serve but to render his worthlessness the more conspicuous. With sentiments of esteem, I am your obliged friend, and humble servant,

E.

# No. XXII.

NEW YORK, JULY, 1788.

## *A* LETTER *to the* AUTHOR, *with* REMARKS.

*sir*,

I beg leave to relate to you a few circumstances respecting the conduct of a young friend of mine in this city, and to request your own remarks and advice on the occasion. Should any other person similarly situated, be disposed to receive benefit from the advice, I shall be much gratified, and my design more than answered.

This young friend to whom I allude, has been till within a few years, under the watchful eyes of very attentiv parents; from whom he received much better advice and much more of it, than the generality of parents in this city are wont to bestow on their children; they taught him to regard truth with a steady attachment; in short his education, till their deaths, was such as might with propriety have been called rigidly virtuous. Since that instructiv period, he has been under the guidance of no one but himself; his former associates with whom he grew up, and for whom he still feels a degree of schoolmate attachment, are almost universally debauched characters. The force of example is great, and let it be mentioned to his honor, that in general he has had sufficient virtue to resist their importunities, and to follow a line of conduct directly contrary to the one they would gladly have marked out for his pursuance. He possesses many of the social virtues, and is warmly attached to the amiable part of the female world. This attachment has preserved him from the fashionable vices of the

age, and given him a relish for domestic happiness, which I think he will never lose. A young gentleman so capable of making himself agreeable to good and virtuous characters, ought not, in my opinion, to indulge himself in any practices, that shall tend in the least to depreciate his general merit. The practices I would mention, are few and not very considerable; still I think he should dismiss them entirely, or at least not indulge them to his disadvantage. He sings a *good song*, and he knows it tolerably well; he is often urged into company on that account; he can make himself agreeable withal, and is really a *musical companion*; he pays so much attention to *learning* and *singing songs*, that he has but little leisure time on his hands; he reads part of the day, but he reads principally *novels* or *song books*. I would not be understood to consider *singing songs* as criminal; far from it; I am often delighted with a song from him; but the query with me is, whether he ought not to devote part of the time which he now employs about what may be called genteel trifling, to the improvement of his mind in a manner that may be of lasting benefit to him; I wish you to giv him your advice, and direct him what books to read. He has another *fault*, which, altho it originates in the benevolence of his disposition, may still be called a fault. He has a very susceptible heart, and opens it with a generous freedom, so much so that he sometimes forgets himself, and opens it where he ought not to do. A stranger with a specious outside might easily impose on him. I just throw out these hints, that he may be on his guard against those whose business it is to deceive. There are several smaller faults dependant upon, or rather consequent to, those I have mentioned, which I at first intended to have enumerated, but if the first are amended, the

others will forsake him of course.

*The* ANSWER.

*sir*,

By the description you have given of your young friend, it appears that he is rather *trifling* and *inconsiderate* than *profligate*. His faults are, *his spending too much time in learning and singing songs*; and too *much frankness of heart*, which exposes him to impositions. But you have not, Sir, informed me whether he was *bred to business*; and by his character, I judge that he was not. He has had good precepts indeed; but of how little weight are precepts to young people! Advice to the young sometimes does good; but perhaps never, except good habits have been previously formed by correct discipline in manners, or by a mechanical attention to honest employments. The truth is, advice or serious council is commonly lavished where it does no good, upon the young, the gay, the thoughtless; whose passions are strong, before reason begins to have the smallest influence. I am young myself, but from the observations I have hitherto made, I venture to affirm, that grave advice never yet conquered a passion, and rarely has restrained one so as to render a sprightly youth, in any degree serious. How should it? Instructions are transient; they seldom touch the heart, and they generally oppose passions that are vigorous, and which are incessantly urging for indulgence.

I have ever thought that advice to the young, unaccompanied by the routine of honest employments, is like an attempt to make a shrub grow in a certain direction, by blowing it with a bellows. The way to regulate the growth of a vegetable is to *confine* it to the proposed direction.

The only effectual method perhaps is to keep young persons from childhood busy in some employment of use and reputation. It is very immaterial what that employment is; the mind will grow in the direction given it at first; it will bend and attach itself to the business, and will not easily lose that bent or attachment afterwards: The mind *will* attach itself to something; its natural disposition is to pleasure and amusement. This disposition may be changed or overcome by keeping the mind, from early life, busy in some useful occupation, and perhaps by *nothing else*. Advice will not produce the effect.

I suspect, Sir, that your young friend has been bred a trifler; that he has had money to support him without the labor of acquiring it; that he has never been anxious about his future subsistence. If so, his education must be pronounced erroneous. Whether worth twenty pounds or twenty thousand, it should make no difference in his attention to business while young. We are the creatures of habit; a habit of *acquiring* property should always precede the *use* of it, otherwise it will not be used with credit and advantage. Besides, business is almost the only security we have for moral rectitude and for consequence in society. It keeps a young person out of vicious company; it operates as a constant check upon the passions, and while it does not destroy them, it restrains their intemperance; it strengthens the mind by exercise, and puts a young person upon exerting his reasoning faculties. In short, a man bred to business loves society, and feels the importance of the principles that support it. On the other hand, mankind respect him; and whatever your young friend may think of the assertion, it is true that the ladies uniformly despise a man who is always dangling at their apron strings, and whose principal

excellence consists in singing a good song.

If, Sir, your friend is still so young, as to undergo the discipline of a professional or other employment, his habits of trifling may be changed by this means; but if he is so far the gentleman as to disdain business, his friends have only to whistle advice in his ears, and wait till old age, experience, and the death of his passions, shall change the man.

Accept of my thanks, Sir, for this communication, and be assured that my opinion on any subject of this kind will always be at your service.

E.

# No. XXIII.

BOSTON, MARCH, 1789.

## *An* ENQUIRY *into the* ORIGIN *of the* WORDS DOMESDAY, PARISH, PARLIAMENT, PEER, BARON; *with* REMARKS, NEW *and* INTERESTING.

In the course of my etymological investigations, I hav been led to suspect that all the writers on the laws and constitution of England, hav mistaken the origin and primitiv signification of several words of high antiquity, and in consequence of the mistake, hav adopted some erroneous opinions, respecting the history of parliaments and trial by peers. Whether my own opinions are wel supported by history and etymology, must be hereafter decided by able and impartial judges of this subject.

*Dome book*, or *domesday book*, iz a word wel understood by English lawyers. *Dome book*, or *dom bec*, az it waz formerly spelt, waz the name given to the Saxon code of laws compiled by Alfred. Some other codes of local customs or laws were also denominated *dom becs*, but theze are all lost. After the conquest, a general survey of all the lands in England, except a few counties, waz made by order of William, and recorded in a volum which iz stil extant, and called *domesday*. This survey waz begun by five justices assigned for the purpose in each county, in the year 1081 and completed 1086.

Our pious ancestors were not a little frightened at the name of this book, which iz usually pronounced *doomsday*; supposing it to hav some reference to the final doom, or day of judgement. In order to quiet

such apprehensions, lawyers of less credulity undertook to refute the common opinion. Jacob, after Cowel, very gravely asserts, that the termination *day* in this word does not allude to the general judgement. "The addition of *day* to this dome book, waz not ment with any allusion to the final day of judgement, az *most persons hav conceeved*, but waz to strengthen and confirm it, and signifieth the judicial decisiv record, or book of *dooming* judgement and justice."[67] The same author defines *domesmen* to be *judges*, or men appointed to *doom*.

Cowel, a compiler of considerable authority, says, "day or dey," (for *dey* iz the true spelling) "does not augment the sense, but only doubles and confirms the same meening. It does not, in this composition, really signify the mesure of time, but the administration of justice; so that *domesday* iz more emphatically the judicial decisiv record, the book of *dooming* judgement."[68] According to this author, then, *domesday* iz *a judgement of judgements*, for he quotes Dr. Hammond to proov that *day*, *dies*, ημερα, in all idioms, signifies judgement. However tru this may be, I beleev our Saxon forefathers could find a better name for a code of laws, than *a judgement of judgements*.

"*Domesday*," says Coke, "dies judicii," day of judgement.[69] Such is the influence of sounds upon credulous, superstitious minds.

The truth seems to be this; *domesday* is a compound of *dom*, judgement, decree or authority; and *dey*, a law or rule.[70] Or *domes*, in the plural, may signify *judges*. The name of the book then will signify, ether *the rules of judging*, or *deciding*, in questions relating to the real property of England; or what is more probable, *the rules and determinations of the judges*

who surveyed the lands in the kingdom.

That *dom* had the signification here explained iz capable of proof. The homager's oath, in the black book of Hereford, fol. 46, ends thus, "So helpe me God at his holy *dome* (judgement) and by my trowthe," (troth, that is truth.)[71] This explanation coincides with the meening of the same syllable in other languages, and confirms the hypothesis of the common origin of the languages of Europe, laid down in the Notes to my Dissertations on the English Tung. We see the syllable in the Greek δαμαω, the Latin *dominus*, (domo) and in the English word *tame*; az also in *doom*, *deem*, king *dom*.[72] In all theze words we observe one primitiv and several derivativ significations. Its primitiv sense is that of power or authority, az in Greek and Latin. In English, it stands for jurisdiction, a judge, or a sentence. In *deem*, it denotes the act of the mind in judging, or forming its determinations.

The other syllable *dey* iz probably the same word az *ley*, law, with a different prepositiv article; for etymologists tel us, that the radical syllable waz often found in the muther tung *ey*. Cowel informs us it waz not *day*, but *dey*; and another author writes it *d'ey*. The word *daysman*, or az it ought to be spelt *deysman*, stil used both in England and America, is composed of *dey* and *man*, and signifies an arbitrator or judge, appointed to reconcile differences. In this country I hav often heerd it applied to our Savior, az mediator between God and man.

The ancient lawyers translate the Saxon *dom bec* and *domesdey* by *liber judicialis*; words which seem not to convey the ful meening of the original. I should translate them, *liber judicum*, the Judges book; or *lex judicum*, the Judges law or rule.

The old Saxon word *ley*, before mentioned, waz, in different dialects, or at different periods, written *ley*, *lah*, *lage*, *laga*. It iz doubtless from the same root az the Latin *lex*, *lege*; and it is remarkable, that the same word anciently signified *peeple*; and from this are derived *lay* and *laity*, the peeple as opposed to the *clergy*.[73] It iz probable that the primitiv sense of the word, in remote antiquity, waz *people*; and az the peeple made the laws in general assembly, so their orders or decrees came to be called by the same name. This conjecture iz not groundless, and is no trifling proof of the ancient freedom of our Gothic ancestors. Tacitus says expressly of the Germans, "De minoribus rebus principes consultant; de majoribus *omnes*." De Mor Germ. 11. The princes deliberate upon small matters, or perhaps decide private controverses of small moment; but laws of general concern are enacted in an assembly of all the peeple.

The origin of *Parishes* haz puzzled all the lawyers and antiquaries of the English nation. Johnson, after his usual manner, recurs to the Greek, and derives the word from παροικια, accolarum conventus, an assemblage or collection of peeple in a naborhood. Others content themselves with deriving it from the Latin *parochia* or French *paroisse*. These etymologies do not satisfy me. It is improbable that our ancestors went to the Greek for names of places or divisions of territory, that existed in England az erly az the Heptarchy; especially az the Greek word before mentioned waz never used in the sense of *parish*. *Parochia* cannot be the origin of parish; for it waz not a Roman word; on the other hand, it is merely a Gothic or Saxon word latinized by the erly writers on law; and to derive *parish* from the French *paroisse* is trifling; for we might as well derive *paroisse* from *parish*, which iz at leest az ancient.

"It iz uncertain at what time England waz divided into parishes," say most of the law writers. Camden, in hiz Britannia, page 104, says, the kingdom waz first divided into parishes by Honorius, archbishop of Canterbury, in 636. This opinion iz controverted. Sir Henry Hobart thinks parishes were erected by the council of Lateran, in 1179. Selden, followed by Blackstone, supposes both to be rong, and shows that the clergy lived in common, without any distinction of parishes, long after the time mentioned by Camden; and it appeers by the Saxon laws, that parishes were known long before the council of Lateran.[74]

The truth probably iz, the kingdom was not divided into parishes at any one time, but the original ecclesiastical division grew, in a great measure, out of a prior civil division. *Parish* iz the most ancient division of the ecclesiastical state, and originally denoted the *jurisdiction of a bishop*, or what iz now called a *diocese*. For this opinion, we hav the authority of the Saxon laws and charters. "Ego Cealwulfus, dei gratia rex Merciorum, rogatus a Werfritho, Episcopo Hwicciorum, istam libertatem donavi, ut *tota parochia Hwicciorum* a pastu equorum, regis et eorum qui eos ducunt, libera sit, &c." Charta Cealwulfi regis, Anno 872. "Episcopus, congregatis omnibus clericis totius *parochiæ*, &c." in a passage quoted by Cowel tit. *parish*. Here the *bishoprick* iz explicitly called a *parish*, parochia; and Blackstone remarks, "it is agreed on all hands, that in the erly ages of christianity in this island, parishes were unknown, or at leest signified the same az a *diocese* does now." Com. Vol. I. 112.

This, being a settled point, wil perhaps furnish a clue by which we may find the true origin of the word

and of the division.

It iz certain that there waz an ancient word among the Gothic nations, and probably among the Celtic, which signified originally *a man*, afterwards a freeman, or landholder, in opposition to that class of men who had no real property. This word waz spelt by the Romans *vir*, and signified *a man*, by way of eminence, az distinguished from *homo*; az also a husband or householder. It answered to the ανηρ of the Greeks, az distinguished from ανθροπος, a word denoting the human race in general. The same word in the Gothic or ancient German waz spelt *bar*;[75] and probably in some dialects *par*, for the convertibility of *b* with *p* iz obvious to every etymologist.[76] In the Erse language, az Mc Pherson testifies, *bar* signifies a man. The word iz also pronounced *fer* or *fear*, which approaches nearer to the Latin *vir*: *Fergus* or *Ferguth* signifies a *man of word* or command. In modern Welsh, which iz the purest relict of the old Celtic, *bar* is a son, and *barn* a judge. In the ancient Irish, *brehon* or *barhon*, which iz merely *baron* with an aspirate, signified a judge. See Lhuyd, Mc Pherson, Ossian, p. 4. and Blackstone's Commentaries, Vol. I.

This word iz the root of the modern word *baron*; for in ancient manuscripts, it iz sometimes spelt *viron*, denoting its *derivation* from *vir*. For this we hav the authority of Camden and Du Cange under the word *baron*.

So far we tred on sure ground. That theze words hav existed or do stil exist in the sense above explained, wil not be denied; and it iz almost certain that they all had a common origin.

The word *Baron* iz evidently derived from the German *bar* or *par*, and under the feudal system,

came to signify the proprietors of large tracts of land, or thoze vassals of the Lord Paramount, who held lands by honorable service.[77]

I shall hereafter attempt to proov that several modern words are derived from the same root; at present I confine my remarks to the word *parish*, which, I conjecture, iz a compound of *par*, a landholder, and *rick* or *rich*, which haz been explained, az denoting territory or jurisdiction: *Parick* or *parich*, the jurisdiction of a par or baron. It iz true the words *baron* and *parliament* seem not to hav been used among the Saxons before the conquest; but they were used by most of the nations of the same original, on the continent; az in Germany, Burgundy, Sweden and Normandy: And the use of the word *parochia* in England, before the conquest, or at leest by the first lawyers and translators of the Saxon laws, iz to me the strongest proof that some such word az *parick* existed among the erly Saxons, or which waz latinized by thoze writers. Even if we suppose the word borrowed from nations on the continent, my supposition of the existence of such a word iz equally wel founded, for they all spoke dialects of the same tung.

The first knowlege we hav of the word *parish* or rather *parochia*, iz in the Saxon laws, copied and translated into Latin by thoze erly writers, Bracton, Britlon, Fleta, or others of an erlier date. In that erly period, *parochia* waz a *diocese* or *bishoprick*.

I suspect the jurisdiction of the bishop waz originally limited by an erldom, county shire, or territory of a great lord. This waz probably the general division; for sometimes a clergyman or bishop, in the zerude ages, had cure of souls in two or more adjoining lordships; and it often happened that a lord had

much waste land on hiz demesne, which waz not comprehended in the original *parish*, and thus came, in later times, to be called *extraparochial*. But whatever particular exceptions there might be, the remark az a general one, will hold true, with respect to the original jurisdiction of a bishop.

The number of counties in England iz at present forty, and that of the dioceses, twenty four; but the number of counties haz been different at different times; and some changes, both in the civil and ecclesiastical state, hav doubtless, in a course of a thousand years, destroyed the primitiv division. It iz however some proof of my hypothesis, that most of the bishops in England are stil called by the names of counties, or of cities which are shires of themselves; az the bishop of Durham, of Worcester, of London, of Norwich, &c. or by the names of the cheef towns in counties; az bishop of Winchester, of Chichester, &c.

Selden's account of the ancient divisions of the kingdom, confirms this opinion. See Bacon's Selden, ch. 11. The province or jurisdiction of an archbishop, waz prior to the origin of diocesses or parishes. Selden haz given an account of a division of diocesses by archbishop Theodore in the seventh century; by which it appears, that in some instances, a diocese or parish waz one shire or county; and in others, a parochia covered two, three, or more shires: But in almost every instance, the limits of a parish were the limits of a shire or shires. And however strange the reader may think it, the word *church* and *shire* are radically the same. The Saxon word waz *cyrick* or *cyrk*;[78] and the Scotch pronounce and write it *kirk*. It iz, like *shire*, derived from the Saxon *Sciran*, cir, or *seyre*, to divide. The church or kirk waz the ecclesiastical division, answering to shire, and

come to signify the jurisdiction of the cathedral church; the primaria ecclesia or mother church; and hence the Saxon term *cyrick sceate*, church scot or fees, paid by the whole diocese.

In later times, the original *parochia* or diocese was divided or extended by the *Mickle-mote*, *Witenagemote* or national assembly, by advice of the bishops, nobles, and cheef men.

From all I can collect respecting this subject, it appeers probable, that on the first conversion of the Saxons to christianity, each *earle*, *earlederman*, or erl, whoze manor or jurisdiction waz the origin of a county, had hiz clergyman or chaplain to perform divine service. Hiz residence waz probably in the vicinity of the erl; and this waz the origin of the *cathedral*, or mother church, *primaria ecclesia*, to which the tenants of the whole district or erldom afterwards paid tithes. On the first establishment of theze churches, the tenants paid tithes where they choze; but fraud or delay on the part of the tenant, and the encreasing power of the clergy, occasioned a law of king Edgar, about the year 970, commanding all the tithes to be paid to the mother church, to which the parish belonged.[79] This must hav augmented the welth of the cathedral churches, and given them a superior rank in the ecclesiastical state.

Previous, however, to this period, the *thanes* or inferior lords, had their chaplains and private chapels; and it waz a rule, that if such chapel had a consecrated cemetery or burying ground belonging to it, the lord might appropriate one third of the tithes to the support of hiz private chaplain. The clerks or bishops who belonged to the cathedral churches, and were the officiating ministers of the erls or princes, at that time the first ranks of

noblemen, acquired an influence in proportion to their property and the extent of their jurisdictions. Hence the powers of modern bishops in superintending the clergy of their dioceses. In later times, they acquired large tracts of land, ether by purchase, gift or devise, and in right of their *baronies* gained a seet among the lords of the kingdom in parliament.

The inferior clergy were multiplied in proportion az the peeple wanted or could support them, and the jurisdiction of an earl's chaplain, being limited originally by his cure of souls, and being founded on a *parrick* or territory of a lord, afterwards gave name to all the jurisdictions of the inferior clergy. Hence the name of *parish*, as denoting the extent of a parson's[80] ecclesiastical authority.

The jurisdiction of a bishop lost the name of parish, parochia, at a very erly period; but stil the subordinate divisions of the ecclesiastical state continued to be regulated by prior civil divisions. For this assertion, we hav an indisputable authority, which confirms my opinion respecting the origin of parishes. "It seems pretty clear and certain," says the learned and elegant Blackstone, Com. vol. I, 114, "that the boundaries of *parishes* were originally ascertained by thoze of a *manor* or *manors*; since it very seldom happens that a manor extends itself over more parishes than one, tho there are often many manors in one parish." This iz the present state of facts, for originally the parish, like the modern diocese, covered many manors, or estates of the inferior feudatories.

*Parliament* iz said to be derived from the French, *parlement*, which iz composed of *parler*, to speak, and *ment* or *mens*, mind. Cowel tit. *Parliament.*

"Parliament," says Johnson, "parliamentuns, law Latin; parlement, French." Dict. fol. Edit.

"It is called parliament," says Coke Litt. p. 110. Ed. Lond. 1778, "because every member of that court should sincerely and discretely *parler le ment*," (speek hiz mind) "for the general good of the commonwelth; which name it also hath in Scotland; and this name before the conquest waz uzed in the time of Edward the Confessor, William the Conqueror, &c. It waz anciently, before the conquest, called *michel-sinath*, [81] *michel-gemote*; *ealla*, *witena-gemote*; that is to say, the great court or meeting of the king and all the wisemen; sometimes of the king, with the counsel of hiz bishops, nobles and wisest of hiz peeple. This court, the French men call *les estates*; or *l'assemble des estates*. In Germany it is called a diet. For thoze other courts in France that are called *parliaments*, they are but ordinary courts of justice, and az Paulus Jovius affirmeth, were first established with us."

The late editor of Cokes Institutes, remarks, in a note on this passage, that the latter part of this etymology iz justly exploded, and apologizes for hiz author by saying, "it iz to be found in preceding authors of eminence." He discards the *ment*, and considers it, not az an essential, but an adventitious part of the word; deeming it sufficient to derive the word from *parler*, to speak. This opinion he receives from Lambard.

Such a definition, with great deference to theze venerable authorities, iz a disgrace to etymology. Coke waz a great lawyer, and Johnson a good Latin and Greek scholar; but neether of them waz versed in the Teutonic language and institutions, where alone we should look for the origin of our laws and the English constitution. Johnson indeed waz a mere

compiler of other mens etymologies, and Cowel, Selden, Junius and others from whom he copied, tho deeply lerned, sometimes fell into very whimsical mistakes. I am bold to assert that the English derivation of *parliament*, or *parlement* from the French *parler*, haz no better authority than a mere whim or notion of theze writers. We might az well derive *parler* from *parliament*, and both from a *parcel* of gossips, because they are loquacious.

The true etymology of the word iz *par*, or *bar*, a landholder or baron, and *le mote*, the meeting. I say *mote*, for this waz the Saxon spelling of the word, after the prepositiv *ge* waz dropped. It waz originally *gemote*, az in *witena-gemote*; afterwards the *ge* waz disused, az in *falk-mote*. What the original French orthography waz, I am not certain; but the word came to England from France, and we find the French article prefixed, *par-le-ment; a meeting of the barons*. The same sound waz used in Germany, Burgundy, and other parts of Europe, and in all, it had the same meening, which it, in some mesure, retains in France to this day.

The *commune concilium* of England, before the conquest, consisted of the *witena*, or wise men. It retained the name of *witena-gemote*, til after the Norman invasion. It iz perhaps impossible, at this distance of time, to ascertain exactly the manner of summoning this national assembly, or whether the commons or lesser nobility were entitled to a seet. In old charters, the king iz said to hav passed laws by advice of the archbishops, bishops, abbots, erls and wise men of the relm; seniorum sapientium populi. But we are not able to determin whether theze seniores sapientes were admitted on account of their age and wisdom; or whether possession of real estate

waz a requisit qualification. So much iz certain, that in France and Germany, where we first heer of *parliaments*, all the *barons*, that iz, all the nobility, were entitled to a seet in the national council, in right of their baronys; and this iz asserted to hav been the case in England.[82] This fact, so well attested in history az to be undeniable, ought long ago to hav led the critical enquirer to the true origin of the French word, parlement. The name of parliament took its rise under the feudal system, when the assembly of men, so called, consisted solely of barons or bars. It iz from this circumstance that the provincial assemblies of France are properly denominated *parliaments*. The erly Norman princes, who introduced the name into England, summoned none to their council but the clergy and nobility, and sometimes a few only of the greater barons. The house of lords iz strictly a *parliament*, according to the original of the word, altho since the commons hav made a part of the legislature, the name iz extended to the whole body.

The word *peer* iz said to be derived from the Latin *par* equal; and this circumstance haz been the occasion of innumerable encomiums on the English *trial by peers*. So far az equality in the condition of judges and parties, iz an excellence in any judicial system, the present practice of trial by jury iz esteemable among a free peeple; for whatever may be the origin of the word *peer*, a trial by men of the naborhood may often proov a capital security against a court devoted to party. But it iz at least doubtful whether *peers*, az used for jurors, came from the Latin *par*; for it iz almost certain that the word *peer*, az used for nobles, iz derived from the German *par*, a landholder, and this iz undoubtedly the tru primitiv sense of the word. That there waz such a word in

ancient Germany, iz unquestionable; and *paramount*, which signifies the lord of highest rank, iz from the same root; *par-amount*, the *par* or *baron above* the rest. The jurists on the continent latinized the word, calling the lords *pares*; and this, in later ages, waz mistaken for the plural of the Latin *par*.

Az the pares or barons claimed almost exclusiv jurisdiction over their manors, and held courts of justice, ether in person or by their bailiffs, they came to be considered az the supreme judges in the last resort of all civil and criminal causes. *Pares* or *barons* became equivalent to *judges*. Hence the *house of peers* in England iz the supreme judicatory of the nation. Hence the *parliaments* (meetings of peers) in France are supreme courts of justice.

*Twelv* waz a favorit number with our Saxon ancestors, and the king, or lord paramount, with twelv judges, constituted the supreme court or council among the ancient Germans. It will hardly be considered a digression to examin this institution with more attention; for if I mistake not, the rudiments of it are visible az far back az the Christian era; or even az the Gothic migrations to the west and north of Europe.

In the Edda, or system of Gothic mythology, compiled by Snorro Sturleson, supreme judge of Iceland, about the year 1220, we may discern the principles which would naturally giv rise to the practice of trial by *twelv men*. The Edda will indeed be said to be a collection of fables. To this I answer, fable iz generally, perhaps always, founded on fact; whatever additions may be made in a course of time by imperfect tradition. The Edda iz acknowledged to contain an authentic account of the opinions of the northern nations at the time it waz written. This iz

all I ask.

Snorro, and Torfæus the historian of the north, inform us that even in Scythia, "Odin, the supreme god of the Goths, performed the functions of cheef preest, assisted by *twelv pontiffs, who distributed justice*."[83]

Let us attend to a fact confirming the account. Mallet, a historian of credit, testifies that the hall or seet of justice, may be stil seen in different parts of Sweden and Denmark. "Theze monuments, whoze rude bulk haz preserved them from the ravages of time, are only vast unhewn stones, commonly *twelv* in number, set upright, and placed in form of a circle. In the middle iz a stone, much larger than the rest, on which they made a seet for their king. The other stones served az a barrier to keep off the populace, and marked the place of thoze whom the peeple had appointed to make the election (of king.) They treeted also in the same place of the most important affairs."[84] There iz one neer Lunden,[85] in Scania, another at Leyra, in Zealand, and a third neer Viburg, in Jutland.

This being a well attested fact, we are disposed to beleev what iz related in the Edda, Fable 7th, where it iz asked, "what the universal father did when he bilt Asgard, (the divine abode.") It iz answered, agreeable to the receeved opinion of the Goths, "he in the beginning established governors, and ordered there to decide whatever differences should arize among men, and to regulate the government in the plain, called Ida, wherein are *twelv* seets for themselves, besides the throne which iz occupied by the universal father."[86]

On this passage, the translator of Mallets History haz the following note. "Theze judges were twelv in

number. Waz this owing to there being twelv primary deities among the Gothic nations, az there were among the Greeks and Romans? This I shall not take upon me to decide; but I think one may plainly observe here the first traces of a custom, which hath extended itself to a great many other things. Odin, the conqueror of the north, established a supreme court in Sweden, composed of twelv members, to assist him in the functions of the preesthood and government. This doubtless gave rise to what waz afterwards called the senate. And the same establishment in like manner took place in Denmark, Norway, and other northern States. Theze senators decided in this last appeal, all differences of importance; they were, if I may say so, the assessors of the prince; and were in number twelv, az we are expressly informed by Saxo, in hiz life of king Regner Lodbrog. Nor are other monuments wanting, which abundantly confirm this truth. We find in Zealand, in Sweden, neer Upsal, and if I am not mistaken, in the county of Cornwal, large stones, to the number of twelv, ranged in the form of a circle, and in the midst of them, one of a superior height. Such in thoze rude ages, waz the hall of audience; the stones that formed the circumference, were the seets of the senators; that in the middle, the throne of the king. The like monuments are found also in Persia, neer Tauris. Travellers frequently meet there with large circles of hewn stones; and the tradition of the country reports, that theze are the places where the *caous* or giants formerly held their councils.[87] I think one may discover vestiges of this ancient custom, in the fable of the *twelv peers* of France, and in the establishment of twelv jurymen in England, who are the *proper judges*, according to the ancient laws of that country."

It iz certain that some outlines of this mode of deciding controversies by *twelv*, may be seen in the customs of the Cimbri and Teutones, long before the Christian era. But I cannot find that the idea of *equality* ever entered into the original institution. On the other hand, every old authority that I hav consulted confirms me in the opinion, that the *twelv men* were chosen from among the landholders or better classes of peeple; that they were the *judges* of the court, and that the distinction between judges and jury, law and fact, iz a refinement or improovment on the original constitution, and comparativly of modern date.

It iz certain that a difference of rank existed among the Germans in the time of Tacitus. "Reges ex nobilitate, duces ex virtute sumunt."[88] The same writer expressly declares, that matters of inferior concern and private justice came within the jurisdiction of their *princes*. "De minoribus rebus principes consultant, de majoribus, omnes."[89] In another passage, he is more explicit: "Principes jura per pagos vicosque reddunt."[90] Cesar iz still more explicit: "Principes regionum atque pagorum inter suos jus dicunt, controversiasque minuunt."[91] Theze *principes regionum atque pagorum*, Blackstone says, we may fairly constur to be lords of hundreds and manors;[92] they were originally electiv, az we are informed by Tacitus, "eliguntur in conciliis principis," and each had a hundred comites, or assistant judges, who were chosen from among the peeple. "Centeni singulis, explebe comites, concilium simul et auctoritas, adsunt."[93] Theze hundred assistants, or companions, were chosen *ex plebe*; but when chosen formed the *concilium principis*. The prince waz their president, chosen by themselves, *eliguntur in conciliis principes*, and had *auctoritatem*, authority or

jurisdiction in the town or district.

The idea of equality iz no where suggested; on the contrary; the hundredors when chosen became a court or legislature in the district, competent to the general purposes of government. No mention iz made of a distinction between the legislativ and judicial departments; on the other hand, we may safely conclude, from the passeges of Cesar and Tacitus before quoted, that the powers of making laws and deciding causes were vested in the same men. Cesar says, "nullus est in pace communis magistratus," nor could the Germans, in their primitiv simple mode of living, need such a magistrate. The princes *jus dicunt, controversiasque minuunt*, distributed justice, by the assistance of their *comites*, and according to the circumstances of the peeple.[94] This at leest waz the case with respect to matters of small magnitude.

The number of *comites principis*, or assistants, waz originally a *hundred*. This gave name to the district which they governed, and which afterwards consisted of any indefinit number, still retaining the primitiv name. In later ages, the number of assistant judges waz reduced; a grand jury still consists of twenty four; a petit jury commonly consists of twelv, but on certain occasions, and by the custom of particular places in England, may be composed of sixteen, eight or six.[95]

Such waz the constitution of the ancient Germans, in which we may discover the principles of the system which they every where established, after their conquests in Gaul, Spain, Italy and Britain.

*Twelv* waz a favorit number, not only with the Saxons, but with all the nations of northern original. They had twelv principal deities; they numbered the units up to *twelv*, instead of stopping at ten, like

other nations;[96] they had twelv judges to assist their kings or princes; their hall for the election of their kings consisted of twelv huge stones, placed in a circle. Hence we discover the origin of the twelv senators of Sweden,[97] Denmark and Norway; the twelv counsellors of state in ancient times; the fable, az it iz called, of the twelv peers in France; the twelv judges in England, and the trial by twelv peers or jurors, which waz formerly common to all the northern nations of Europe.[98]

On the Gothic establishments in the south and west of Europe, government took a military complection. The kings parcelled out the conquered lands among their generals, called *duces* or *principes*, by the Latin writers; and by the Saxons, *heretoga*. The generals of first rank receeved or acquired whole provinces, az Burgundy, and the principalities of Germany. Theze territories they distributed among their inferior officers and *comites* or retainers, of whom every lord had great numbers about hiz person. Theze constituted a secondary, but very numerous class of nobility; and altho there might be differences of rank and property among them, they were called by one general appellation. In England, they were called *thanes*, from a word signifying *to serve*, because they held their lands by the condition of military service. On the continent, they were called *barons*, that is freemen, or tenants of land, upon condition of rendering certain military and honorable service to their superior lord, who waz called lord *paramount*.

Blackstone remarks, that "a baron's iz the most general and *universal* title of nobility; for originally every one of the peers of superior rank had also a barony annexed to hiz title."[99] The origin of this title haz occasioned great enquiry among antiquaries;

but the difficulty vanishes upon my hypothesis, which derives the word from *bar*, a landholder and freeman; for on the establishment of the feudal tenures, all the lands were held by a few men; the proprietors were all called *barons*, and this accounts for the *universality* of the title just mentioned. Thus the bishops, after they had obtained gifts of large tracts of land or manors, resigned them to the conqueror, William; accepted them again subject to the conditions of lay fees, claimed rank with the nobility, and took their seets in the English house of lords. Actual possession of a barony waz originally requisit to constitute a lord of parliament; but the title iz now granted by the king without the possession.

Blackstone mentions the difficulty of tracing the word *baron* to its primitiv sense; but confirms the foregoing explanation when he says, "the most probable opinion iz that *barons* were the same az our *lords of manors*."[100] The name indeed waz not used in England (so far as can be collected from English writers) till after the conquest. But it iz certain that the feudal system, tho not in all its severity, waz established in England before that period; and degrees of nobility were cotemporary with the Saxon establishments in the island. The first class were called in Saxon *heretoga*, that iz generals or military commanders. But the most ancient and perhaps the most important civil title waz that of *earles* or *ealdormen*. Theze erls were called also in Saxon *schiremen*, for they exercised supreme jurisdiction in the *shires*. After the conquest they were called by the corresponding Norman title *counts*, from *comites*, because they were the king's companions in war; and their jurisdiction waz called a *county*.[101]

Inferior to theze in rank were the Saxon *thanes*, who were so called from the Saxon *thanian* ministrare, because they were the *comites* or attendants of the ancient kings or earls. Theze were numerous, and after the conquest called by the equivalent continental title, *barons*. Of theze there were different ranks, *thani majores* or *thani regis*, who served the king in places of high importance, and took rank next to the bishops and abbots. Theze had inferior thanes under them, called *thani minores*, who were also *lords of manors*.[102] The word *peer* I suppose to be derived from the same root az *baron*, bar or par, and to be equivalent in sense. It iz cleer to me that *landholder*, or man by way of eminence, waz its original meening; and that it iz a proper name of the ancient nobility, given them az proprietors of vast tracts of land, and that it had no reference to *equality* of rank.

But there are better proofs of this point than that drawn from this supposed derivation. The true original signification of the word we hav in the phrases, *house of peers*, *peers of the relm*, *peerage*. And for this assertion we hav the best authorities in the language. Cowel, from whom Johnson and most modern lawyers have borrowed their definitions of law terms, after explaining the word *peer* az denoting jurors, says expressly, "but this word iz *most principally used for thoze that be of the nobility of the relm and lords of the parliament*." Here the author haz mentioned a well supported fact, and quotes ancient authorities. But he immediately leevs fact, and runs into conjecture, az to the reezon of this appellation, which he deduces from a preconceeved, but probably erroneous, opinion. "The reezon whereof iz, that altho there be a distinction of degrees in our nobility, yet in all public actions they are equal; az in their

votes of parliament, &c." Here the author takes it for granted that the word *peer* signifies *equal*, and assigns, az a cause of its *most principal* appropriation to the nobility, that the men, tho of different ranks, hav an *equal vote* in parliament. This a curious reason indeed! A man must be more credulous than I am, to beleev this slight circumstance would giv rise to such a particular appropriation of a name. One would think that the same reezon would hav given the name to the clergy in convocation and other ecclesiastical courts. Yet the learned and candid Blackstone haz copied the same reezon. "The commonalty, like the nobility, are divided into several degrees; and, az the lords, tho different in rank, yet all them are *peers* in respect of their nobility; so the commoners, tho some are greatly superior to others, yet all are in law *peers*, in respect of their *want* of *nobility*."[103] This appeers very extraordinary, that an *equality of suffrage* should giv an appellation in preference to *difference of rank*, which iz, so much more obvious and more flattering to the haughty barons. But if the commoners are *peers* or *equals in suffrage* az well az the lords; that iz, on the *same principle*; or as Blackstone states it, if the *lords* are *peers* because they are *noble*, and the commoners are *peers*, because they are *not noble*, why hav not the commoners the same appellations of *peers of the relm*? The lords are not *equally* noble, by Blackstone's own statement, for they are of very different ranks; and the commons are not equally *ignoble*, (this word iz used merely for contrast) for they are of different ranks: Yet the vote of one commoner iz az good in the house of commons, az that of another; and the vote of one lord, in the other house, iz az good az that of another. If the *equality of suffrage* iz a proper ground for the title of *peers* in

one house, the reezon extends to the other. Yet commoners are not *peers of the relm*; and until a good reezon can be assigned for the distinction of titles between the houses, I shall beleev that the word *peer* had originally no reference to *equality*.[104]

But say the English lawyers and antiquaries, "the bishops are not in strictness held to be *peers of the relm*, but only *lords of parliament*."[105] Why not? What is the distinction? Here our authors leev us in the dark; but perhaps the foregoing clu will leed us to the light. Bishops were not the original proprietors of baronies; they were not *bars* or *pars*, the hereditary lords of manors, consequently not *peers of the relm*. This iz such an obvious solution of the question, that I am surprized it should hav been overlooked. Under the papal hierarchy, the clergy gained vast influence over the minds of men, and by a variety of expedients, became possessed of large estates, and some of them, of ancient baronies. But their acquisitions were comparativly of modern date, and many of them usurpations, altho in consequence of their estates they obtained a seet in the house of lords. They are therefore *lords of parliament*; but the ancient peers, priding themselves upon the antiquity of their families, and claiming certain prescriptiv rights, would not admit the clergy to an equal share of authority and honor; for to this day, a vote of the temporal lords iz good against every vote of the clergy.[106]

"The appellation *peer*," says Cowel, "seems to be borrowed from France, and from thoze *twelv peers* that Charlemagne instituted in that kingdom." The same word waz used by other nations. Theze twelv peers constituted a great council or supreme court, and the members were all *barons*, or of the nobility.

[107] Can the word, applied to the members of this council, signify *equal*? By no meens. Here we trace the word to a remote period of antiquity, and find it used by the emperor of Germany; or at leest an appellation given to one of the first councils in hiz dominions. This iz the pure primitiv sense of the word *peers*, *barons*, that iz, in the full latitude of its signification, all the ancient nobility; who held lands of him ether immediately or mediately; who formed hiz supreme judicial court, and in some countries, hiz legislativ assembly; who were hereditary councillors of the crown; and cheef *judges* of all causes arising on their own manors, except such az were of great consequence.

This explanation accounts for what Selden has remarked, chap. 65, that "the barons of England, before the reign of Edward I, were rather the *great* and *richer sort* of men, than *peers*, altho they were of the number." That iz, the Saxon thanes, who were great landholders, but inferior to the erls, had, after the conquest, receeved the appellation of *barons* from the continent; but, being a secondary class of nobility, had not claimed or acquired the power and privileges of the German and French princes and nobles who had the title of *peers*, until the Norman kings had introduced, into the kingdom, the oppressiv and invidious distinctions of the feudal tenures, in the full extent of the system.

It will be enquired, if this iz the sense of the word, how came juries of common freeholders to be called *peers*? The answer iz eesy; the jurors were the *judges* of the inferior courts, and not merely the equals of the parties, az iz commonly supposed. The *erl* or *baron*, in strictness; but more commonly, the vice-comes, sheriff or lords deputy, waz the president or

cheef justice, and the jurors, the *assistant judges*. For this opinion, numberless authorities may be produced. The barons were the assistant judges, *peers*, in the court of the lord paramount or king, and thus became judges by prescription; so the word *peer* or *baron*, in time, became equivalent to *judge*. Az the nobles were judges in the kings court, and decided on appeels in the last resort, so the freeholders who constituted the court in the county, hundred or manor, came to be denominated *peers*, that iz, *judges*.

Reeve, in hiz history of the English Law, remarks, that "the administration of justice in the days of William the conqueror, waz so commonly attendant on the rank and character of a baron, that *baro* and *justiciarius* were often used *synonimously*." Blackstone says, "it iz probable the barons were the same az our lords of manors, to which the name of court baron (which iz the lords court, and incident to every manor) givs some countenance." Vol. I. 398. It iz surprizing, theze writers should approach so neer the tru original and meening of the word, *baron*, and not reech it.

Most writers on the ancient state of government in Europe, hav remarked that the nobility held the office of judges. "Les mesmes comtes," says Mezeray, "et ducs, qui jugeoint les François, les menoient a la guerre." tom. I. p. 118. The counts and dukes were both judges and generals.

"Duo—comitum munera fure; unum videlicet justitiæ populis ministrandæ, alterum militiæ sibi subjectæ, quando in bellum eundum erat, educendæ atque regendæ." Muratori. Antiq. Ital. tom. I. p. 399. The counts had two offices or departments of business; the administration of justice, and command of the troops in war.

Stuart, in hiz English Constitution, remarks, "that the erls presided in the courts of law. Their jurisdiction extended over their feefs: In all causes, civil and criminal, they judged without appeel, except in cases of the utmost consequence." Part 3. Sect. 3.

I presume it iz needless to multiply authorities. The strongest argument in favor of my opinions iz drawn from the supreme judiciary powers of the house of lords in England. The lords are *peers* of the relm; that iz, the ancient prescriptiv judges or barons, who claim the privilege by hereditary right or immemorial usuage. The *house of peers*, iz literally and in fact, *a house of judges*; an assembly of all the ancient judges in the kingdom. So Selden relates of the Saxons, whom he supposes to be descended from the same original az the Greeks, and long prior to the ages of Roman glory; "their country they divided into counties or circuits, all under the government of *twelv lords*, like the Athenian territory under the Archontes. Theze, with the other *princes*, had the *judicial power of distributiv justice* committed to them, with a hundred commoners out of each division." Tit. Saxons. The same writer declares, chap. 58, that the nobles "were in their most ordinary work, *meetings of judges*, or *courts of judicature*; that the king and hiz barons made many laws and constitutions which hav obtained the name of statutes," (which he supposes may hav been equitable decisions of new causes, which afterwards had the force of laws) "that the judges of this supreme court are the *baronage* of England; and that the house of lords still retain their supreme judiciary powers by ancient prescriptiv right."

In addition to this authority, I would remark that the modern supreme judiciary of Scotland iz copied

almost exactly from the ancient Saxon trial by laghmen or thanes. The lords of session, or president and fourteen judges, are a court of law and fact, without a jury; and this iz exactly the *old* trial by *peers*.

The parliaments in France are justly said by lord Coke, to be *ordinary courts of justice*; another striking evidence of what I hav advanced. The word *parliament* came from France, where it denotes that assembly of barons, which constitutes the supreme *court of justice* in each of the several provinces. This iz the original import of the word, and the parliaments in France still retain that signification. This name waz introduced into England, under the Norman princes, and superseded the Saxon name of the national assembly, *witena-gemote*. Indeed, during the depression of the peeple, under the first princes of the Norman line, when the military tenures were established with rigor, national assemblies were called but seldom, and when summoned, consisted principally of the bishops and peers (barons) of the relm. They however acquired the name of *parliament*, and retain it to this day; altho one branch of that body iz composed of commoners. The tru meening of *parliament* iz a *meeting* of *barons* or *peers*, and their principal business waz to decide controversies: They had original jurisdiction over causes in which the nobles were parties, az men of rank would not seek redress before an inferior tribunal; and they had an appellate jurisdiction over other causes in the last resort. The parliament of England iz a legislativ body; but the *house of lords* retains the primitiv privilege of finally deciding controversies. This branch of the legislature alone answers to the *parliaments* in France, which approach neer the ancient institution.[108]

So in England, the house of lords, and even the temporal lords alone, were called formerly a *parliament*. Blackstone, b. IV, c. 19, upon the authority of ancient books and records, repeetedly denominates the house of peers, when acting az a court of supreme judicature, a *parliament*, a *full parliament*; and the spiritual lords are not permitted to giv any vote upon *gilty* or *not gilty*, for they are not ancient *peers* (that iz, barons, prescriptiv judges) of the relm. It haz been douted whether the spiritual lords had a right to sit in the house on the trial of a peer; but by a determination of the lords in the erl of Danby's case, 1679, they were permitted "to stay and sit in court in capital cases, till the court proceeds to the vote of gilty or not gilty." Still they form no part of the court; the temporal lords constituting a *full parliament*, that iz, az I hav explained the tru primitiv meening of the word, *a meeting of barons or judges*. [109]

I would just add on this head, that the institution of *twelv judges* in England, iz copied from the ancient mode of trial in Germany. The old *Curia Regis* consisted of the king, hiz grand justiciary, the officers of hiz palace and *his barons*. This court followed the kings person wherever he went. Out of this were formed the several courts now established at Westminster. But the title of *barons of the exchequer* and *barons* of the cinque ports, who are judges, furnishes an additional argument in favor of my opinions.

The foregoing explanation of the words, *baron* and *peer*, leeds to a probable account of the *trial by peers*. It can be prooved that the jurors were the *judges* of the county, hundred and manor courts, and the probability iz that the suitors in theze courts receeved the appellation of *peers*, from the

circumstance of their being landholders. Several authorities seem at leest to favor this opinion.

"Concerning the institution of this court by the laws and ordinances of ancient kings, and especially of Alfred, it appeereth that the first kings of this relm had all the lands of England in demesne, and les grand manors et royalties, they reserved to themselves; and of the remnant, they, for the defence of the relm, enscoffed the barons of the relm, with such jurisdiction az the court baron now hath, and instituted the freeholders to be *judges of the court baron*."[110]

"The manor courts are of two sorts. The first iz by the common law, and iz called the court baron, az some hav said, for that it iz the freeholders or freemens court, (for *barons* in one sense signifie *freemen*) and of that court the *freeholders*, being suitors, be *judges*. The second iz the copyholders court, which iz called a court baron, because among the laws of king Edward the confessor, it iz said: "Barones vero qui suam habent curiam de suis hominibus," taking the name of the baron who waz lord of the manor, or for that properly in the eye of the law, it hath relation to the *freeholders who are judges of this court*. And in ancient charters and records, the *barons* of London and the cinque ports do signify the *freemen* of London and the cinque ports."[111] Theze passages are express to my purpose. Indeed it must hav been that the freeholders, now called *jurors*, were judges; for the lord of the manor waz cheef judge or president merely, and we heer nothing, at this erly period of Saxon jurisprudence, of a distinction between law and fact.

Horne, in the Mirror of Justices, asserts[112] "that by the constitutions of Alfred, the free tenants in every

county, hundred and manor, were to meet together and *judge their nabors*." "Every free tenant hath ordinary jurisdiction in theze courts." "The lords and tenants shall incur certain penalties by the *judgement of the suitors*." "Theze courts are called county courts, where the *judgement iz by the suitors*, if there be no writ, and iz by warrant of ordinary jurisdiction." That iz, when there waz no special court held by the justices in eyre.[113] So also in a book called the "Diversity of Courts," written in Henry the eighth's time, it iz said, "in the court baron the *suitors are the judges*, and *not* the *steward*."

Cowel tels us, "the court baron iz more properly *curia baronum*, i. e. the court of *freeholders*, (for so barones does also signify) over whom the lord of the manor presides. In this court the *freeholders are judges*."[114]

Selden's authority confirms this fact. He says, "neether waz the bishops nor sheriffs work, in the folk-mote or county court, other than directory or declaratory; for the *freemen* were judges of the fact, and the other did but *edocere jura populo*."[115] Here a distinction iz cleerly made beetween the *freemen* and the *populus*; the freemen were the judges, and the bishop or sheriff edocuit jura, proclaimed the decision to the multitude. The freemen, or landholders, then were the *peers* of the court; they were not the *equals* of the multitude, for the *populus*, the laborers of all descriptions, were considered az belonging to an inferior class of men, and had no voice in the folk-mote.

To sum up the whole, we hav the authority of the correct and judicious Blackstone, who expressly asserts, book III. chapters IV and V, that in the court baron, the hundred court and county court, the freeholders or suitors are *the judges*, and the steward in the two former, and the sheriff in the latter, are *the registrars or ministerial officers*. Now it iz well known that before the conquest, theze included *all the courts* that were in the kingdom, except the *witena-gemote*, in which there waz nothing like a jury, separate from the members of that council. So that the freeholders or jurors were not only *judges*, but they were the *sole judges* in all the inferior courts in the kingdom; and of course there could be little or no distinction between *law* and *fact*. Nay, more, the suitors were the *witnesses* also; and the principal reezon for summoning *freeholders of the vicinage* waz

originally this; it waz supposed they were acquainted with the facts in dispute. Hence laws were made to compel the jurors to *tell the truth, if they knew the facts*, which waz always supposed, till the contrary appeered. In theze courts small causes were decided; and the county court had cognizance of ecclesiastical causes, az well az civil, and often determined disputes between the nobles, about real estates of immense value.

But important matters were generally brought before the *witena-gemote*, or assembly composed of the king, bishops, erls and wise men. This waz a national council, which united in itself all powers, legislativ, judicial, civil and ecclesiastical, in law and equity. Such a thing az a jury waz never known in this supreme court. William the conqueror first separated the civil from the ecclesiastical authority, and substituted the *aula regiæ*, a high court, consisting of hiz cheef officers and barons, in place of the Saxon *witena-gemote*. This court waz the supreme judicature in the nation; a jury waz no part of it, and it followed the king wherever he went, till it waz fixed by Magna Charta in Westminster Hall. Afterwards, in the reigns of Henry III and Edward I, several courts were carved out of the *Aula Regis*; az the common pleas, the court of kings bench, the exchequer and chancery courts; and it does not appeer that a jury, distinct from the judges, formed any part of the important common law courts, till after this period. The distinction therefore between judges and jury, law and fact, seems not to hav been known, till the dissolution of the *Aula Regis*, at the cloze of the thirteenth century.

Let us enquire what kind of men theze freeholders were, who were summoned az jurors or judges at

theze courts.

Lord Coke iz express, and quotes Glanvil and Bracton for authorities, that "in ancient times the jurors were *twelv knights*," (that iz, probably, persons holding land amounting to a knights see.)[116]

Henry III issued writs to the several counties to enquire into the liberties of hiz subjects, by *twelv good and lawful knights*.[117] The Saxon laws are more explicit. "Habeantur placita in singulis wapentachiis, ut exeantur *duodecem thayni* et præpositus cum eis, et jurent super sanetuarium, quod eis dabitur in manu, quod neminem innocentem velint accusare, vel noxium concelare."[118] Here the law of Ethelred iz explicit in ordaining a court of twelve *thayni*, thanes or barons, with their præpositus or president, who waz the officer of the hundred. Cowel remarks on this passage, "that this may seem to intend the number of *judges*, and not of the *jury*; but the jury themselves, in some cases, are judges, that iz, they are *judges* of the *fact*, and the judge iz bound to giv sentence according to their verdict." This writer here supposes the *thayni* to be really *jurors* and *judges*; but *judges* only of the *fact*. This iz *the fundamental error* of most lawyers who hav written on the subject; they take it for granted, that the distinction of *law* and *fact* waz coeval with the trial by twelv freeholders. Yet a single circumstance, mentioned by Cowel in the same page, with the passage quoted, might hav undeceeved him, which iz, that "trial by jury waz anciently called *duodecem virale judicium*," the *judgement* of twelv men. Their sentence or decision waz called a *judgement*; the distinction between the *verdict* of a jury, and the *judgement* of the court, waz unknown in the erly ages of the Saxons; nor can I find it mentioned, till after the conquest.

This, and similar passages, hav however occasioned much dispute among other English lawyers and antiquaries. They hav adopted the opinion, that a jury must consist of twelv equal commoners, and cannot explain what iz ment by summoning *twelv thanes*. "Brady and Hicks," says Stuart, "contended that theze thanes were *not jurors*, but *judges* or *lawyers*. Coke and Spelman were of a different opinion." The truth iz, they were both *jurors* and *judges*; and a knowlege of the tru primitiv sense of one little monosyllable in our language, would hav unravelled the whole mystery to theze learned enquirers.

The most usual word for jurors, in the Saxon laws, iz *lahmen* or *lagemen*; a word that haz puzzled the law writers, az it seems to meen something more than *equals*; and they hav no idea of any thing in a jury, but *equality*. Hicks supposed them to be judges, "duodeni jure consulti," men versed in law. Spelman rendered the word, *legales homines*, good and lawful men; very inadequate words indeed; but the error haz been copied times without number, and still prevails. *Lahman* iz literally a *law man*, man of the law, a judge. Law waz in a rude state, at that period; but the thanes were both *lawyers* and *judges*; *jure consulti*.[119] Professional distinctions could not be but little known, amidst an unlettered peeple, who had few positiv laws, and fewer records and precedents; and the *lahmen*, the *seniores thani*, or *meliores viri*, az they were called, were summoned at certain times to decide controversies, according to law, where a law waz provided; otherwise according to their discretion. The decisions of theze *lahmen* were held in esteem; many of them were preserved and handed down by tradition, and I hav no dout, theze, rather than statutes, gave rise to the general

and particular customs, which are called the common law of England.[120]

Coke defines *lahman* to be one, "habens socam et sacam super homines suos;" that iz, liberty of holding a court over hiz tenants: Which explanation he quotes from Bracton. "Soke,(or soc) significat libertatem curiæ tenentium quam *socam* appellamus."[121]

This word iz found in domesday and in the laws of Edward the confessor. Cowel quotes a passage from an ancient book, where Ulvet, the Son of Forno, iz called *lagaman* of the city of York, where, he says, it doutless signified some cheef officer, az judge or recorder. Thoze who had *socam* et *sacam*, or jurisdiction over the persons and estates of their tenants, were the *thanes* or barons; and this iz agreed by Lambard, Somner, Coke, Cowel, and most writers on law.[122] Lambard, whoze authority iz very respectable, speeks of a jury thus: "In singulis Centuriis comitia sunto, atque liberæ conditionis viri duodeni ætate superiores unà cum præposito, sacra tenentes juranto, &c." Of a jury *per medietatem linguæ*, he says, "Viri duodeni *jure consulti*, Angliæ sex, Walliæ totidem, Anglis et Wallis jus dicunto." Fol. 91. 3. Here Lambard not only describes jurors az men of *free condition* and respectable for age, but az *jure consulti*, the *judges* of the court; and *jus dicunto*; they were men who administered law and justice. This, it appeers from all ancient testimonies, waz the uniform practice among the Saxons. The jurors were twelv *thanes* or men of free condition; *lahmen*, *jure consulti*, or judges, and constituted the *court*; with the præpositus, or proper officer of the district, az their president, who sat az the deputy of the erl, in the county court; the deputy of the lord of the manor, in

the court baron; or az the cheef magistrate of the hundred. And one source of error in understanding this ancient institution, haz been the wrong translation of *lahman*, by Spelman and others, who rendered the word, *legalis homo*; a good and lawful man. The meening iz not so indefinit az a *lawful man*, which could not be redily understood or explained. Rude nations do not deal in such vague ideas. The meening iz, *man of law*, whoze business it waz to know the law and administer justice.[123]

But if we suppose the word to meen *legalis homo*, and that the only requisit in a juror, iz freedom; or that he should be *liber homo*; this would exclude a vast proportion of the English nation from the privilege. I know that Magna Charta repeetedly mentions theze freemen, *liberos homines*, and secures to them certain rights, among which iz, trial *per pares suos*, which I suppose to hav been originally, *by their judges*; altho at this period, the idea of equality in the condition of judges might hav prevailed: And indeed the *freemen* were mostly tried by men of equal rank. I am sensible also that the modern construction of Magna Charta extends this privilege to every man in the relm of England; *omnis liber homo* iz said to comprehend every English subject. I rejoice that by the struggles of a brave peeple, this construction of that compact haz actually taken effect in a considerable degree. But I cannot think all the English nation were comprehended in the words of the instrument; or that the privilege of *trial by peers* waz extended, or ment to be extended, to all the peeple. Magna Charta waz merely a convention between the king and hiz barons, assembled at Runing-mead; and the laboring part of the peeple, debased by servitude under an oppressiv aristocracy, seem hardly to hav been in the contemplation of the

parties. The villeins, rustics, or tenants at will, who probably composed a majority of the peeple, had one privilege indeed secured to them: It waz stipulated that they should not be deprived, by fine, of their carts, plows, and other instruments of husbandry; that iz, they should not be deprived of the meens of laboring for their masters. Further than this, a large proportion of the English were not noticed in Magna Charta, but were considered az a part of their lords property, and transferable, like moveables, at their plezure.

The *freemen*, or thoze classes of peeple which came within the description of *liberi homines* in that famous convention, were the nobility and clergy tenants *in capite*, or such at most az had a life estate in lands, and could serve on juries. The lazzi, villeins, or modern copyholders, were not at that time capable of serving; they were below the rank of freemen; they had not the right of trial by peers, even in the common acceptation of the word; nor were they admitted to the privilege till the reign of Richard III. Multitudes of them are not *peers* of *the commons*, even on the principle of equal suffrage, for they hav not the property requisit to qualify them for the privilege of voting at elections. Blackstone's assertion therefore, that every subject of the kingdom haz a right by Magna Charta, to trial by hiz equals, cannot be tru, for vast numbers of the nations are not, and never were, entitled to be jurors. But in the sense I understand and hav explained the word, every man haz a right to *trial by hiz peers*; that iz, by freeholders of the vicinity, who are *his judges*. The propriety of calling them *hiz judges, pares suos*, iz discovered in the gradation of courts established in England. The *peers of the relm*, or barons, were originally the suitors or judges in the kings court, where alone the

nobility were tried; hence the barons were always tried by *their* judges, *pares suos*. The clergy, the thanes of the lower class, or other freeholders who had life estates in lands, were the suitors in the courts of the counties, the hundreds and manors. Theze were the *judges* of theze courts, and called *peers*. The freemen might be said to be tried by their *equals*; but the villeins were not; yet both were tried by *their* peers; that iz, by the peers of theze inferior courts, who were exclusivly *the judges*.[124]

From what haz been advanced on this subject, if we may rely on substantial authorities, and at leest probable etymologies, the following conclusions may be safely deduced. That in ancient Germany, the *principes pagorum et regionum*, with a certain number of assistants, originally a hundred, sometimes twenty four, but commonly twelv, elected by the peeple, (not *pro re nata*, but for a stated period) formed a council (concilium) for the government of a district: That in their military expeditions, the *duces*, or generals, had their *life guards*, or comites, who attached themselves to the person of their cheef, and fought by hiz side:[125] That theze retainers, in some of the Teutonic dialects on the continent, were called *barons*, az they were called *thanes* by the Saxons in England: That after the irruption of the northern nations into the south of Europe, the conquered lands were divided among the great officers and their retainers, az fees or stipendiary feuds, on the honorable tenure of military service: That the princes, erls and barons, hav been, from time immemorial, the assistant judges in the kings courts, and eech of them, a cheef judge, with power of holding courts, on hiz own demesnes: That parliaments on the continent were *assemblies of barons*, and originally *courts of justice*, az they are still

in France: That the word *peers* waz first used on the continent, to denote the members of this supreme judicial court, and in its primitiv sense, az derived from *bar* or *par*, it signified freemen or landholders; and thence came to denote *judges*, who were originally the proprietors of lands or manors: That this latter sense iz its tru meening, whether applied to the house of lords or to a common jury, who were anciently the *judges* of the inferior courts, and are still, in many cases, judges of law az well az fact, notwithstanding the modern distinction, which haz taken place in consequence of an extensiv and vastly complicated system of jurisprudence: That the house of lords in England retains the primitiv sense of the word *peers*, az well az the original right of *judging* in the last resort, and this house alone iz a *parliament*, according to the ancient meening of the word on the continent: That the *freemen* mentioned in Magna Charta and all the old law writers, were thoze who held their lands by honorable service, for term of life, or had estates of inheritance; and that the lazzi, villiens or bondmen, who constituted the major part of the nation, were not comprehended under the words *liberi homines*, were not entitled to be jurors themselves, and consequently could not be tried by their *equals*: That the twelv jurors among the Saxons were the *cheef men* of the county and judges: That the idea of *equality* in the jurors or judges waz introduced by the pride of the nobility, and the humble condition of their tenants, under the invidious distinctions of ranks created by the feudal system: That this idea however haz been the meens of preserving the rights of both in England; while the nations on the continent, having been less successful in their struggles, and not having wrested the *right of judging* from the barons, the original *peers* or

proprietors of that right, hav not acquired a privilege, inestimable in a country where distinctions of rank prevail, and do not enjoy the blessings of equal liberty: That this privilege haz been considerably extended in England, by the abolition of military tenures, and the diffusion of property among the commons: But that America haz given the privilege its utmost extension, by making laws of inheritance that enable *every man* to be a freeholder; thus reducing the English theory to practice, and entitling every man literally to the right of *trial by hiz equals*.

How far theze conclusions are supported by the foregoing authorities and arguments, every reeder will judge for himself. I hav ventured my opinions with my usual frankness, in opposition to thoze of the sages of the law, which hav been receeved for centuries. The vast weight of authority, and long established prepossessions of men in favor of a different theory, make me diffident of my own opinions on this subject; but there are many passages in ancient law writings, and many customs and laws still existing in the English constitution and government, which I cannot explain and reconcile on any other hypothesis.

The excellence of trial by peers, in ancient times, appeers to me to hav consisted in this; that twelv indifferent men of the naborhood, with the power of judges, were the guardians of life and property against the rapacity of the lord of the manor or hiz deputy. It iz a fact well known that *sheriffs*, the deputies of the erls, were in several counties hereditary officers; but when they were not, they had almost-unlimitted powers in the shire, which they often abused to oppress the peeple. Under the feudal

system they appeer to hav been almost absolute tyrants; and the undue exercise of their powers, probably gave rise to thoze articles of Magna Charta, which declare, that "no freeman shall be taken, imprisoned, or diseized of hiz freehold, liberties, or free customs, but by the lawful judgement of hiz peers, or by legal process; that sheriffs should not hold county courts above once a month; that sheriffs, castellans, coroners, and kings bailiffs, should be restrained from holding pleas of the crown; that sheriffs, who had the management of the crown revenues, within their several districts, should not raize the farms of counties, hundreds and tythes, according to their plezure." Theze provisions were evidently designed to remedy actual evils; the violence and usurpations of the executiv officers, who acted under the king, or the great lords, with powers almost uncontrolled.[126] Against such petty tyrants, the revival or confirmation of the right of trial by twelv freeholders of the vicinage, must hav been a capital security: But freeholders alone could be impannelled on a jury; *freeholders* alone could be diseized of *freeholds*; consequently the privilege of being tried by *equals*, could extend to freeholders only. With respect to all others, the excellence of the institution could not consist in the *equality of condition* in the jurors; but in having twelv substantial freemen, impartial, independent men, unaccustomed to oppression, to check and control the ministers of justice.

Since the separation of court and jury, law and fact, juries, in civil cases, hav become of less consequence. Judges are appointed by the representativs of the peeple, ether in legislature or some other form, and are removeable for misbehavior. They are usually az good judges of fact as a jury, and better judges of

law. One state[127] haz a statute empowering the parties to submit fact az well az law to the court. This places the court on its Saxon institution, except az to the number of judges. It iz also a common practice for the parties to agree on the facts, and submit the law to the court. The practice supersedes a jury. On commercial questions an ordinary jury are altogether unfit to decide; they are incompetent judges, because commerce iz regulated by peculiar laws, best known by merchants. Hence the institution of chambers of commerce, and the practice of referring causes to arbitrators of the mercantile profession.

But the principal valu and excellence of juries are preserved in criminal causes. Judges, by long custom, become hardened in the business of condemning, and may sometimes pronounce sentence, which, even when legal, may be unnecessary. Jurors, less accustomed to the cruel task, retain thoze feelings which sometimes pleed against evidence, in favor of humanity, and soften the rigor of penal laws.

I shall cloze theze remarks with two quotations from very respectable authors.

What Camden haz collected concerning the word *baron*, serves to illustrate and confirm my opinions on this subject; and the reeder will be pleezed with the following passage from his Britannia, Vol. I, page 238.

"Among the greater nobility, the barons hav next place. And here, tho I am not ignorant what the lerned write concerning the signification of this word in Cicero; yet I am willing to cloze with the opinion of Isidore, and of an ancient grammarian, who will hav *barons* to be mercenary soldiers. This seems to be

pretty plain from that known place of Hirtius in the Alexandrian war; "they run to the assistance of Cassius; for he always used to hav *barons*, and a good number of soldiers for sudden occasions, with their weapons reddy, about him, and separate from the rest." Nor iz the old Latin and Greek Glossary against us, when it translates *baro* by ανηρ a man; az always in the laws of the Longobards, *baro* iz used for a man.

The etymologies of this name which some hav fancied, do not by any meens please me. The French heralds will hav barons to be so called from *par-hommes* in French; that iz, of equal dignity; the English lawyers say it iz from *robora belli*, the sinews of war; some Germans think it a contraction of banner-heirs, i. e. standard bearers; and Isidore derives it from bareis, i. e. grave or weighty. Alciatus thinks the name comes from the *berones*, an ancient peeple of Spain, which he says were formerly stipendiaries; but that other, from the German *bar*, i. e. *a free man*, pleezes me better.

The precise time when this name came into our island, I hav not yet discovered: The Britons disown it; and there iz not the leest mention made of it in the Saxon laws, nor iz it reckoned in Alfrick's Glossary among the titles of honor; for there, *dominus* iz translated *laford*, which we hav contracted into *lord*. And among the Danes, the free lords, such az our barons are at this day, were called thanes, and (and az Andreas Velleius tells us) are termed so still. In Burgundy, the use of this name iz very ancient; [128] for Gregory of Tours says thus, "the barons of Burgundy, az well bishops az others of the laity, &c." The first mention of a baron in England, that I hav met with, iz in a fragment of the laws of Canutus,

king of England and Denmark, and even there, according to different copies, it iz read vironus, baronus, and thani. But that the barons are there ment, iz plain from the laws of William the conqueror; in which that word in the laws of Canutus iz translated by *baro*. Take the whole passage. "Let the exercitals[129] be so moderated, az to be tolerable. An erl shall provide such things az are fitting, eight horses, four saddled and four unsaddled; four steel caps, and four coats of mail; eight javelins,[130] and az many shields; four swords, and two hundred mancae[131] of gold. But a kings *viron* or *baron*, who iz next to him, shall hav four horses, two saddled and two unsaddled; two swords, four javelins, and az many shields, one steel cap, and fifty mancae of gold."

In the beginning of the Norman times, the valvasors and thanes were reckoned in order and dignity, next to the erls and barons, and the greater valvasors (if we may beleev thoze who hav written concerning feudal tenures) were the same that barons are now. So that baro may seem to hav come from that name; which time haz, by little and little, made somewhat smoother. But even then it was waz not a title of any great honor; for in thoze times there were erls who had their barons under them: And I remember, I hav red in the ancient constitutions of France, that there were ten barons under one erl, and az many cheeftans[132] under a baron. It iz likewise certain, that there are charters since the Norman conquest, wherein the erls write thus: "To all my barons, az well French az English, greeting, &c." Nay, even citizens of the better rank were called *barons*; so in domesday book the citizens of Warwick are stiled *barons*; and the citizens of London, with the inhabitants of the cinque ports, had the same title

given them. But a few years after, az senators of Rome were chosen according to their estates, so they were accounted *barons* with us, who held their lands by an entire barony, or thirteen knights fees, and one third of a knights fee, every fee (az we hav had it in ancient book) being computed at twenty pounds, which in all make four hundred marks; for that waz the value of one entire barony; and they who had land and revenues to this value, were wont to be summoned to parliament. It seems to *hav been a dignity, with jurisdiction, which our court-barons in some mezure show.*[133] *And the great number of barons iz an argument that they were such lords who could hold pleez within their own jurisdiction*, (like thoze whom the Germans call free-heirs) especially if they had their castles; for then they answered the definition of Baldus, the famous lawyer, who calls him a baron, that had a mere and mixt government in some castle, by the grant of the prince. And (az some would hav it) all who held baronies, seem to hav claimed that honor; so that some of our lawyers think, that baron and barony, erl and erldom, duke and dukedom, king and kingdom, were in the nature of conjugates. It iz certain, that in that age, king Henry III, reckoned one hundred and fifty baronies in England. From hence it iz, that in the charters and histories of that age, almost all noblemen are stiled barons; a name, which in thoze times waz exceeding honorable; the baronage of England including in a manner all the prime orders of the kingdom, dukes, marquisses, erls and barons.

But that name haz been much more honorable since king Henry III, out of such a multitude, which waz seditious and turbulent, summoned to parliament by writ, some of the best[134] only; "for he," (the words are taken out of an author of considerable antiquity)

"after thoze great disturbances and heart-burnings between himself, Simon de Montefort, and other barons, were laid; appointed and ordained, that all such erls and barons of the kingdom of England, to whom the king should vouchsafe to direct hiz writs of summons, should come to hiz parliament, and no others, unless their lord the king should pleeze to direct other writs to them also." And what he began a little before hiz deth, waz strictly observed by Edward the I, and hiz successors. From that time they were only looked on as barons of the kingdom, whom the king by such writs of summons had called to parliament; until Richard the II, in the eleventh year of hiz reign, created John de Beauchamp of Holt, baron of Herderminster, by the delivery of a diploma, bearing date the tenth of October. From which time, the kings hav often conferred that honor by diploma, (or rather honorary letters) and the putting on of an honorary long robe. And that way of creating barons by diploma, and the other of writs of summons, are in use at this day; tho they are mentioned therein not by the name of *baron*, but of *chevalier*. They who are thus created, are called barons of parliament, barons of the kingdom, and barons honorary, to distinguish them from thoze who are commonly called barons according to the ancient constitution; az thoze of Burford and Walton, and such az were barons to the counts Palatine of Chester, and of Penbroch, who were feudal, and barons by tenure only."

This account of Camden's, iz alone sufficient to convince me, that my opinions are right respecting the origin and signification of the word *baron*. But this author cleerly mistakes the meening in the passage quoted from Hirtius. "Cassius used to hav *barons*, and a good number of *soldiers*, for sudden

occasions." Insted of mercenary soldiers, *barons* here meens the *comites*, retainers, who were chosen men, and who served their cheef voluntarily. Theze attached themselves to the person of the cheef, az a military guard; at the same time, they served to gratify the pride of the hero: Hæc dignitas, hæ vires, says Tacitus.

I hav before remarked that it iz probable *bar* and *vir* are the same word. Camden tells us, the Greek Glossary translates *baro* by ανηρ, and in the laws of William, the Norman, the *vironus*, *baronus* and *thanus*, found in the laws of Canute, are translated by *baron* or *viron*. *B* and *v* are convertible letters, and theze facts amount to a convincing proof that *bar* and *vir* are the same word, or from the same root. The progress of the word iz this. First it denoted a man or husband, *vir*; afterwards a freeman or proprietor of land, *bar*, *baron*, *viron*; in proportion az the valu of lands encreesed in Europe, the proprietors acquired welth and influence; they claimed exclusiv judicial powers on their manors, and thus the words *baron* and *peer* came to signify *judge*. Under the feudal system, theze barons became princes on their territories, subordinate only to the king or lord paramount. Power attends property, and theze barons finally assumed the right of controlling kings, and trampling on their tenants. Where the barons and princes combined, they established despotic authority over the peeple; when they quarrelled, one party or the other had recourse to the commons for assistance, and waz compelled to grant them considerable privileges.

The foregoing explanation of *baron* iz confirmed by another fact now existing. In law, a *husband* iz called *baron* to this day, *baron* and *femme*, husband and

wife. Agreeable to this idea, the terms used in ancient infeudations by the tenant or vassal, were, *devenio vester homo*; I become your *man*; that iz, your *baron*, in the feudal sense of the word. And a jury, in conformity with the same idea, were anciently called *homagium*, the *homage*, or manhood; that iz, a court of *barons*, landholders or free tenants.

I would only remark further, that Camden iz probably mistaken in saying the Britons disown the word *baron*. In Welsh, *barn* signifies a judge, and there can be little dout that the word iz from the same original; being written without the vowel *o*, agreeable to the Hebrew manner.

Different nations are more or less inclined to uze the vocal sounds and aspirates, according to the different genius of their languages. So in Irish the word waz pronounced with an aspirate, *barhon*, or *brehon*; for there iz little room to dout this old Irish word iz from the same root. At the time of the conquest of Ireland by Henry II, the Irish were governed by the *brehon law*, so stiled from *brehon*, the Irish name of judges. [135] We are also told that the ancient Irish had a custom of deciding causes by *twelv* men[136] ; and authors testify that the same practice existed in ancient Britain.[137] Their decision iz called by the erly writers, *duodecem virale judicium*. In short the universality of this word and the trial by twelv, iz a strong proof, that all the nations of Europe sprang from a common stock.[138]

Sir William Temple derives *barons* from the Russian *boiarons*, and supposes the word to be of Gothic original. Hiz only inaccuracy iz, that he takes a modern derivativ for the primitiv root; whereas the Russian *boiarons* itself iz derived from *bar*, az wel az *baron*. The authority of this judicious and lerned

writer wil however confirm what I hav advanced in the foregoing pages; I shal therefore cloze my remarks with a passage from hiz works, vol. III. 363.

"I know very well how much critic haz been employed by the most lerned, az Erasmus, Selden, Spelman, az well az many others, about the two words *baro* and *feudum*; and how much pains hav been taken to deduce them from the Latin and Greek, and even the Hebrew and Egyptian tungs; but I find no reezon, after all they hav said, to make any doubt of their having been both the original of the Gothic or northern language; or of barons having been a term of dignity, of command, or of honor, among them, and feudum of a soldier's share of land. I find the first used abuv eight hundred years ago, in the verses mentioned of king Lodbrog, when one of hiz exploits waz to hav conquered eight *barons*. And tho fees or feuda were in use under later Roman emperors, yet they were derived from the Gothic customs, after so great numbers of thoze nations were introduced into the Roman armies. Az to the word *baro*, it iz not, that I find, at all agreed among the lerned, from whence to derive it; but what that term imports, it iz easy to collect from their several accounts, and confirm by what stil remains in all the constitutions of the Gothic government. For tho by *barons* are now ment in England such az are created by patent, and thereby called to the house of lords; and *baron* in Spanish signifies only a man of worth or note, and the quality denoted by that title be different in the several countries of Christendom; yet there iz no question, but they were originally such persons az, upon the conquest of any country, were, by the conquering prince, invested in the possession of certain tracts or proportions of free lands, or at leest az they held by no other tenure but that of

military service, or attendance upon their prince in war with a certain number of armed men. Theze in Germany, France, Scotland, seem to hav had, and some stil to retain, a sovereign power in their territories, by the exercise of what iz called high and low justice, or the power of judging criminal az well az civil causes, and inflicting capital punishments. But I hav not found any thing of this kind recorded in England, tho the great barons had not only great number of knights, but even petty barons holding under them.

I think the whole relm of England waz, by William the conqueror, divided into baronies,[139] however the distinctions may hav been long since worn out; but in Ireland they still remain, and every county there iz divided into so many baronies, which seem to hav been the shares of the first barons. And such as theze great proprietors of land, composed, in all the north west regions (of Europe) one part of the states (estates general) of the country or kingdom."

Sir William Temple proceeds then to giv hiz conjectures respecting the origin of the word *baron*. He remarks that Guagini, in hiz description of Sarmatia, printed in 1581, calls all thoze persons who were cheef possessors of lands and dignities, next to the prince, duke or palatine, in the vast empire of Muscovy, by the common appellation of *boiarons*, now contracted into *boiars*. From this he supposes *baron* to be derived. It iz however much more probable that *baron* and *boiaron* had a common root in some period of remote antiquity; which afterwards spread into all parts of Europe.

With respect to trial by jury, Sir William remarks, Vol. III. 130, that this waz undoutedly of Saxon institution, and continued thro all the revolutions in

England. He says there are some traces of it in the first institutions of Odin, the first great leeder of the Asiatic Goths or Getæ into Europe. He mentions the council of twelv, established by Odin, and thinks it probable theze twelv men were at first both *judges* and *jurors*; that iz, they were a court of arbitrators or referees, az we should now style them, empowered to decide all causes according to equitable principles and the circumstances of each case; and their determinations afterwards grew into precedent for their successors. In process of time and multiplicity of business, the matter of fact continued to be tried by twelv men of the naborhood; but the adjudgement of punishment and the sentence waz committed to one or two persons of lerning or knowlege in the ancient customs, records and traditions. Thus, he observes, in the Saxon reigns, causes were adjudged by the aldermen and bishop of the several shires, with the assistance of twelv men of the same county, who are said to hav been judges or assistants. He allows, the terms *jury* and *verdict* were introduced by the Normans; but asserts very justly that trials by twelv men, with that circumstance of their unanimous agreement, were used not only among the Saxons and Normans, but are known to hav been az ancient in Sweden, az any records or traditions in the kingdom; and the practice remained in some provinces of that country, til the late revolution.

## POSTSCRIPT.

On further examination of this subject, I am led to subjoin the following remarks, which are supported by the indisputable authority of Glanville and Bracton.

I hav before suggested that the Saxons, prior to the conquest, conducted most of their important affairs

in the county or sheriffs court, where all the free tenants were bound to attend. Theze free tenants consisted of the lesser barons, the knights and fokemen, or foccage tenants who had freehold estates. Theze freeholders, were, by the nature of their estates, the *pares curtis*; they were the proper and sole *judges* of all causes triable at the county court, which included almost all civil actions, and they were denominated in Saxon, *lahmen*, lawmen. The county court, thus composed of all the freeholders in the shire, waz a tribunal of great consequence, and inferior only to the witena-gemote, or national assembly. The Latin riters called theze freemen *pares curtis* and *sectatores*, *peers of court* and *suitors*. *Curtis* iz a Saxon word latinized,[140] like *warrantizo murdrum*, and hundreds of other law terms; and there iz little dout that *pares* iz a word of similar origin.

But what places the point I would establish, beyond controversy, iz, the *pares curtis* were in fact of different ranks. The knights or lesser barons, az well az the common foccage tenants, were included in the term *pares curtis*; for they were bound to do suit and service in the court of the lord paramount. Another fact, iz of equal weight in the argument: Theze *pares*, in the county court, tried all real actions between the nobility. In the cause of Odo, Bishop of Bayeux, and archbishop Lanfranc, in the reign of William the conqueror, the king directed *totum Comitatum considere*. Many similar instances might be cited, were it necessary. Theze noblemen were tried by the *pares curtis*, the peers of the county court; but who ever said they were tried by their *equals*?

The Norman princes attempted to discountenance theze shire motes of the Saxons, and substitute the

trial of facts by twelv *juratores*, men sworn to speek the truth. In the reign of Henry II, the trial by jurors had become common, if not general. Questions of *seisin* were tried by twelv common freeholders; but questions of *right* were tried by twelv knights; the sheriff summoning *four* knights who elected the *twelv*.

I would here remark that the principal original reezon for summoning freeholders *of the vicinage*, waz that of their supposed personal knowlege of the fact in dispute. The *jurors* were properly the *witnesses*. This iz evident from circumstances and from the positiv testimony of the erly law-riters. The first mention of a proper jury, in any public act, iz in the constitutions of Clarendon, 1164, where the sheriff iz directed, *quòd faciat jurare duodecim legales homines de vicineto, seu de villa, quòd inde veritatem secundum conscientiam suam manifestabunt*. It iz said in old writers that the jury *must speek the truth, if they know it*. If the twelv men first summoned knew the truth, they were compelled to declare it, under the penalty of perjury. If some knew the facts and others did not, the latter were dismissed and others summoned, till twelv were found who knew the facts, ether by what they had seen and heerd themselves, or from such testimony of their fathers and others, az gained full credit.

Without attending to juries in this light, the laws respecting them appeer beyond measure absurd and tyrannical. Their being *sworn to speek the truth*, would be absurd on any other ground; for had they judged of facts on *testimony*, they would hav been sworn to declare *their opinion*, and not the *truth*. Their *verdict, vere dictum*, derives its name and propriety from the same circumstance; and the present practice of

swearing them to "a tru verdict giv," when they judge of facts only by the perhaps contradictory testimony of several witnesses, iz, strictly speeking, absurd.

The keeping juries, without meet, drink or fire, can be accounted for only on the same idea; it waz a method to compel an agreement among men, who were *acquainted with facts*, some of whom might at times be obstinate, and not willing to disclose them. But how ridiculous would it be to punish men for not agreeing *in opinion*, about what others testified!

All this iz still more evident from the manner in which many questions respecting real estates were ascertained and determined. It waz customary for the jurors, after they were chosen, to go upon the land to find the tru state of the fact in question, and then deliver their verdict. Hence the propriety of the expression in closing issues; *and this he prays may be enquired of by the country*.

I would observe further, that the reezon, why appeels from the verdict of a jury were not allowed, iz simply this, that the jurors were supposed to hav decided from their *own knowlege*. It waz certainly a wise provision that the solemn declaration of men under oath, living in the naborhood, and eye or eer witnesses of the recent transactions between the parties, should not be overthrown by other testimony; for all other evidence must hav necessarily been of an inferior nature. But the reezon haz ceesed, and there iz now nothing more sacred in the verdict of a jury, given on the testimony of others, than there iz in the opinions of arbitrators, referees or auditors under oath. The laws respecting juries are all founded on the idea that the men were acquainted with the facts in dispute. Their verdict waz formerly a *declaration of facts*; it iz now a mere

*matter of opinion*. In short, the original design of the institution iz totally changed, and mostly superseded. Since juries rely on testimony, they need not be collected from the *vicinage*; it iz even safer to hav men who are strangers to both plaintiff and defendant. Jurors cannot be punished for *perjury*, for how can a man *perjure* himself in giving hiz *opinion*? They cannot be starved to deth, nor carted about town for disagreement; for how iz it possible for twelv men always to *think alike*, when they hav to form their opinions on clashing testimonies? In short, juries do not now answer one of the purposes for which they were at first instituted; and however necessary they may be deemed to the preservation of civil liberty, it appeers to me they are, in a great measure, useless.

I cannot leev this subject without remarking the influence of habit, in maintaining *forms*, when the *substance* no longer exists. This iz neerly the case with the whole institution of juries; but particularly in the manner of administering the oath to them. The practice of swearing the foreman and the other jurors separately, still exists in some of theze states, altho the reezon no longer remains. It originated in the manner of delivering the verdict, which waz, for every juror separately to answer the interrogatories of the judge. While this practice remained, it waz very proper that eech juror should take a separate oath; altho this formality iz dispensed with, in administering the oath to witnesses, in modern courts; the words, "*you* and *eech of you* swear," being substituted for a separate administration of the oath.

# No. XXIV.

HARTFORD, SEPTEMBER, 1789.

## *The* INJUSTICE, ABSURDITY, *and* BAD POLICY *of* LAWS *against* USURY.

Usury, in the primitiv sense of the word, signifies any compensation given for the use of money; but in modern legal acceptation, it iz the taking an exorbitant sum for the use of money; or a sum beyond what iz permitted by law. The municipal laws of different states and kingdoms hav fixed different rates of interest; so that what iz usury in one country or state, iz legal interest in another. The propriety of such laws iz here called in question.

1. It iz presumed that such laws are *unjust*. Money iz a species of commercial property, in which a man haz az complete ownership, az in any other chattel interest. He haz therefore the same *natural* right to exercise every act of ownership upon money, az upon any other personal estate; and it iz contended, he ought to hav the same *civil* and *political* right. He ought to hav the same right to trade with money az with goods; to sell, to loan and exchange it to any advantage whatever, provided there iz no fraud in the business, and the minds of the parties meet in the contracts. The legislature haz no right to interfere with private contracts, and say that a man shall make no more than a certain profit per cent. on the sale of hiz goods, or limit the rent of hiz house to the annual sum of forty pounds. This position iz admitted for self evident, az it respects every thing but money; and it must extend to money also, unless it can be proved that the privilege of using money in

trade or otherwise without restraint, and making what profit a man iz able by fair contract, with gold and silver, az well az with houses and lands, will produce some great public inconvenience, which will warrant the state in laying the use of such gold and silver under certain restrictions.[141]

The only reezon commonly given for limiting the interest of money by law, iz, that monied men will otherwise take advantage of the distresses of the poor and needy, to extort from them exorbitant interest. Admit the proposition in its utmost latitude, and it furnishes no argument in favor of the restraint, *because the restraint iz no remedy for the evil*. On the other hand, it generally increases the evil; for when the law forbids a man to take more than six per cent. for the use of hiz money, it, at the same time, leevs him the right of withholding hiz money from hiz distressed nabor, and actually lays before him the strongest motivs for withholding it. The law tuches the pride of a man, by restraining what he deems an unalienable right, and this consideration, added to a certainty of employing hiz money to greater advantage, impels the man to turn a deef eer to hiz nabors calamities, when he would be otherwise disposed to afford relief. The law therefore, so far from furnishing a remedy, actually doubles the evil.

To proov this assertion more cleerly, let me call the attention of my reeders to facts within their knowlege. Every man knows that there are persons in every state, who, thro imprudence, idleness or misfortune, become involved, and unable to pay their dets when du. Theze persons seldom make provision for discharging their dets, till they are pressed by their creditors. When they are urged by just demands or legal process, they are under a

necessity of raising money immediately: But money iz scarce; it iz in a few men's hands, who will not pay the full valu of lands or personal estate. The poor detor iz then obliged to sell hiz farm or hiz cattle, or both, at private sale or at auction, for any price they will fetch, which iz commonly but a small part of the valu. Now, if the detor could hav borrowed a sum of money, at ten, fifteen, or even twenty per cent. he might hav been a gainer by the loan; for by being prohibited by law from borrowing money, at a high interest, he haz been obliged to sacrifice twenty, perhaps fifty or a hundred per cent. Laws against usury do not help such men; on the contrary they oppress them. Could such men get money even at twenty per cent. they would often be benefited by the loan; they might save their estates and avoid misery and ruin. A prohibition of high interest only compels the distressed to seek releef by sacrificing property in a way not guarded against by law. Nay, I beg leev to assert that such laws are the very meens of producing, supporting and enriching a host of oppressors in every state in America. There are a few men, in every state, who are what iz called *beforehand*; theze men will not loan money at legal interest, for this very good reezon, they *can do better with it*, az they say; and no man can blame another for making the most profitable use of hiz money. Theze men therefore keep their money, till their distressed nabor iz forced by det to sell hiz farm; then iz the time to lay out their money; they get the farm at their own price, which iz generally less than half its valu. In most states, lands are sold at auction, where they are sacrificed; and the poor owner haz all the charges of a legal suit to pay, az wel az the det; and the land sold for a small part of its valu. This iz the common practice, authorized by law; so that laws

against usury only *create* an evil in one way, by endevoring to *prevent it* in another.

The evil and hardships of this law, of selling real estate on execution, hav been so great, az to giv rise to a different mode of satisfying executions in Connecticut. In this state, a man's person and estate are both liable for det; but if the personal estate iz insufficient, the creditor haz hiz election, ether to confine the dettor in prison, or take hiz lands. But the law, which iz so far in favor of the creditor, here steps in to prevent a sacrifice of the real property at public sale; and ordains that the creditor shall take it at a value, which shall be apprized by three indifferent freeholders. This law does injustice to the creditor; for it interferes with the contract, and obliges him to take that for pay which he did not engage to receev. But it favors the dettor, in a state where money iz scarce and cannot be eezily raized on an emergency. So far one law, by doing injustice to creditors, corrects some of the ill effects of the law against high interest in Connecticut; but the remedy iz partial, for men in distress for money, generally sell their estates at private sale, for one half their valu; and a few monied men and rich farmers are constantly taking advantage of their nabors calamities, to enrich themselves. Such men make more than fifty per cent. per ann. on their money by theze speculations, and no law can wholly prevent them. Now laws against usury create this very evil: They drive money from a country; they create a necessity for it; and then a few welthy men enrich themselves, not by loaning at fifteen or twenty per cent. but by purchasing lands at half price, which are sold to keep men from jail, who, if they could hav got money for a few months, at twenty per cent. might hav sold their estates to advantage, or

otherwise paid their dets. In general then we may obzerv, when a man iz reduced to the necessity of asking money at twenty per cent., hiz situation iz such that it iz better to giv that interest, than to risk a sale of property on a sudden to raize the money. Laws against usury do not save such men; it iz idle to suppose it; on the contrary, they multiply instances of oppression, az all America can witness.

But the argument, if good, proovs too much. If legislators hav a right to fix the profit on money at interest, to prevent exorbitant demands from injuring the necessitous, wil not the same reezon warrant a restriction on the profits of every commodity in market? If my rulers hav a right to say, my annual profit on money loaned, shal be but six per cent. hav they not a right to say the advance on my wheet shal be but six per cent.? Where iz the difference? A poor man may indeed be distressed by a demand of high interest, and so he may by the high price of flour; and I beg leev to say, that distresses from the last cause are infinitely the most numerous, and the most deserving of legislativ remedies. It wil perhaps be said that the price of bred, in all cities, iz fixed by law—tru; but if the price of wheet iz not likewise fixed, there are times of scarcity when the law must vary the price, or the baker must be ruined, and the poor be destitute of bred. In an extensiv fertile country, like America, such cases may not happen frequently; but the actual existence of the fact proovs that such laws rather *follow* the state of the market, than *regulate* it. And indeed it iz a question, whether in this country, the citizens of our large towns would not be supplied with bred at a cheeper rate, without any regulations at all.

2. But the *absurdity* and *bad policy* of laws against

usury, are so obvious, that it iz surprizing scarcely an attempt haz been made to abolish them in any country. Such laws are absurd and impolitic, because they actually and always produce and multiply the distresses they are designed to remedy. It iz impossible it should be otherwise: The very laws of nature and commerce require that such restraints should necessarily counteract their own design. It iz necessary that commodities should be sometimes plenty and sometimes scarce; and it iz equally necessary that money, the representativ of all commodities, should be liable to the same fluctuations. In the commercial world, money and commodities wil always flow to that country, where they are most wanted and wil command the most profit. The consequence iz that a high price soon produces a low price, and vice versa.

Let us apply the principle to the present question. When money can bear its own profit, its profit or the interest arising on loans, wil be in proportion to the profit made in commercial transactions. If a man can make *twelv per cent.* on hiz stock, in any kind of trade or speculation, he wil not convert that stock into cash, and loan it at *six per cent.* While therefore commerce or speculation wil afford a man greater profits, than the law affords him on hiz loans of cash, he wil hav no money to lend. The consequence iz, while the law fixes the rate of interest lower than the annual profits of other business, a country wil be destitute of money.

This iz precisely the case in America. Our remittances to Europe and the East Indies require considerable sums in specie to be exported; and the merchant wil not import specie, except to facilitate the purchase of hiz cargoes in America. He will not

import it for the purpose of loaning, because hiz stock in trade affords a better profit. The few landholders who hav a little cash abuv their annual expenditures, wil not loan it; for they can make twelv, fifteen, eighteen per cent. on their money by the purchase of certificates, and more on the purchase of lands. There are therefore no motivs, no inducements, for the welthy citizens to loan money, and consequently when a man iz distressed to make a payment, he iz compelled to sacrifice property to perhaps five times the valu of the det; because the law will not permit hiz nabor to take twelv or fifteen per cent. per ann. for the loan of money, a few months; when he haz the money, and would gladly releev hiz frend, if he could receev an adequate compensation.

Thus laws against usury drive cash from a country. They really and continually create a scarcity of an article, and then restrain men from raizing the price, in proportion to that scarcity. They create distresses of the poor, and at the same time, create an impossibility of releef. Were money left, like all kinds of commodities, to command its own price in market; whenever its price should rize abuv the usual cleer profit of other business, men would import specie, or turn their stock into cash, and loan it on good security; for no man would submit to the drudgery of business, if he could make money az fast by lying stil, with hiz money at interest. Had money been permitted to bear its own price according to the demand for it in America since the war, it would hav been kept in the country, or introduced til the rate of interest had fallen, even below the legal standard. Limit the profit on any article of life, and set the price so low that peeple can make more by deeling in other articles, and the articles so fixed wil become

scarce and deer. Were the legislatures of the several states to say that our traders should make but one per cent. on salt, they would not bring cargoes of it to the country. It would be az scarce az money iz now. Let the price of wheet be fixed at half a dollar a bushel, and in two years we should not hav a bushel in market. It iz the same case with money. The low profits on the use of money, expel it from the country, and none can be obtained at the legal price. Let the interest rize to any sum which can be obtained, and in two years, it would be az eezy to borrow money at a low interest, az it iz now difficult to command it at any price. The laws of nature wil continue to opperate, in spite of the feeble opposition of human power.

Another consideration demands our notice. The laws against usury increase the distresses of the needy, by enhancing the risk, and consequently the insurance on loans.[142] It iz fruitless to attempt to prevent loans of money. When men are pressed for money, they can always find persons to supply them, upon *some* terms. But az a loan of money at a higher rate of interest than iz allowed by law, exposes the lender to a loss of the money, and a fine or forfiture besides, hiz demand for the use of hiz money wil rize in proportion to that risk. This haz always been one of the most pernicious effects of such laws. So that the law, not only creates a scarcity in the first instance, but actually raizes the demand of interest much abuv the natural demand required by that scarcity. In short, insted of releeving the detter, it multiplies hiz distresses four fold.

Besides, such laws, like all national restrictions on trade, tend to make men dishonest, in particular things, and thus weeken the powers of the moral

faculty. There are ten thousand ways of evading such laws, and slight evasions gradually produce a habit of violating law, and harden the mind against the feer of its penalties. Indeed, such laws tend to undermine that confidence which iz the basis of social intercourse. Laws which encourage *informations*, should be enacted with caution. Such are laws against usury. A man haz often the strongest temptation to be a treecherous rascal, by inducing hiz frend to loan him money, on illegal interest, and then betraying him. This species of villany waz lately carried so far in Massachusetts, az to induce the legislature to repeel a clauze of their law against usury. And a man of morality must shudder, while he reeds the legal prosecutions and adjudications in England upon their statutes of usury.

The absurdity of attempting to *fix the valu of money* iz another objection to it of no small consequence. The valu of it depends wholly on the quantity in circulation and the demand. In this respect it resembles all other articles of trade; and who ever thought of fixing the price of goods by law?[143] It iz almost impossible for a legislature to ascertain exactly the valu of money at any one time; and utterly impossible to say that the valu when ascertained, shall continu the same for six months. Nay, two slates adjoining eech other may estimate the use of money very differently at the same period. In New York the legal interest iz seven per cent. in New England but six. A man may therefore do that legally in one state, which in the others would expoze him to a severe penalty.

In ancient Rome, the interest waz twelv per cent. The emperor Justinian reduced it to four, but allowed higher interest to be taken of merchants, on account

of the risk. In Holland, when Grotius wrote, the common interest waz eight per cent.; but twelv to merchants. In England, the statute 37th, Henry VIII, confined interest to *ten* per cent. By the 21st James I, it waz reduced to eight; by the 12th Charles II, to six; and by 12th Ann, to five, the present legal interest in that country.[144]

Postlethwaite remarks very justly that theze laws hav not ascertained the real valu or interest of money; for when the legal interest haz been six per cent. the real interest haz sometimes been four; and when the legal interest haz been five, the real interest haz sometimes been seven. Indeed the interest of money depends on such a combination of circumstances, az the scarcity of money, the demand in market, and the hazard, that an attempt to find and fix a permanent rate, iz one of the most visionary schemes that a public body can undertake. To proov the impossibility of such a scheme, I would only mention the continual practice of violating laws against usury; which would not be the case, if the real valu of money had been ascertained and fixed.[145] If legislatures had found the tru valu of the use of money, there would hav been fewer violations of their laws: If they hav, in any case, fixed a rate of interest lower than the real valu, they hav violated the rights of their subjects. This iz a serious consideration; and perhaps in no instance are the laws of England and America more strongly marked with the traces of ancient prejudice and barbarity, than in the prohibition which prevents a man from using hiz *money* az he pleezes, while he may demand any sum whatever for the use of hiz other property.

The only power, I conceev, a legislature haz to determin what interest shall arize on the use of

money, or property, iz where the parties hav not determined it by agreement. Thus when a man haz taken up goods upon credit, or where, by any other legal meens, a man becomes possessed of anothers money or estate, without a specific stipulation for interest, the law very properly steps in and ascertains the sum which the detter shall pay for the use of that money. But to make a law that a man shall not take but six per cent. for the use of money, when the borrower iz willing to giv more, and the lender cannot part with hiz money at that rate of interest, iz a daring violation of private rights, an injury often to both parties, and productiv of innumerable embarrassments to commerce.

We are told that such laws are necessary to guard men from the oppression of the rich. What an error! Waz a monied man ever compelled to assist a distressed nabor, by the forfitures incurred by such laws? Iz not hiz money hiz own? Wil he lend it all, if it should not be for hiz benefit? Besides, cannot a man in necessity alienate hiz property for one fourth of its valu? Are not such bona fide contracts made every day to raize money to answer a temporary purpose? Nay, hav not the laws of all commercial states authorized *sales by auction*, where any man may part with hiz property for a fourth of its valu? Iz there any remedy in law against such a sacrifice of a man's estate? Wherein then consists the security of laws against usury? In the name of common sense and common equity, let legislators be consistent. If men are improvident, lazy and careless, a loss of property wil be their punishment, and no mezures of government wil prevent it.

To what then shall we ascribe the severe laws against high interest, which hav been and stil are existing in

most commercial countries? I presume the cause may be easily assigned. The Jewish prohibition, not to take interest, except of strangers, first gave rise to douts in the minds of our pious christian forefathers, with respect to the legality of any interest at all. This produced, in the dark ages, severe ecclesiastical laws against taking any thing for the use of money; and theze laws originated a general prejudice against it, thro the Christian world.

In the twelfth and thirteenth centuries, commerce began to revive; but az there waz but little money, and trade waz lucrativ, because in few hands, money bore a very high interest. In some parts of Europe, the interest waz forty per cent. Even with this interest, certain Italian traders could make an annual profit, and therefore it waz for their benefit to giv it. It however rendered them very unpopular.[146]

The Jews, for their infidelity, had been considered by the Christians az outcasts on earth. Severe laws were enacted against them in almost every country; depriving them of the rights of citizens, and forbidding them to hold real estates. Proscribed and insulted, the poor Jews were compelled to turn their *hand against every man* in their own defence. They commenced strolling traders and bankers, and by theze meens commanded a large share of the money in every kingdom.

With this command of cash, the Jews very justly compensated themselves for the injuries they suffered from the tyrannical laws which existed against them. They loaned money at the highest rate of interest they could obtain. Hence the general karacter of the Jews, and the prejudice against them that survives to this enlightened period.

It iz very probable, that before the discovery of the

American mines, money waz so scarce in Europe, that a few brokers in eech kingdom might engross such a share, az to hav it in their power to oppress peeple. This waz evidently the case in England, about the reign of Edward I, and the parliament thought proper to interfere and restrain the evil. Laws against usury were doutless necessary and useful at that time. But since the world haz been filled with gold and silver from South America, and nations hav opened an intercourse with eech other, there never can be a want of specie, where a country can supply produce enough to exchange for it. It haz become a mere fluid in the commercial world; and in order to obtain a supply, in a country abounding with produce and manufactures, the legislature haz nothing to do, but let it bear its own price; let it command its own valu, ether at interest, or in exchange for commodities.

Laws against usury therefore I consider az originating ether in the necessity of the times, which long ago ceesed, or in a bigotted prejudice against the Jews, which waz az barbarous formerly, az it iz now infamous. Laws restraining the interest of money I now consider, in the same light, az I do laws against freedom of conscience. And were it not for the force of habit, I should az soon expect to see a modern legislature ordering a pious sectary to the stake for hiz principles, az to see them gravely passing a law, to limit the profit on the use of hiz money. And unless the legislatures of this enlightened age should repeel such laws, and place money on a footing with other property, they will be considered az accessory to a direct violation of the deerest rights of men, and will be answerable for more frauds, perjuries, treechery and expensiv litigations, than proceed from any other single cause

in society. I am so firmly persuaded of the truth of theze principles, that I venture to predict, the opinions of men will be changed in less than half a century, and posterity will wonder that their forefathers could think of maintaining a position so absurd and contradictory, az that men hav no right to make more than six per cent. on the *loan of money*, while they hav an indefeezable right to make unlimited profit on their money in any other manner. They will vew laws against usury in the same light that we do the inquisition in Spain, the execution of gypsies and witches in the last century, or thoze laws of England which make 100l. annual income necessary to qualify a man for killing a partridge, while they allow *forty shillings* only to qualify him for electing a knight of the shire.

# NO. XXV.

HARTFORD, OCTOBER, 1789.

## *On* ALLEGIANCE.

Writers on law divide allegiance into two kinds, *natural* and *local*. "Natural allegiance iz such az iz du from all men born within the kings dominions, immediately upon their berth. For immediately upon their berth, they are under the kings protection; at a time too when (during their infancy) they are incapable of protecting themselves. Natural allegiance iz therefore a det of gratitude, which cannot be forfeited, cancelled or altered, by any change of time, place or circumstances; nor by any thing but the united concurrence of the legislature. An Englishman who remoovs to France or to China, owes the same allegiance to the king of England there az at home, and twenty years hence az wel az now. For it iz a principle of universal law, that the natural born subject of one prince cannot by any act of hiz own, no, not by swearing allegiance to another, put off or discharge hiz natural allegiance to the former; for hiz natural allegiance waz intrinsic and primitiv and antecedent to the other, and cannot be devested, without the concurrent act of that prince to whom it waz first du. Indeed the natural born subject of one prince, to whom he owes allegiance, may be entangled by subjecting himself absolutely to another; but it iz hiz own act that brings him into theze straits and difficulties, of owing service to two masters; and it iz unreezonable that, by such voluntary act of hiz own, he should be able at plezure to unloose thoze bands by which he iz connected to hiz natural prince."[147]

I mistake much, however, if the natural born subject would be so much *entangled with hiz straits and difficulties*, az lord Coke, Hale and Blackstone, would be, to support their assertions and obviate the absurdities of their reezoning.

It iz astonishing to observe how slowly men get rid of old prejudices and opinions. The feudal ideas of allegiance, which make *fidelity in the subject an obligation or grateful return for the protection of the prince*, stil prevail, and are made the basis of all modern reezoning on the subject. Such ideas in the dark ages, and in the days of feudal despotism, are not to be wondered at. Every baron waz a tyrant on hiz manor, and az hiz only safety consisted in hiz castle and hiz vassals, it waz necessary to bind hiz subjects to him by oaths and superstition, az wel az by a demand upon their gratitude. But wil our sage writers on government and law, forever think by tradition? Wil they never examin the grounds of receeved opinions? Let me enquire.

What iz the real ground of *allegiance*? Iz it not *protection*? Not at all. We may just az wel invert the proposition, and say, that *allegiance* iz the ground of *protection*. A prince iz the representativ of a nation or state, so that allegiance to him, iz merely allegiance to a state or body politic.[148] According to our ideas, allegiance to a king, and fidelity to a state, are the same thing; for detach a king from all connection with a nation or state, and he becumes a private man, and entitled only to the rights of such. This at leest iz the opinion of an *American*, whose mind iz not biassed by personal attachments to a sovereign.

What then iz the ground of fidelity to a state? The answer iz eezy; the *moral law*, which haz for its object the *good of society*. This iz the basis of all

obligations in a state, whether express or implied; yet writers on this subject hav hardly mentioned it. Blackstone indeed takes notice of an implied, original allegiance, antecedent to any express promis; but seems rather to consider it az a return for the duties of the sovereign, which he owes before coronation, than az an obligation arising from the very constitution of society.

Taking the moral law or the good of society for the ground of all allegiance, we discuver two species of duties to be performed by every man; the *moral duties*, which exist at all times and in all places; and certain *political duties*, required by the municipal laws of eech state. The first are the basis of natural or perpetual allegiance; the last, of local allegiance. The first or moral duties create an obligation upon every man, the moment he iz born, which cannot be cancelled or discharged by any act of an individual, or by any agreement between prince and subject; the last, or political duties, impoze an obligation upon every member of a state or body politic, the moment he steps within its jurisdiction, to submit peaceably to such positiv injunctions of that state, az hav been judged necessary for its welfare.

Now to maintain that an oath of allegiance wil bind a man to perform all the last class of duties, or the positiv duties enjoined by a particular state, and not required by the general laws of society, when the man haz perhaps become a member of another state, three thousand miles distant, iz to defend the wildest notions that can possess any man's brain. Every man iz bound always and in all places to *do right, and avoid doing rong*; and this with, or without taking an oath of fidelity to any state. This iz implied allegiance, universal and perpetual; and I deny that

there iz any other ground of this allegiance, except the universal principles of right and rong.

Should it be said, that a man may bind himself *by oath* to perform the positiv or political duties required by a state, altho he may remoov and become a citizen of another state; I answer, this wil involv him in the *straits* and *difficulties* mentioned by Blackstone; for the political duties of the two states may interfere with eech other. The truth iz, a man haz no right to take such an oath, nor haz a state any right to require it. He may swear, when he enters into any kingdom or state, that he wil be a good citizen, and submit to all the laws of the state, *while he iz a member of it*; and further, that he wil observe the moral law in hiz conduct towards that society, after *he haz ceesed to be a member of it*. Further than this, he haz no right to swear. Az to every duty, not required by the laws of society in general, but only by the municipal laws of a state, a man's allegiance commences when he enters that state; and ceeses the moment he leeves it.[149] The doctrin of a perpetual allegiance iz wholly a feudal idea; inculcated, when every lord waz at war with hiz nabor; and waz compelled by self preservation to attach hiz vassals to himself by oaths, the penalties of perjury and the forfeitures of treezon.

Blackstone says, in the passage already quoted, "that natural allegiance iz a det of gratitude," because the subject iz under the kings protection while an infant. He might just az wel say, *protection iz a det of gratitude* du from the prince, because the subject iz born in hiz dominions. On this principle of gratitude, a child iz obliged to obey and serve hiz parent, after he haz left hiz family, and while he livs. This det, according to the same author, cannot be cancelled,

but *by "concurrence of the legislature."* How in the name of reezon, can an act of the legislature dissolv a *natural tie*? How can it *cancel a det of gratitude*? Common sense looks with disdain on such week and futile reezoning. But if there iz such a thing az natural and perpetual allegiance, an Englishman, who remoovs to France, cannot take arms to defend France against an invasion from England. Is this agreeable to the laws of nature and society, that a man should not protect himself and hiz property? It wil be said that the man iz within the English king's liegeance, and entitled to hiz protection. But the king cannot protect him; it iz beyond hiz power, and the Englishman iz not obliged to leev France and seek protection in England. Hiz estate and hiz family may be in France, and if he chooses to reside there, it iz hiz unalienable right and duty to defend both against any invasion whatever. Every war, except a defensiv one, iz a breech of the moral law; but when a natural born subject of England, haz become a citizen of France, he iz subject to the laws of France, and bound to assist, if required, in defending the kingdom against hiz natural prince.

# No. XXVI.

HARTFORD, JULY, 1789.

## EXPLANATION *of the* REEZONS, *why* MARRIAGE *iz* PROHIBITED *between* NATURAL RELATIONS.

Much haz been said and written to ascertain between what relations marriage ought to be permitted. The civil, the canon, and the English laws, differ az to the degrees of consanguinity necessary to render this connection improper. A detail of the arguments on this subject, and even a recapitulation of the decrees of ecclesiastical councils, in the erly ages of the church, would be tedious and uninteresting. I shall only offer a few thoughts of my own on the question, with a view to illustrate a single point, which haz been agitated in modern times, and on which the different American states hav passed different decisions. The point iz, whether a man should be permitted to marry hiz former wife's sister. In some states this iz permitted; in others, prohibited.

Thoze who favor the prohibition, ground their reezon on the Levitical law, which says a man shall not marry hiz wife's sister, during the life of hiz wife, to vex her. This prohibition, while it restrains a man from having two sisters for wives at the same time, among a peeple where poligamy waz permitted, iz a negativ pregnant, and a strong argument that a man waz allowed, after the deth of a wife, to marry her sister.

The Jewish law, however divine, waz designed for a particular nation, and iz no farther binding upon other nations, than it respects the natural and social

duties. In no one particular, hav men been more mistaken, than in explaining divine commands. It haz been sufficient for them to reseiv a law into the wil of God, without examining into the reezons for which the law waz revealed. They seem to hav inverted the foundation of moral obligation, in supposing the moral law to derive its propriety and fitness originally from the wil of Deity, rather than from the nature of things. They talk about the fitness and unfitness of things, independent, not only of society, but of God himself. Such wild notions, I presume, are not common. There could be no fitness nor unfitness of things, before things were made; nor could right and rong exist without social beings. The moral duties therefore are not right, merely because they are commanded by God; but they are commanded by him, because they are right. The propriety or fitness of them depends on the very nature of society; and this fitness, which waz coeval with creation, waz the ground of the divine command.[150]

The law of Moses, regulating marriages, waz founded on this propriety or fitness of things. A divine command givs a sanction to the law; but the propriety of it existed prior to the command. The reezons for prohibiting marriage between certain relations are important; yet they seem not to be understood. It haz been sufficient, in discussing this point, to say, *such iz the law of God*; and few attempts hav been made to find the reezons of it, by which alone its extent and authority can be ascertained.

There are two rules, furnished by the laws of nature, for regulating matrimonial connections. The first iz, that marriage, which iz a social and civil connection, should not interfere with a natural relation, so az to

defeet or destroy its duties and rights. Thus it iz highly improper that an aunt should marry her nephew, or a grandfather hiz grand daughter; because the duties and rights of the natural relation, would be superseded by the positiv duties and rights of the civil connection.

The other rule iz much more important. It iz a law of nature that vegetables should degenerate, if planted continually on the same soil. Hence the change of seeds among farmers. Animals degenerate on the same principle. The physical causes of this law of nature, are perhaps among the arcana of creation; but the effects are obvious; and it iz surprizing that modern writers on law and ethics should pass over almost the only reezons of prohibiting marriage between blood relations. Consanguinity, and not affinity, iz the ground of the prohibition.[151]

It iz no crime for brothers and sisters to intermarry, except the fatal consequences to society; for were it generally practised, men would soon become a race of pigmies. It iz no crime for brothers and sisters children to intermarry, and this iz often practised; but such near blood connections often produce imperfect children. The common peeple hav hence drawn an argument to proov such connections criminal; considering weakness, sickness and deformity in the offspring az judgements upon the parents. Superstition iz often awake, when reezon iz asleep. It iz just az criminal for a man to marry hiz cousin, az it iz to sow flax every year on the same ground; but when he does this, he must not complain, if he haz an indifferent crop.

Here then the question occurs, iz it proper for a man to marry hiz wife's sister? The answer iz plain. The practice does not interfere with any law of nature or

society; and there iz not the smallest impropriety in a man's marrying ten sisters of hiz wife in succession. There iz no natural relation destroyed; there iz no relation by blood; and *cessante ratione, cessat et ipsa Lex*; the law ceeses when the reezon of it ceeses.

# No. XXVII.

HARTFORD, FEBRUARY, 1790.

## MISCELLANEOUS REMARKS *on* DIVIZIONS *of* PROPERTY, GUVERNMENT, EDUCATION, RELIGION, AGRICULTURE, SLAVERY, COMMERCE, CLIMATE *and* DISEEZES *in the* UNITED STATES.

The laws which respect property, hav, in all civilized communities, formed the most important branch of municipal regulations. Of theze, the laws which direct the division and desent of lands, constitute the first class; for on theze, in a great mezure, depend the genius of guvernment and the complection of manners.

Savages hav very few regulations respecting property; for there are but few things to which their desires or necessities prompt them to lay claim. Some very rude nations seem to hav no ideas of property, especially in lands; but the American tribes, even when first discuvered, claimed the lands on which they lived, and the hunting grounds of eech tribe were marked from thoze of its nabors, by rivers or other natural boundaries. The Mexican and Peruvian Indians had indeed advanced very far towards a state of civilization; and land with them had acquired almost an European valu; but the northern tribes, yet in the hunter state, would often barter millions of akers for a handful of trinkets and a few strings of wampum.

In the progress of nations, land acquires a valu, proportioned to the degree of populousness; and other objects grow into estimation, by their utility,

convenience, or some plezure they afford to the imagination.

In attending to the principles of guvernment, the leeding idea that strikes the mind, iz, that political power depends mostly on property; consequently guvernment will take its complection from the divisions of property in the state.

In despotic states, the subjects must not possess property in fee; for an exclusiv possession of lands inspires ideas of independence, fatal to despotism. To support such guvernments, it iz necessary that the laws should giv the prince a sovereign control over the property az wel az the lives of hiz subjects. There are however very few countries, where the guvernment iz so purely arbitrary, that the peeple can be deprived of life and estate, without some legal formalities. Even when the first possession waz the voluntary gift of the prince, grants or concessions, sanctioned by prescription, hav often established rights in the subject, of which he cannot be deprived without a judicial process.

In Europe the feudal system of tenures haz given rise to a singular species of guvernment. Most of the countries are said to be guverned by *monarkies*; but many of the guvernments might, with propriety, be called *aristocratic republics*. The barons, who possess, the lands, hav most of the power in their own hands. Formerly the kings were but lords of a superior rank, *primi inter pares*; and they were originally electiv. This iz stil the case in Poland, which continues to be what other states in Europe were, an *aristocratic republic*. But from the twelfth to the sixteenth century, the princes, in many countries, were struggling to circumscribe the power of the barons, and their attempts, which often desolated their

dominions, were attended with various success. What they could not accomplish by force, they sometimes obtained by stratagem. In some countries the commons were called in to support the royal prerogativs, and thus obtained a share in legislation, which haz since been augmented by vast accessions of power and influence, from a distribution and encreese of welth. This haz been the case in England. In other countries, the prince haz combined with the barons to depress the peeple. Where the prince holds the privilege of disposing of civil, military and ecclesiastical offices, it haz been eezy to attach the nobility to hiz interest, and by this coalition, peece haz often been secured in a kingdom; but the peeple hav been kept in vassalage. Thus by the laws of the feudal system, most of the commons in Europe are kept in a state of dependence on the great landholders.

But commerce haz been favorable to mankind. Az the rules of succession to estates, every where established in Europe, are calculated to aggrandize the *few* at the expense of the *many*, commerce, by creating and accumulating personal estate, haz introduced a new species of power to ballance the influence of the landed property. Commerce found its way from Italy and the eest, to Germany and England, diffusing in its progress freedom, knowlege and independence. Commerce iz favorable to freedom; it flurishes most in republics; indeed a free intercourse by trade iz almost fatal to despotism; for which reezon, some princes lay it under severe restrictions: In other countries it iz discuraged by public opinion, which renders trade disreputable. This iz more fatal to it, than the edicts of tyrants.

The basis of a democratic and a republican form of

government, iz, a fundamental law, favoring an equal or rather a general distribution of property. It iz not necessary nor possible that every citizen should hav exactly an equal portion of land and goods, but the laws of such a state should require an equal distribution of intestate estates, and bar all perpetuities. Such laws occasion constant revolutions of property, and thus hold out to all men equal motivs to vigilance and industry. They excite emulation, by giving every citizen an equal chance of being rich and respectable.

In no one particular do the American states differ from European nations more widely, than in the rules which regulate the tenure and distribution of lands. This circumstance alone wil, for ages at leest, prezerve a government in the united states, very different from any which now exists or can arize in Europe.

In New England, intestate estates desend to all the children or other heirs in equal portions, except to the oldest son, who haz two shares. This exception in favor of the oldest son, waz copied from the levitical code, which waz made the basis of the first New England institutions. The legislature of Massachusetts, at their May session, 1789, abolished that absurd exception; and nothing but inveterate habit keeps it alive in the other states.[152]

In consequence of theze laws, the peeple of New England enjoy an equality of condition, unknown in any other part of the world. To the same cause may be ascribed the rapid population of theze states; for estates by division are kept small, by which meens every man iz obliged to labor, and labor iz the direct cause of population. For the same reezon, the peeple of theze states, feel and exert the pride of

independence. Their equality makes them mild and condesending, capable of being convinced and guverned by persuasion; but their independence renders them irritable and obstinate in resisting force and oppression. A man by associating familiarly with them, may eezily coax them into hiz views, but if he assumes any airs of superiority, he iz treeted with az little respect az a servant. The principal inconvenience arizing from theze dispositions iz, that a man who happens to be a little distinguished for hiz property or superior education iz ever exposed to their envy, and the tung of slander iz bizzy in backbiting him. In this manner, they oppoze distinctions of rank, with great success. This however iz a private inconvenience; but there iz an evil, arising from this jealousy, which deeply affects their guvernment. Averse to distinctions, and reddy to humble superiority, they become the dupes of a set of artful men, who, with small talents for business and no regard for the public interest, are always familiar with every class of peeple, slyly hinting something to the disadvantage of great and honest men, and pretending to be frends to the public welfare. The peeple are thus guverned at times by the most unqualified men among them. If a man wil shake hands with every one he meets, attend church constantly, and assume a goodly countenance; if he wil not swear or play cards, he may arrive to the first offices in the guvernment, without one single talent for the proper discharge of hiz duty; he may even defraud the public revenu and be accused of it on the most indubitable evidence, yet by laying hiz hand on hiz brest, casting hiz eyes to heaven, and calling God to witness hiz innocence, he may wipe away the popular suspicions, and be a fairer candidate for preferment than before hiz accusation. So far az the

harts of the peeple are concerned, the disposition here mentioned iz a high recommendation, for it proves them mild, unsuspecting and humane: But guvernment suffers a material injury from this turn of mind; and were it not for a few men who are boldly honest, and indefatigable in detecting impositions on the public, the guvernment of theze states would always be, az it often iz, in the hands of the weekest, or wickedest of the citizens.

The same equality of condition haz produced a singular manner of speeking among the peeple of New England.[153] But the inhabitants of all the large towns, wel bred citizens, are excepted from this remark.

Altho the principle iz tru that a general distribution of lands iz the basis of a republican form of guvernment, yet there iz an evil arising out of this distribution, which the New England states now feel, and which wil increase with the population of the country. The tracts of land first taken up by the settlers, were not very considerable; and theze having been repeetedly divided among a number of heirs, hav left the present proprietors almost without subsistence for their families. Vast numbers of men do not possess more than thirty or forty akers eech, and many not half the quantity. It iz with difficulty that such men can support families and pay taxes. Indeed most of them are unable to do it; they involve themselves in det; the creditors take the little land they possess, and the peeple are driven, poor and helpless, into an uncultivated wilderness. Such are the effects of an equal division of lands among heirs; and such the causes of emigration to the western territories. Emigration indeed iz a present remedy for the evil; but when settlements hav raized the valu of

the western lands neerly to that on the Atlantic coast, emigrations wil mostly ceese. They wil not entirely ceese, until the continent iz peepled to the Pacific ocean; and that period iz distant; but whenever they ceese, our republican inhabitants, unable to subsist on the small portions of land, assigned them by the laws of division, must hav recourse to manufactures. The holders of land wil be fewer in number, because monied men wil hav the advantage of purchasing lands very low of the necessitous inhabitants, who wil be multiplied by the very laws of the state, respecting landed property. Other laws however could not be tolerated in theze states. In Europe, provision iz made for younger sons, in the army, the church, the navy, or in the numerous manufactures of the countries. But in America, such provision cannot be made; and therefore our laws eezely provide for all the children, where they are not provided for by the parents.

By extending our views to futurity, we see considerable changes in the condition of theze republican states. The laws, by barring entailments, prevent the establishment of families in permanent affluence; we are therefore in little danger of a hereditary aristocracy. But the same laws, by dividing inheritances, tho their first effect iz to create equality, ultimately tend to impoverish a great number of citizens, and thus giv a few men, who commanded money, an advantage in procuring lands at less than their real valu. The evil iz increased in a state, where there iz a scarcity of cash, occasioned by the course of trade, or by laws limiting the interest on money loaned. Such iz the case in Connecticut. A man who haz money may purchase wel cultivated farms in that state for seventy, and sometimes for fifty per cent. of the real valu. Such a situation iz

favorable to the accumulation of great estates, and the creation of distinctions; but while alienations of real estates are rendered necessary by the laws, the genius of the guvernment wil not be materially changed.

The causes which destroyed the ancient republics were numerous; but in Rome, one principal cause waz, the vast inequality of fortunes, occasioned partly by the stratagems of the patricians and partly by the spoils of their enemies, or the exactions of tribute in their conquered provinces. Rome, with the *name* of a republic, waz several ages loozing the *spirit* and *principle*. The Gracchi endevored to check the growing evil by an agrarian law; but were not successful. In Cesar's time, the Romans were ripened for a change of guvernment; the *spirit* of a commonwelth waz lost, and Cesar waz but an instrument of altering the *form*, when it could no longer exist. Cesar iz execrated az the tyrant of hiz country; and Brutus, who stabbed him, iz applauded az a *Roman*. But such waz the state of things in Rome, that Cesar waz a better ruler than Brutus would hav been; for when the spirit of a guvernment iz lost, the form must change.

Brutus would hav been a tyrannical demagogue, or hiz zeel to restore the commonwelth would hav protracted the civil war and factions which raged in Rome and which finally must hav subsided in monarky. Cesar waz absolute, but hiz guvernment waz moderate, and hiz name waz sufficient to repress faction and prezerve tranquillity. The zeel of Brutus waz intemperate and rash; for when abuses hav acquired a certain degree of strength; when they are interwoven with every part of government, it iz prudence to suffer many evils, rather than risk the

application of a violent remedy.

How far the Roman history furnishes the data, on which the politicians of America may calculate the future changes in our form of guvernment, iz left to every man's own opinion. Our citizens now hold lands in fee; this renders them bold in independence: They all labor, and therefore make hardy soldiers; they all reed, and of course understand their rights; they rove uncontrolled in the forest; therefore they know the use of arms. But wil not poor peeple multiply, and the possessions of real estates be diminished in number, and increesed in size? Must not a great proportion of our citizens becum manufacturers and thus looz the bodies and the spirit of soldiers? While the mass of knowlege wil be increesed by discuveries and experience, wil it not be confined to fewer men? In short, wil not our forests be levelled, or confined to a few proprietors? and when our peeple ceese to hunt, will not the body of them neglect the use of arms? Theze are questions of magnitude; but the present generation can answer them only in prospect and speculation. At any rate, the genius of every guvernment must addapt itself to the peculiar state and spirit of the peeple who compose the state, and when the Americans looz the *principles* of a free guvernment, it follows that they wil speedily looz the *form*. Such a change would, az in Rome, be ascribed to *bad* men; but it is more rational to ascribe it to an imperceptible progress of corruption, or thoze insensible changes which steel into the best constitutions of government.

New England waz originally settled by a religious sect, denominated *puritans*, who fled from the severe restraints imposed upon dissenters in the reign of king James I. Placed beyond the feer of control, they

formed sistems of civil and ecclesiastical government, exactly suited to their rigid notions. All their institutions wear marks of an enthusiastic zeel for religion. Removed from the tyranny of one church, they vibrated to the other extreme, and with an ardor to bild up Christ's kingdom, in what they quaintly call, *a howling wilderness*, they established a tyranny of the severest kind over the consciences and rights of their own society, and by arbitrary decrees banished thoze who dissented from them upon the most metaphisical points. It waz a law of the first settlers at Boston, that none could be free men and entitled to vote for civil rulers, who were not in full communion with the church; and none could be admitted to full communion, without the recommendation of a clergyman. Theze laws threw all the power of the state into the hands of the clergy.[154] It iz equally astonishing and ridiculous to the posterity of thoze godly peeple, to find the church and state, in the infancy of the settlement in America, rent with discord upon the simple question, whether "sanctification preceeds justification." Yet hundreds of councils were held upon this or similar points, and a dissent from the common opinion on such trifling questions, waz heresy, punishable with excommunication and banishment.

But candor requires some apology to be made for our ancestors. Bigotry waz not confined to the New England settlers; it waz the characteristic of the age. The first settlers in New Jersey, Virginia and Pensylvania, and indeed in most of the colonies, prohibited witchcraft under penalty of deth; tho the laws seem not to have been executed any where except in Massachusetts. But the fame gloomy superstition reigned in England. The statutes of Henry VIII. and James I. making witchcraft and

sorcery felony without benefit of clergy, upon which many persons suffered deth, were not repeeled, till the ninth yeer of George II. or about 1736. Just before the restoration in 1660, no less than thirteen *gypsies* were condemned at one Suffolk assizes, and executed.

But why should I go to former times and other states for apologies? Iz it not eezy to find superstition and prejudices among ourselves equally absurd and indefensible? Does not a law against playing with cards proceed from theze prejudices? What iz the difference between playing with *spotted papers and spotted boards*? Chequers, back-gammon and chess are not prohibited, and the games are az enticing az thoze which are prohibited. Are not such games az capable of conceelment az any domestic concerns? Wil laws ever reech them? Haz the legislature any right to control my family amuzements? In short, do laws ever suppress or restrain any species of game? By no meens; on the other hand, I can testify from actual observation, that prohibited games are practized az much az others, and in states where penalties against them are most severe, gaming iz the most frequent.

Again, are laws against witchcraft more absurd than laws against usury? Did not both originate in ages of monkish bigotry, and in the same religious scruples? Iz it not az illiberal a prejudice to say, that a man shall hav but six per cent. profit on money loaned, yet may make fifty per cent. if he can, on the same valu in goods, houses or lands; az it iz to say, that a man shal not be a fanatic, or a woman hav the hysterics? Haz not any man az good a right to be whimsical or superstitious, az a legislature to be inconsistent? Az to the right, I see no difference. A

man who iz oppressed to an obvious degree by a rich creditor, wil find releef against the oppressor, in a court of equity. A fanatic, who should keep a naborhood in an uproar by hiz religious worship, would be punishable for a misdemeenor. But when two men can make a voluntary contract for eight per cent. interest, a contract which eech deems favorable for himself, that he should be punishable with a hevvy forfiture, iz a curosity in legislation, which ought to be placed on the catalog of papal bulls.

Superstition appeers in all ages under different aspects. The sailor who repozes confidence in the horse-shoe on hiz mast, the Roman who counts hiz beeds, the judge who gravely sentences a witch to the gallows, and the legislator who thinks it a crime to receev great profits for the use of money, may be equally conscientious, and to posterity in some future time, wil appeer to be equally mistaken.

But while we contemplate the censurable laws of the first New England settlers, let us not pass by many excellent regulations which proceed from their religious zeel, and which hav been the basis of institutions the most favorable to morals, to freedom and happiness.

In the first place, our ancestors made provision for supporting preechers of the gospel in every village. Abating some rigid maxims, which were propagated and maintained for the first century, with too much zeel, the influence of the clergy, in New England, haz been productiv of the happiest effects. The clergy, being wel informed men, and scattered among the peeple at large, hav been instrumental in diffusing knowlege. Frends to order, and respected by their parishioners, they hav at times saved the states from turbulence and disorder. The advocates of liberty,

they espoused the American revolution with firmness, and contributed to unite the peeple in a steddy opposition to British mezures; and since the establishment of peece, they hav had no small influence in oppozing mezures, fatal to good faith and the rights of freemen.

The effects of their influence are the most generally vizible in Connecticut, where every town iz well settled and supports a clergyman. This state never experienced an insurrection; its opposition to the British power, during the war, waz steddy and unanimous; and tender laws and paper currency hav been uniformly reprobated since the revolution.

The old settlements in Massachusetts may fall under the same character; but the western and northern counties are exceptions. In a great proportion of the townships, which hav been lately settled, there iz no clergyman or other person of superior information, to direct the popular councils and check a rizing opposition. It waz obzerved, during the late insurrections in thoze counties, that the towns which were destitute of any wel informed men, furnished the most numerous and most turbulent hosts of insurgents. The wel informed counties on the see coast furnished scarcely a man.

In addition to this, it may be remarked, that the mildness of manners and the hospitality which prevail among the yemanry of New England, are ascribeable in a great meazure, to a general administration of religious ordinances. The distinction in this respect, iz so great between New England and some other parts of America, that in travelling among the settlers on the frontiers of Vermont, a man may ascertain where the settlers were born and educated, merely by their manner of

receeving and treeting him. This iz asserted from actual obzervation.

The State of Rhode Island furnishes full proofs of what iz here said in favor of the clergy. That state waz settled by refugees from Massachusetts, who were banished or persecuted by the first settlers, for their religious tenets. Roger Williams and hiz adherents imbibed an inveterate hatred against the colony of Massachusetts, and in particular against the clergy, whoze rigid zeel occasioned their expulsion from the colony. The prejudice continued among their desendants, and to this day the inhabitants boast of their liberality of sentiment and their freedom from the bigotry of clergymen, which, they say, enslaves the peeple of Massachusetts and Connecticut. This aversion to the clerical order haz however had a pernicious effect in the state. The body of the peeple, unaccustomed to the sobriety and decent deportment necessary in religious worship, and despizing the puritanical manners of their nabors, are educated in licentiousness and void of principle. To this source may be traced the most unjust and tyrannical laws that ever disgraced a popular assembly, and a perseverance in executing them, which can proceed only from obstinate ignorance and dishonest views. The large trading towns are excepted from this description; the inhabitants of which are well informed, polite, liberal, and firm supporters of good government; *but they encourage schools and support a respectable clergy*.

In the second place, our ancestors discuvered their wizdom in establishing public schools and colleges. The law of Connecticut ordains, that every town, or parish containing seventy householders, shall keep an English school, at leest eleven months in a yeer;

and towns containing a less number, at leest six months in a yeer. Every town keeping a public skool iz entitled to draw from the trezury of the state, a certain sum of money, proportioned to its census in the list of property which furnishes the rule of taxation. This sum might hav been originally sufficient to support one skool in each town or parish; but in modern times, iz divided among a number, and the deficiency of money to support the skools iz raised upon the estates of the peeple, in the manner the public taxes are assessed. To extend the benefits of this establishment to all the inhabitants, large towns and parishes are divided into districts; eech of which iz supposed able to furnish a competent number of skolars for one skool. In eech district a house iz erected for the purpose by the inhabitants of that district; who hire a master, furnish wood, and tax themselves to pay all expenses, not provided for by the public money. The skool iz kept during the winter months, when every farmer can spare hiz sons. In this manner every child in the state haz access to a school. In the summer, a woman iz hired to teech small children, who are not fit for any kind of labor. In the large towns, skools, ether public or private, are kept the whole yeer; and in every county town, a grammar school iz established by law.

The state of Massachusetts haz also public schools on similar principles. The colleges and academies are too well known to need any description or remarks.

The beneficial effects of theze institutions will be experienced for ages. Next to the establishments in favor of religion, they hav been the nurseries of wel-informed citizens, brave soldiers and wize legislators. A peeple thus informed are capable of understanding

their rights and of discuvering the meens to secure them.

In the next place, our forefathers took mezures to prezerve the reputation of skools and the morals of yuth, by making the business of teeching them an honorable employment. Every town or district haz a committee whoze duty iz to procure a master of talents and karacter; and the practice iz to procure a man of the best character in the town or naborhood. The welthy towns apply to yung gentlemen of liberal education, who, after taking the bachelor's degree, usually keep skool a yeer or two, before they enter upon a profession. One of the most unfortunate circumstances to education in the middle and suthern states, iz, an opinion that skool keeping iz a meen employment, fit only for persons of low karacter. The retches who keep the skools in thoze states, very frequently degrade the employment; but the misfortune iz, public opinion suppozes the employment degrades the man: Of course no gentleman will undertake to teech children, while, in popular estimation, he must forfit hiz rank and karacter by the employment. Until public opinion iz corrected by some great examples, the common schools, what few there are in thoze states, must continu in the hands of such vagabonds az wander about the country.

Neerly connected with the establishment of skools, iz the circulation of newspapers in New England. This iz both a consequence and a cause of a general diffusion of letters. In Connecticut, almost every man reeds a paper every week. In the yeer 1785, I took some pains to ascertain the number of papers printed weekly in Connecticut, and in the suthern states. I found the number in Connecticut to be neerly eight

thousand; which waz equal to that published in the whole territory, south of Pensylvania.[155] By meens of this general circulation of public papers, the peeple are informed of all political affairs; and their representativs are often prepared to deliberate on propositions, made to the legislature.

Another institution favorable to knowlege, iz the establishment of parish libraries. Theze are procured by subscription, but they are numerous, the expense not being considerable, and the desire of reeding universal. One hundred volums of books, selected from the best writers on ethics, divinity and history, and red by the principal inhabitants of a town or village, wil hav an amazing influence in spreding knowlege, correcting the morals and softening the manners of a nation. I am acquainted with parishes, where almost every housholder haz red the works of Addison, Sherlock, Atterbury, Watts, Young, and other similar writings; and wil converse handsomely on the subjects of which they treet.

Still further, the wisdom of the erly settlers in New England iz remarkable in the division of their territorial jurisdictions into townships, and incorporating them with certain powers of a subordinate nature. Every town iz a corporate body, with power to appoint, at an annual meeting, certain town magistrates, called *selectmen*, who hav the charge of providing for the poor, superintending the town property, dispozing of the monies &c. rendering an account to the town at the annual meeting. The towns also appoint constables, *collectors of taxes*,[156] surveyors of roads, tithing men, whoze business iz to prezerve order on Sundays, inspectors of various denominations, &c. The towns are obliged to bild and repair their own bridges, repair roads, and

defray the expense by a tax impozed by themselves. They also support their own poor. This system of subordinate legislation haz the advantage of saving the legislature much trubble, and the corporations can hardly abuse powers, which are limited to their own territories; nor wil they probably neglect their duty, az it iz for their interest and convenience to perform it.

In the general organization of guvernment, the New England states differ widely; thoze of Massachusetts and New Hampshire, being formed since the revolution, are wel known; thoze of Connecticut and Rhode Island are moddled upon the charters of Charles II, and have suffered but little alteration, since their first establishment.

The New England colonies were originally guverned by a cheef magistrate or guvernor, a deputy, and a certain number of assistants, all chosen by the peeple. They were called the court of assistants, and for a considerable time, exercized all powers, legislativ and judicial. The clergy were uzually associated with them, and they seem to hav taken cognizance likewise of ecclesiastical matters. The rulers of peeple in small societies, in erly settlements, and in the simple state of nature, uzually hav discretionary powers to act for the common good. This waz the case with the ancient witena-gemote, and folk-motes or county meetings in England; and with the first legislatures in theze colonies.

The towns soon began to send representativs to the court; but for several yeers in Boston, they sat in the same house with the assistants; in the same manner az the knights of shires, or representativs of the inferior barons, sat in parliament with the lords on their first introduction into the legislature. But az the

towns multiplied, this practice waz found inconvenient, and the deputies were separated from the assistants. When this took place the assistants rezerved to themselves the judiciary powers, which at first were lodged in the whole assembly. In Connecticut, the assistants or upper house of assembly retained theze powers in effect, till the late revolution; only for the sake of convenience, five of their number were appointed by both houses, to the immediate exercize of the office and to ride the circuit. Still the assembly were a court of appeels in the last rezort, to all intents and purposes; for on petition, any judgement or decree might be heerd and reversed by the legislature. Since the revolution, a supreme court of errors iz constituted, but on an exceptionable plan, and the legislature continues to exercize supreme judicial power on petitions. This iz a remnant of the old administration, which was once harmless, if not necessary; but in a large community, may be considered az a faulty part of the guvernment. The whole legislature likewise acts az a court for the trial of public delinquents. This iz an evil of unbounded magnitude. When charges are exhibited against any public officer, or any objections made to hiz re-appointment, he iz admitted to a hearing, council iz employed, the charges are red, witnesses examined, and the delinquent makes hiz defence in person or by attorney. This mode of impeachment and trial iz the worst that can be invented. It iz difficult or impossible for a large popular assembly to be good judges; they cannot perfectly understand a case; they are credulous; and their compassion eezily moved. A pathetic harang, especially from the accused himself, with teers in hiz eyes, and the misfortunes of hiz family painted in discription, wil skreen from

punishment any knave, however numerous hiz crimes, or however convincing the proofs of hiz gilt. A popular assembly should not sit in judgement upon delinquents, for the same reezon that wimen would be improper judges, and for the same reezons that the mother and wife of Coriolanus were the only persons who could save Rome from his vengence. [157]

The constitution of Connecticut iz if possible, more defectiv in the trezury or finance department. The trezurer iz annually appointed by the freemen in the state at large. This makes him dependent on them. The collectors are scattered in every part of the state; and if the trezurer iz not agreeable to them, az he wil not be, if he iz rigorous in enforcing collections, they can render him unpopular and throw him out of office. This iz an evil; besides, the constables, who are collectors, are appointed by the towns; if they are rigorous in their duty, they are liable to looz their office; or what iz worse, they may set up az candidates for the legislature, and by an influence arizing from their power in exacting taxes with a greater or less degree of rigor, procure an election to an employment for which they are wholly unqualified. When a considerable number of collectors hav obtained seets in the legislature, they are ever reddy to delay or suspend the collection of taxes. This iz not the worst part of the system. The method of obtaining the money in default of the collectors, iz tedious, expensiv, ineffectual, and in short ridiculous. When a collector iz in arreer, a distress issues from the trezury against hiz estate. Upon a return of *non est*, or in case of the collector's insolvency, execution issues against the selectmen of the town, whose estates are liable for the arreerages of taxes. The selectmen then levy a tax upon the

inhabitants to indemnify themselves.

It would be endless to enumerate the evils arizing out of this mode of collection. If the trezurer was appointed by the legislature, with power to name his collectors and call them to account; and if collectors were obliged to giv bonds with sufficient security to save the state from loss, which security should be liable to distress immediately on failure of the collector, the taxes would be collected with promptitude and a great saving of expense.

It may be obzerved, that the faults of the constitution are ascribeable to the ancient simplicity of the New England peeple, and the corruptions of the administration hav grown out of the long tranquillity of the state. While the peeple had perfect confidence in their rulers, they were not disposed to disobey the laws; and while there were few opportunities of corruptions, there might be no instance of maladministration, so obvious or atrocious az to alarm enquiry, and excite peeple to change laws and forms, to which they had been familiarized. The inconveniencies resulting from a union of the legislativ and judicial powers in the same hands, were not so great az to be sensibly felt by the public; and habits of respect for men in office, and submission to law, had rendered men credulous and unsuspecting. To this day, it iz difficult to make the inhabitants beleev that their rulers and magistrates can betray a public trust. Till within two yeers, the guvernor, deputy guvernor, judges of the superior court, or two justices of the peece, could draw upon the trezury of Connecticut, without their accounts being examined by any controller or auditor.

Before the legislature could be persuaded to institute a controller's office az a check upon the trezury, it

waz necessary to exhibit to them strong proofs of maladministration in that department; and the evils arizing from the prezent mode of collecting taxes, must be obvious and great, before they wil make any change in the system. Men are guverned by habit. The first laws of a country take their complection from the peculiar cast and circumstances of the peeple; and then the laws in turn contribute to form the manners of succeeding generations. The state of Connecticut iz an illustrious example of this truth. By its situation, it can never be expozed to sudden changes by an influx of foreigners. It haz no great capital, no general mart where all business centers; it haz very little intercourse with Europe; and the communication by water between New York and Rhode Island iz so direct, eezy and cheep, that for nine months in the yeer, few peeple travel thro Connecticut. For theze reezons, ancient manners and habits will be prezerved longer in this state than in most of the others.

There iz one article in the constitution of this state that merits notice and imitation, because it iz equally singular and excellent. It iz the manner of electing the assistants or senators of their own legislature, and the members of congress. Theze are elected by the freemen at large in the whole state. The number of senators iz twelve, and chosen annually in this manner. In September, the *freemen* assemble in the towns and vote for twenty persons, by ballot; the votes are all returned to the legislature in October, and numbered; and the twenty names that hav the most votes are said to stand in *nomination*, and are published by order of assembly. The next April, the freemen assemble again, and vote by ballot for *twelv* of the *twenty*, and the *twelv* persons who hav the most votes, are elected. Representatives in congress

are chozen in a similar manner. The great excellence of this mode of choozing iz, it holds up to public view, six months before election, the karacters who are candidates; peeple hav an opportunity of enquiring into their merits, that they may select from the whole thoze who are the leest exceptionable.

It iz also a singular advantage that one branch of the legislature stands upon the suffrages of the whole. If a man's nabors take a dislike to hiz public or private conduct, they wil, if possible, dismiss him from office. This iz the great misfortune of small district elections, for it often happens that a man's integrity and independence in public mezures, are most likely to render him unpopular among hiz nabors; and sometimes small domestic occurrences may turn the tide of favor against him. But when a man iz elected by a large district, he iz not expozed to this evil; and nothing short of a general opposition to popular mezures will shake him from hiz elevation. Theze remarks hav been repeetedly verified in Connecticut. The independence of the senate, owing mostly to this article in the constitution, haz several times saved the state from the most disgraceful acts.

The representativs are chozen twice a yeer, for there are two regular sessions of the legislature. This iz an inconvenience, but not so great, az it appears to our suthern nabors; for the freemen meet in towns, which are but about six miles square; so that they can go from home, make a choice, and return in three hours.

The regularity of theze meetings iz incredible to strangers, accustomed to the tumultuous elections in England and the suthern states. No man dare solicit for the votes of hiz nabors, nor ever offers himself a candidate by advertizing. The freemen meet in some

public bilding, uzually a church, seet themselves, heer the law red respecting elections, and proclamation iz made that they prepare their ballots for the officer to be chozen. The constables then carry a hat to every freeman and take the votes, which are counted by the civil authority, and the choice declared in the meeting. Thus the representativs are elected; but the ballots for guvernor, deputy guvernor, senators, and delegates to congress, are seeled up, and sent to Hartford, where they are numbered at the annual election in May. The choice iz conducted with neerly the same sobriety az public worship on Sunday. How different the elections in the suthern states, where I hav seen candidates march at the hed of their adherents, armed with clubs, and force their way to the place of election, and by violence thrusting away their rivals! It is a misfortune in thoze states, that the freemen of a *whole county* assemble at elections. This iz one principal cause, why the elections are attended with tumults, riots, quarrels, bloody nozes, and in a few instances, with deth. The laws of a republic should gard against all large collections of peeple either for good or bad purposes: They are always dangerous. Rome furnishes innumerable lessons on this subject; and if the suthern legislatures attend to facts, they wil doubtless divide their counties into small districts for the purpose of election, and hav the choice completed in one day; that the candidates might not be able to hed their frends in more places than one. It iz of infinit consequence that the pernicious influence of elections should be destroyed.

Religion in Connecticut haz the support of law. Contracts with clergymen are valid in law, and every man iz compelled to pay hiz proportion of taxes to pay the salary of the minister of the parish where he

resides, unless he produces du proof that he attends worship with some dissenting congregation; in which case he iz excuzed. This iz considered by strangers az a hardship: But it produces few inconveniencies in a state where there are few dissenters from the common worship; and theze few are exempted, if they attend *any* religious worship. Every person iz indulged in worshiping az he pleezes; and whatever modern liberality may pretend, the regular preeching of the gospel, az a *civil* institution, iz az necessary and useful, az the establishment of skools or courts of justice. Without any regard to compulsion over consciences, or any reference to a future life, a legal provision for the moral instructors of men, iz az beneficial in society, az any civil or literary institution whatever; and a commonalty, who hav not the benefit of such instruction, wil, I presume to assert, always be ignorant, and of ruf uncivil manners. It iz an article of some constitutions in America, that clergymen shal hold no civil office. This exclusion iz founded on just az good reezons, az the old laws against witchcraft; a clergyman being no more dangerous in a civil office, than a witch in civil society. It iz said that the business of clergymen iz divine and spiritual, and that they should hav no concern with politics. The objection iz equally good against merchants, mechanics and farmers, who hav no immediate concern with legislation. The truth iz, every citizen haz a concern in the laws which guvern him; and a clergyman haz the same concern with civil laws, az other men. There hav been bad clergymen and tyrannical hierarkies in the world; but the error lies in separating the civil from the ecclesiastical government. When separated they become rivals; when united, they hav the same interest to pursu. A clergyman's business iz to *inform*

hiz peeple, and to make them *good men*. This iz the way to make them *good citizens*. The clergymen in Boston take the right method to accomplish this business; they throw aside all *divine airs* and imperious grave superiority; they mingle in the most familiar manner, with other peeple; they are social and facetious, and their parishoners delight to hav them at all entertainments and concerts. This conduct remoovs the awful distance between them and other descriptions of men; they are not only esteemed and respected, but luved; their decent deportment iz imitated; their churches are crowded, and their instructions listened to with plezure. Such men are blessings to society. That clergymen ought not to meddle with politics, iz so far from truth, that they ought to be *well* acquainted with the subject, and *better* than most classes of men, in proportion to their literary attainments. Religion and policy ought ever to go hand in hand; not to raize a system of despotism over the consciences, but to enlighten the minds, soften the harts, correct the manners and restrain the vices of men. If men are to be fitted for heaven, it *must* be by theze meens; there iz no other way. The separation of religion and policy, of church and state, waz owing at first to the errors of a gloomy superstition, which exalted the ministers of Christ into Deities; who, like other men, under similar advantages, became tyrants. The way to check their ambition, and to giv full efficacy to their administrations, iz to consider them az *men* and *citizens*, entitled to all the benefits of guvernment, subject to law, and designed for *civil* az wel az *spiritual* instructors.

The state of New York waz settled with views, widely different from thoze which actuated the New England puritans. Some Dutch merchants first

established factories at Albany and on Manhattans, now York Island, for the purpose of opening a fur trade. When the province came into the possession of the English, several gentlemen of property took up large tracts of lands, which, being regulated by the English laws of descent, continued unbroken, til the late revolution. But many of the proprietors of theze manors, espousing the royal cause in the late contest, left their estates, which were of course confiscated and sold by the state. This circumstance waz fatal to many large manors; and a law of the state, enacted about the yeer 1781, which breaks the present and bars all future entailments, wil in time divide the large estates which remain unbroken. The Dutch possess the most fertile parts of the old settlements; az Ulster and Claverak counties, part of Albany and Kings county, on Long Island. They are honest and economical, but indolent, and destitute of enterprize; so that the state wil be mostly indetted to emigrants from New England, for its future population and improvements.

New York city iz the most favorable stand for a great commercial port on the united states. Men may indulge themselves in rapsodies, about the Potomack, the Ohio and the Missisippi; but no part of theze states, eest of the Allegany, wil ever rival New York, and it iz doutful whether the same conveniencies for business unite on any part of the Missisippi. New York iz the center of the commerce of all the territory, between the western boundary of Rhode Island and the middle of New Jersey, from the Atlantic neerly to the borders of Canada; a district of two hundred miles by two hundred and fifty. And the geography of the country tells us, that no part of Atlantic America can claim the same extensiv advantages. New York iz not eezily defended in time

of war, and therefore, without a navy, iz not a safe place for an arsenal; but West Point, sixty miles abuv the city, on the Hudson, iz the most impregnable fortress in America.

Before the revolution, the guvernment of New York waz under the influence of the crown of Great Britain, the guvernor and council being appointed by the king. It waz illiberal in the preference given to the episcopal church; no other denomination of Christians being able to obtain any corporate establishment. The same illiberal preference waz discuverable in the institution and guvernment of the college, now called Columbia college, in which dissenters of any description could not hav a share. The revolution haz effected a change in theze particulars. Dissenting churches, which are the most numerous in the state, are or may be incorporated; and education begins to be encuraged by the laws. A university iz established, with a power of superintending and regulating skools throughout the state; but provision iz not made for maintaining common skools in every quarter of the state. Ignorance stil prevails among the yemanry; and this enables certain designing karacters to exercise a pernicious influence in the guvernment.

The territory of New Jersey originally belonged to two, and afterwards to many proprietors, who appointed the guvernors. But in the reign of queen Ann, the guvernment waz resigned to the crown, and for a number of yeers, the guvernor of New York waz also guvernor of the Jersies, altho eech province had a distinct assembly. The heirs of the original proprietors, or their purchasers, stil hold the soil. There are in this state many large estates, but an entailment iz good only to the first donee in tail; the

estate, on hiz deth intestate, being divided equally among hiz heirs. In general the laws of New Jersey are highly republican; but they make no provision for a general diffusion of knowlege. Many of the yemanry are extremely ignorant. The college at Princeton iz a very valuable institution; but so little concern haz the legislature for the interest of lerning, that the funds of that college are taxed by law.

The present constitution of New Jersey iz liable to few exceptions; but the state iz divided into two parties which often agitate the guvernment. Az the cause and effects of the controversy which began and stil continues theze parties, are little known to their nabors, I beg leev here to offer a concise state of the facts from unquestionable authority.

James, duke of York, in June 1664, conveyed New Jersey to John, lord Berkeley, and Sir George Carteret, in fee. The bounds of the territory granted were, the main see and Hudson's river on the eest, Delaware bay or river on the west, Cape May on the south, and on the north *the northernmost branch of Delaware bay, or river, which iz forty one degrees and forty minutes of latitude, crossing over thence in strait line to Hudson's river, in forty one degrees of latitude*.

Some intermediate conveyances of lord Berkeley's undivided half part were made, but need not be here recited. On the first of July, 1676, waz executed a quintipartite deed, between Sir George Carteret, and the grantees of lord Berkely, by which the territory waz divided; Sir George Carteret releesing all the western part to the grantees of Berkeley, and the latter releesing the eestern part to Sir George. The line of partition, which originated all the subsequent disputes, iz thus described in the deed: "Extending eestward and northward along the see coast and the

said river, called Hudson's river, from the eest side of a certain place or harbor, lying on the suthern part of the same tract of land, and commonly called and known in a map of the same, by the name of *Little Egg Harbor*, to that part of the said Hudson's river, which iz in forty one degrees of latitude, being the furthermost part of said tract of land and premises, which iz bounded by the said river, and crossing over from thence in a strait line, extending from that part of Hudson's river aforesaid, to the northernmost part or branch of the before mentioned river, called Delaware river, and to the most northerly point or boundary of the said tract of land and premises, granted by hiz royal highness, James, duke of York, to lord Berkeley and Sir George Carteret."

A difficulty aroze about the northern point of partition; the duke of York's grant making the northernmost branch of Delaware bay or river to be in *forty one degrees and forty minutes* of latitude; and declaring a line from this point to the latitude of *forty one* on Hudson's river, to be the northern boundary of New Jersey. Disputes aroze, and the legislature of New Jersey, in 1719, passed an act, declaring that a partition line between Eest and West Jersey, shall be run *from the most northerly point or boundary of the province, on the northernmost branch of Delaware river*, to the most sutherly point of Little Egg Harbor. Commissioners were appointed for this purpose, and also for running the line between New York and New Jersey. They met with commissioners from New York, but could not agree, and left the business unfinished. In 1741, another attempt waz made by Mr. Alexander, surveyor general of both divisions, but obnoxious to the West Jersey proprietors. He began to run the line, but some errors he committed, or bad instruments, prevented

the completion of the business; he stopped half way. Disputes ran high, and were attended with riots, till the yeers 1762 and 1764, when by a law of New York and another of New Jersey, it waz agreed the line between the provinces should be run by commissioners to be appointed by the crown. To this agreement the proprietors of West Jersey az well az Eest, were parties. The commissioners met, fixed the two station points between New York and New Jersey, one at a rock on Hudson's river, in forty one degrees of latitude, the other at the forks of the Delaware, at the mouth of the river Makhakamak, in latitude 41°. 21'. 37". This point on Delaware iz *eighteen minutes twenty three seconds*, to the suthward of the *northern boundary* of New Jersey, az described in the duke of York's grant to the first proprietors; which waz, on the *northernmost branch of Delaware river, which iz forty one degrees forty minutes* of latitude.

Both parties appeeled to the crown, but without success. Acts were afterwards passed, both by New York and New Jersey, confirming the line between the provinces, and theze acts receeved the approbation of the king in council. This waz an amicable settlement between the two provinces; and it waz expected that the *northern limits of New Jersey* and the *station points* on both rivers, being fixed by law, nothing waz necessary to quiet all parties, but to run the line from the north station point on Delaware to Little Egg Harbor.

A correspondence for this purpose took place between the proprietors of Eest and West Jersey; but before the matter waz completed the war commenced. Since the war, the controversies hav been revived, and divided the state into violent

parties. It seems the proprietors of Eest Jersey expected the *north station point on Delaware* would hav been fixed az high az *forty one degrees forty minutes*, the point described by the original grant from the duke of York. This would hav carried the limit of the state about eighteen miles further north on the Delaware side. Now there iz a bend in the Delaware, at the forks, so that the station point az now fixed, iz carried further eest than it would be, had it been fixed in *forty one degrees forty minutes*; so the decision of the commissioners waz in favor of the West Jersey proprietors. From the forks, the river bends its course westerly of north, and from a point eighteen miles north, a line to Little Egg Harbor, would leev an angle containing several thousand akers of land, in Eest Jersey. This iz a short state of the origin and progress of a controversy, which stil agitates the state and disturbs the peece of their guvernment; the jealousies between Eest and West Jersey being almost az great az between the northern and suthern states, upon a question respecting the seet of guvernment, or any other matter of little consequence to the union. The contest however iz of magnitude to both parties in New Jersey, az the lands in dispute hav been settled upon doutful titles; and altho an act of the legislature may establish theze, yet the loozing party wil expect a compensation.[158]

The commerce of New Jersey iz almost wholly carried on thro New York and Philadelphia. Its situation, between two large commercial towns, resembles that of Connecticut; but in one respect, the latter haz the advantage, viz. that of a butiful navigable river, penetrating the state and affording the best conveniences for a trade to the West Indies. The legislature of New Jersey hav attempted to call

home the trade of the state, by holding out liberal encouragement for direct importations from abroad, and making free ports. Perth Amboy affords a fine harbor, but it iz difficult, perhaps impossible, to raize a rival in the naborhood of New York. New Jersey and Connecticut wil find their interest in encuraging manufactures.

Pensylvania waz settled by a religious sect, remarkable for their sobriety, industry and pacific disposition. Mr. Penn, the first proprietor of the province, waz a man of superior talents. The free indulgence given to all religious denominations, invited settlers from England, Germany and Ireland, and the population of the province, with the consequential increese of the valu of lands, waz rapid beyond any thing known in the other colonies. The province however waz harrassed with disputes between the acting guvernors and the commons. The proprietary, who waz the guvernor, usually rezided in England; appointing a deputy with a council, to act for him in the province. The proprietaries were often selfish, and made demands upon the peeple, which their sense of liberty and right would not permit them to grant. The quit-rents, paper currency, and some other matters, were constant subjects of altercation, whenever the assembly convened.[159]

The long and violent opposition to the influence of their proprietaries, who were abroad, and often considered az hostile to popular privileges, together with the beneficial effects of a paper currency, during the infant state of the province, may be the reezons why the constitution of Pensylvania, formed at the revolution, verged too much towards an extreme of democracy;[160] and why the legislature of that state waz the first to issue a paper currency,

after the war. The old republican patriots, who had resisted, with success, the encroachments of arbitrary guvernors and kings, determined to frame a constitution, which should prevent the interference of a guvernor and council in acts of legislation; and men who had seen the *good* effects of paper currency, without its *evils*, would be the first to recommend it. It iz natural; men are guverned by habit.

At the revolution in 1776, the representativs of the province, acting on the principle that public good transcends all considerations of individual right, assumed the reigns of government, formed a constitution for the purpose, and divested the proprietaries of both territory and jurisdiction. They gave them however, 130,000l. sterling in lieu of all quit-rents, and rezerved to them considerable tracts of land. The first constitution, like that of the Netherlands, waz framed upon the ruins of oppression, and with a too jealous attention to popular rights. It waz defectiv in the most material articles, and a few yeers experience induced the peeple to adopt another form, more analagous to thoze by which her sister states are guverned.

The laws of Pensylvania, respecting inheritances, hav not barred entails; but az entails may be docked by the English finesse of common recoveries; az the divisions of lands favor equality, az wel az the genius of the peeple, there can be no apprehensions of an aristocratical influence from large possessions of real estate. A single man may hold real or personal estate to such an amount, az to hav an undu influence in politics and commerce. When a man haz become so powerful that hiz nabors are afraid to demand their rights of him in a legal way; or when a town or city

iz so far under hiz control, that the citizens are generally afraid of offending him, he iz or may be a dangerous man in a free state, and a *bad* man in any state. A Clive and a Hastings are az dangerous in a state, az an Arnold or a Shays, if they hav the same evil propensities; for thoze who oppoze law, are generally punished; but thoze who are abuv law, may do injustice with impunity.

The peeple in Pensylvania may be included under the three denominations of *Frends*, *Germans*, and *Irish desendants*. The *Frends* and *Germans* were the first settlers, and for the most part liv between the Delaware and Susquehanna. Theze are peeceable and industrious peeple. The Irish or their desendants, inhabit the western counties; they are industrious, but not so wel informed in general, az the inhabitants of some older counties, and at times hav been turbulent citizens. It waz the misfortune of this, az of all the suthern states, that no provision for public skools waz incorporated into the original fundamental laws.

Without such a provision, it iz not possible that a body of freemen should hav the reeding necessary to form just notions of liberty and law. This defect wil probably be supplied by the new constitution and the future laws of the state. The number of colleges and academies alreddy founded and endowed, proov the disposition of the legislature to encurage science. The only difficulty iz to persuade an agricultural peeple to settle in villages or clans, for the purpose of maintaining a clergyman and skoolmaster; and thus to carry into effect the wise and benevolent designs of their rulers.

Philadelphia iz a great commercial city; but it iz questioned whether commerce wil giv it a future

growth equal to that of New York. The future population of the suthern part of New Jersey, and the peninsula between the Chesapeek and the Atlantic, wil not add much to the trade of Philadelphia. The naborhood of the city and most of the lands towards Lancaster and Bethlehem, are alreddy wel settled. About seventy three miles west of Philadelphia runs the Susquehanna; a river not indeed navigable at the mouth, but with some portages, capable of opening a communication by water from Wioming to the Chesapeek; and should canals be opened to avoid the falls and rapids, the trade of the state, quite to the bed of that river, wil center in Baltimore. At any rate Baltimore and Alexandria wil command most of the trade west of the Susquehanna; so that Philadelphia must depend mostly, for the increese of her business, on the population northward, about the hed of the Deleware. The commerce however wil always be considerable, and the spirit of the citizens in establishing manufactures, promises a great extension of the city.

The state of Pensylvania waz, for many yeers, agitated by a territorial controversy with Connecticut; the history of which iz breefly this.

King James I. in 1620, made a grant to a number of gentlemen, called the *Plimouth Company*, of all the lands in North America, included between the 40th and 48th degrees of latitude, *throughout all the main land from see to see*; except such lands az were then settled by some Christian prince or state. The only settlements at that time north of Virginia, were at New York and Albany, on the Hudson.

In 1628, a number of gentlemen obtained from the company a grant of lands, bounded on the north, by

a line three miles north of Merrimak river, and on the south, by a line three miles south of Charles river, *throughout the main lands from the Atlantic on the eest, to the South See, on the west*. This waz the first grant of Massachusetts.

In the yeer 1631, Robert, erl of Warwick, president of the Plimouth company, granted to lord Say and Seal, and lord Brook, all that part of New England, extending from Naraganset river, the space of forty leegs on a strait line, neer the see coast, north and south in latitude and bredth, and in length and longitude of and within all the aforesaid bredth, *throughout all the main lands from the western Ocean to the South See*. This grant waz confirmed by the charter of Charles II. dated April 23, 1662, with a similar description of the territory.

In 1664, king Charles II. gave hiz brother a tract of land in America, the description of which iz not wholly consistent or intelligible; but one part of the grant interfered with the Connecticut patent, and disputes aroze, which were amicably settled by commissioners in 1683; the line between Connecticut and New York being fixed at Byram river, about twenty miles eest of the Hudson.

In 1680, Sir William Penn obtained from the crown a tract of land, extending from twelv miles north of New Castle, on the Delaware, to the forty third degree of latitude, and from the Delaware westward five degrees of longitude. This grant interfered with the patent of Connecticut, provided the grant to the guvernor and company of Connecticut should be extended west of New York, according to the words of that and the other grants of New England. Mr. Penn took care to gain a just title to hiz patent by bona fide purchases of the Indians, who possessed

the soil. But the question iz, whether he had a right of pre-emption to lands before granted to other men; and whether the king's grant to him could be valid, so far az it cuvered lands alredy conveyed by the crown to a company, which had begun settlements upon the grant.

The Pensylvanians contended that, the geografy of this country being little known in England, az all the maps and charts at that time were imperfect and erroneous, it must hav been owing to an ignorance of the distance from the Atlantic to the South See, that the grants were made to run thro the continent: That Mr. Penn had acquired the best of titles to the lands in dispute by fair purchase from the nativ proprietors: And that Connecticut, by a settlement of her boundary with New York, had fixed her western limits, and relinquished all claim to lands west of New York.

While any part of Connecticut, eest of New York, remained unlocated, the inhabitants suffered their claims westward to lie dormant. But about the yeer 1750, the whole of this territory waz located, and the peeple began to think of forming a settlement west of Delaware river. They however knew that the lands were claimed by Pensylvania, and to remoov all douts az to the validity of their own title, requested the opinions of the most eminent council in England, upon their right by charter to the lands in question. They receeved for answer, that the grant to the Plimouth company, did extend to the westward of New York: That the settlement of the boundary line between New York and Connecticut, did not affect their claims to lands in other parts: And that, the charter of Connecticut being of a prior date to that of Sir William Penn, there waz no ground to contend,

that the crown could make an effectual grant to him of that country which had been so recently granted to others. This answer waz so decisiv and cleer in favor of their claim, that they proceeded to locate and settle the lands on the Susquehanna river, within the latitude of the Connecticut charter. It seems however that a few scattering settlements had been made within the same latitude, on the opposit side of the river, under Pensylvania locations. The settlers soon came to an open quarrel, and both states became interested in the controversy. The dispute however subsided a few yeers during the war, til finally both states submitted their claims to the *jurisdiction of the territory*, to a federal court, which waz held at Trenton, in November, 1782. The decision of this court waz in favor of Pensylvania, and Connecticut acquiesced.

Dissatisfied with this decree, the settlers under Connecticut and individual claimants, determined to maintain their *right to the soil*, which they had possessed more than twenty five yeers; and to submit this also to a federal court. No court however waz ever held for the purpose; the claimants not finding any support from the guvernment of Connecticut. The settlers, amounting to many hundreds, remained upon the soil. Pensylvania, by a precipitancy arising out of an imperfect frame of guvernment, resolved to take possession of the lands, and sent an armed force for the purpose. This mezure waz rash, especially az the principal settlers had taken the oath of allegiance to that state, and were willing, if they could be quieted in their possessions, to becum good and peeceable citizens. Tumults followed; the history of which would be disagreeable to most reeders. At length, Pensylvania passed a law to quiet thoze who were actual settlers before the decree at Trenton, in

the possession of their farms, amounting to about three hundred akers eech. The territory waz erected into a county, by the name of Luzerne, in honor of the French minister of that name. Colonel Pickering waz appointed Prothonotary[161] of the county. This gentleman haz suffered much in reconciling parties; but hiz integrity, zeel, prudence, and indefatigable industry, bid fair to meet with merited success in quieting disorders and establishing guvernment.

In this controversy, several questions arize. First, What right had the crown of England to the lands in North America?

I answer, the *right of discuvery*. This right, however the law of nations may hav considered it, does not in fact entitle a prince or state to the soil, even of an uninhabited territory; much less, of lands possessed by any of the human race. It entitles the discuvering nation to a preference in forming settlements or occupying vacant lands. And this right iz derived rather from the common convenience of nations, or the necessity of some principle by which to prevent controversy, than from any connection between *discuvery* and a *title to property*.

Secondly, What right could the grantees derive from a royal grant of lands in America?

I answer, merely a *right of pre-emption*, or a preference in purchasing the lands of the proprietors, the nativ Indians.

Thirdly, The guvernor and company of Connecticut, by the prior date of their charter, having the right of pre-emption to all the lands cuvered by the charter, could Mr. Penn acquire a title to any of the same lands by pre-emption?

On legal principles he certainly could not.

The only substantial ground of title which Pensylvania could hav to the controverted lands, waz, that Connecticut, by neglecting to purchase of the Indians, might forfit their right of pre-emption, and leev the territory open to any purchaser whatever; so that Mr. Penn or hiz heirs might acquire a good title by first purchase. Whether Mr. Penn actually acquired such a title or not, I am not possessed of documents to decide. That the first grant of New England actually extended to the Western or Pacific Ocean, cannot be denied; and congress hav admitted the claim, by accepting from Connecticut a cession of lands west of Pensylvania. Connecticut however stil holds a tract of one hundred and twenty miles, west of that state, which iz now for sale. The state of Massachusetts haz a similar claim to lands west of New York state; and the line between the two states haz lately been settled by commissioners. At any rate, the controversy between Connecticut and Pensylvania waz finally terminated by the decree of Trenton, and it iz to be wished no future altercation may disturb the states or individual proprietors.

The small state of Delaware resembles Pensylvania in respect to its history and guvernment.

Maryland waz settled by Roman Catholic emigrants, from England and Ireland, under lord Baltimore. Large grants of land were carved out to individuals, and slaves purchased from Africa to cultivate the soil. Some of the largest estates in America lie in Maryland. The guvernment waz formerly in the hands of the proprietary; but the peeple, at the revolution, assumed it. Mr. Harford, the natural son of lord Baltimore, inherited hiz property in Maryland; but being an absentee during the war, hiz

estates were confiscated, and on petition, the legislature refuzed him even the arreerages of rent, du at the commencement of hostilities.[162]

The present constitution iz in general excellent; and particularly in the establishment of an independent senate. In a popular state, nothing contributes so much to stability and safety, az an independency and firmness in one branch of the legislature. This state however, like its nabors, iz remarkable for tumultuous elections; a malpractice that haz existed from its first settlement; a practice which wil sooner or later proov fatal to the attempts of merit in obtaining offices, and sap the foundation of a free guvernment.

The body of the peeple are ignorant. I once saw a copy of instructions given to a representativ by hiz constituents, with more than a hundred names subscribed; three fifths of which were marked with a cross, because the men could not write. Two or three colleges, and some academies and private skools, constitute the principal meens of instruction in this state, and most of theze are of a modern establishment. A few large towns only giv good encuragement to skools and the clergy.

Maryland continues to receev multitudes of emigrants from Europe, and many of them are of the poorest class. From several months rezidence in Maryland, I am inclined to beleev, there are more vagabonds in Baltimore and the vicinity, than in all New England. But Maryland must decide upon the public benefit derived from this unrestrained admission of foreigners.

Virginia waz settled *eight* yeers before New York, and *fourteen* before New England. This circumstance haz given the state the quaint appellation of the *ancient*

*dominion*. The divisions of property are large, and the lands cultivated by slaves. Entailments of land were barred before the revolution; but real estate iz not liable for det upon an execution. It appeers strange at first view, that men should exempt their lands from this liability, and at the same time, suffer their persons to be imprizoned for det: The singularity however iz eezily accounted for, by their karacteristic attachment to *large estates*, or rather to the *name* of possessing them. When a man's consequence and reputation depend principally on the quantity of land and number of negroes *he iz said to possess*, he will not risk both for the sake of hiz creditors. The passion for the *name of a planter*, absorbs all other considerations. I waz once present at an entertainment, given by a *yung planter* in Virginia, who had *much land* and *many slaves*. He aroze at two o'clock next morning, pawned hiz knee buckles and some other articles, gave hiz landlord a note for about sixty dollars, and rode off without paying hiz hair-dresser. But he waz *said* to be a man of property. Many of the planters are indeed nominally rich; but their dets are not paid. I waz told by wel informed planters, that some whole counties in Virginia would hardly sel for the valu of the dets du from the inhabitants. The Virginians, it iz tru, owe immense sums to British merchants, and the difficulty of paying them might be a principal reezon for suspending the collection by law, at the cloze of the war; but that the real estates of a whole county would not discharge the dets of it, iz not to be beleeved.

A large part of the peeple in Virginia hav not the meens of education. The dispersed situation of the planters in the suthern states, renders it impossible for all to hav access to skools. The university of

Williamsburg, and a few academies in large towns, constitute the principal meens of education in Virginia; and the same remark iz applicable to all the suthern states. But a small proportion of the white children can reep any advantage from theze institutions. Since the revolution, the legislatures of all the suthern states hav shown a dispozition to giv liberal encuragement to the education of every rank of citizens; but the local circumstances or habits of the peeple throw innumerable obstacles in the way of executing their patriotic designs. Gentlemen of property, reziding on their plantations at a distance from a village, wil sometimes hire a private instructor in their families; but theze instructors must be vagabonds, for the most part; az the gentlemen wil not admit that a *skoolmaster* can be a *gentleman*; in consequence of which opinion, most or all teechers are excluded from genteel company. While this iz the case, men of good breeding wil not be found to teech their children. An exception must be made of *grammar masters*, az they are called; for a man who can teech Latin, they suppoze, may be a *decent* man, and fit for gentlemen's company.

Religion fares worse in Virginia than education. Before the war, the episcopal waz the established religion of the province, and the churches were liberally endowed by law. A parish usually contained four churches, in eech of which a clergyman officiated in rotation, one Sunday in a month. But this greevous burthen waz remooved by the revolution, and great numbers of parishes hav no officiating minister. A motion waz brot forward in 1785, to make some legal provizion for supporting clergymen; but the proposition waz suspended til the next session of the legislature. In the meen time a pompous retorical memorial waz circulated and

subscribed, in oppozition to the mezure. The arguments uzed against any ecclesiastical establishments were splendid, *liberal* and efficacious; and at the following session, the legislature passed a declaratory argumentativ resolv against giving religion any establishment and protection.[163]

When men hav thrown off a restraint that iz disagreeable and unreezonable, it iz to be expected that they wil run into the extreme of licentiousness. Yet it iz one of the most difficult problems in the history of theze states, that the liberal and eminently lerned men, who conduct the guvernment of Virginia, (and many of their leeding karacters are of this description) should not view the ministers of religion, in America, az destitute of that odious and tremendous authority over human consciences, which waz assumed under the papal hierarky. I can hardly beleev a man of reeding and reflection to be serious, when he asserts that legislatures hav no right to compel the subject to *contribute to the support of clergymen*, because they hav no authority *over men's consciences*. Neether clergymen nor human laws hav the leest authority over the conscience; nor iz any such power implied in a law compelling every citizen to contribute annually to the support of a clergyman. But any sovereign authority may justly command the citizens to establish and attend religious assemblies, az wel az to meet for the choice of representativs, or send their children to a skool; powers which were never questioned. A man iz not bound in conscience to beleev all the instructions of hiz preceptor; nor are the citizens compellable to beleev the opinions and decisions of a court of justice; but the legislature haz a right to compel every citizen to pay hiz proportion of taxes to maintain preceptors and judges. This iz precisely the fact with respect to a legal support of

clergymen.

No man iz bound in law or conscience to beleev all a preecher says; but the whole question iz this; are clergymen, az moral instructors, a beneficial order of men? Haz their ministration a good effect upon society? If this should be admitted, there iz no more dout of the right of a legislature to support such men by law, than there iz of their right of instituting universities or courts of justice. That enormous error which seems to be rivetted in popular opinion, *that the functions of clergymen are of a spiritual and divine nature, and that this order of men should hav no concern with secular affairs,* haz laid the foundation of a separation of interest and influence between the civil and ecclesiastical orders; haz produced a rivalship az fatal to the peece of society az war and pestilence, and a prejudice against *all orders* of preechers, which bids fair to banish the "gospel of peece" from some parts of our empire. The Kristian religion, in its purity, iz the best institution on erth for softening the ferocious tempers, and awakening the benevolent affections of men. To this religion, Europe and America are indetted for half their civilization. There hav been periods, when mankind hav suffered from ecclesiastical tyranny; but information iz demolishing all systems of despotism, civil and ecclesiastical. And when the clergy themselves leev all rangling about speculativ points, which neether they nor philosophers understand, and confine themselves to publishing and enforcing the benevolent precepts of a gospel which breethes nothing but universal luv and peece to all mankind, they wil remoov the prejudices against their order, they wil be *really* the messengers of peece, they wil conciliate affection, and thus open the harts of men to receev impressions of virtue, they wil make men

good citizens here, without which they are never prepared to be members of a heavenly society; and finally they wil establish a *rational moral influence* over an enlightened peeple, equally fatal to the declamation of ranting fanatics, and the pernicious amusement of gambling at inns and horse-races.

In the Carolinas and Georgia, we find the state of property, literature and religion, resembling that in Virginia and Maryland. Charleston iz remarkable for its hospitality and good order. But in the states south of Pensylvania and Delaware, the divisions of property, the habits of the peeple, and the dispersed local situation of the planters, are all unfavorable to improovments of any kind. Men who liv remote from society, surrounded only by slaves, acquire manners singular and often disagreeably imperious, ruf and clownish. Urbanity iz acquired only in societies of wel bred peeple. They cannot hav the benefit of skools and churches, without which the body of a peeple *cannot* be wel informed, and *wil* not acquire social and virtuous habits. This manner of settlement therefore, tho it may be necessary and beneficial to individuals, may be considered az highly inauspicious in a yung country, whoze constitutions of guvernment are founded on the principle of equality, and cannot flurish without mildness of manners and a general diffusion of knowlege.

In the agricultural improovments of the united states, there iz a remarkable difference, which must hav proceeded principally from the slavery of the suthern. In Virginia and Maryland, I should question whether a tenth of the land iz yet cultivated. In New England, more than half the whole iz cultivated, and in Connecticut, scarcely a tenth remains in a wild state. Yet Virginia haz been settled longer than New

England.

I once heerd the *Prezident* remark, "that from the northern to the suthern states, the agricultural improovments are in an inverse proportion to the number of slaves." This remark, like the actions of that illustrious karacter, dezerves to be engraven on monuments of marble. Slaves hav no motiv to labor; at leest, none but what iz common to horses and cattle. They want the only stimulus that unites industry with economy, viz. the prospect of a permanent advantage from their labor.

It haz been obzerved in Europe, that land rented on long leeses, iz better cultivated, than that which iz farmed on short leeses. A man who holds lands in fee, will uze them to the best advantage, for he expects hiz children wil enjoy the benefit. A man who haz lands on very long leeses, haz neerly the same motivs to improov them. Tenants for life wil make the most of lands for themselves; but wil probably leev them in the most impoverished condition. Lessees for a yeer hav few motivs to keep a farm in good repair; and slaves are the worst cultivaters on erth, az they hav the leest interest in the fruits of their labor. One yeman, who iz master of himself and hiz labors, and eets substantial food, wil perform the work of four slaves.

This iz not the whole evil. Slaves not only produce *less* than freemen, but they waste *more*; every slave, az Dr. Franklin haz remarked in hiz Miscellaneous wurks, being, from the nature of situation, a *theef*. In addition to this, wherever slavery exists, a great proportion of inhabitants are rendered indolent, and indolence iz followed by vices and dissipation.

Suppoze twenty thousand men to do no productiv business; what an immense difference wil this make

in the cultivation of a state and in the annual income. In New England every man does some kind of business: In the suthern states, the proprietors of large plantations do little or no business. The reezon why the planters make such a profit on the labor of their slaves iz, that the subsistence of negroes iz not very expensiv. The northern yemanry not only require more clothing than the suthern, but they liv on expensiv food and drinks. Every man, even the poorest, makes use of tee, sugar, spirits, and a multitude of articles, which are not consumed by the laborers of any other country.[164]

But however cheep may be the subsistence of slaves, while every thing iz left to a mercenary unprincipled overseer and to lazy negroes, a state wil never be wel cultivated. In autumn, 1785, a gentleman in Richmond informed me he had just carried some manure upon a field *to make an experiment for the first time*. This fact wil hardly be beleeved in the northern states. In travelling thro Virginia, from Alexandria to Williamsburg, and also to Petersburg, I saw not one mill dam, except what consisted of mere sand, thrown across a streem. The idea of constructing dams of timber and planks, laid so az to make an angle of forty five or fifty degrees with the horizon, that it might gain strength and stability in proportion to the pressure of the incumbent water, seemed not, at that time, to hav prevailed in Virginia. In a variety of particulars, the slow progress of invention in the suthern states, waz equally remarkable.

Slavery iz an evil of the worst kind; this iz generally acknowledged. But what remedy can be applied? To liberate the slaves at once would be madness; it would ruin both masters and slaves. To liberate them

gradually, and suffer the freed men to liv with the whites, might giv rise to discord and tumults. Colonization, by a gradual exportation, iz an expedient that would be safe and effectual, but cannot be put in execution. The probability iz, that, in the lapse of time, the blacks wil all be blended with the whites; the mixed race wil acquire freedom, and be the predominant part of the inhabitants. This event haz taken place in Spanish America, between the nativs and Spaniards; and, to a great degree, in some of the West India islands. The same event iz rapidly taking place in the suthern states. A propozition waz once made in the house of delegates, in Virginia, for granting the rights of freemen to the free blacks; it waz not carried; but I do not see how any state can deny theze rights to blacks that hav the legal qualifications of property and residence. This privilege once granted, would facilitate the intercourse between the whites and blacks, and hasten the abolition of slavery.

In the climate of the united states, there are several particulars that dezerv notice. In the first place, every circumstance in the local position of Atlantic America, concurs to render the wether variable. Theze states extend thro fifteen degrees of latitude, in the temperate zone; consequently must always experience the extremes of winter and summer. Every part of this territory experiences sudden changes of wether; but the most numerous and violent changes, are between the 36th and 43d degrees of latitude, on the Atlantic coast. Within this district, the most frequent variations seem to be in Pensylvania and Maryland. Four months in the winter season, the wether in Pensylvania, Maryland and Virginia, resembles the March wether in New England; almost every week exhibiting the varieties

of cold, heet, frost, snow and rain. For two months in the spring, and one in autumn, New England iz expozed to eesterly winds and rain; except in theze months, the changes of wether, tho sometimes sudden and violent, are not very frequent. The eesterly winds, which uzually bring rain, ceese about the 20th of May.

The variations of wether in the united states, arizing from the latitude of their situation, are multiplied by their position on the ocean. Water in an ocean iz of a very uniform temperature; whereas land iz eezily heeted and cooled. This circumstance creates an incessant contest between heet and cold, on an extensiv see coast; and of course an everlasting variableness of winds. This iz true in all countries. According to this theory, Atlantic America must always hav a variable climate.

The south eest winds from the ocean, falling upon the continent at right angles with the shore, invariably produce rain; the opposit, or north west winds, proceeding from the high lands in the back country, invariably produce cold cleer wether. North eest winds, running parallel with the shore, produce storms of snow in winter, and long cold storms of rain in spring and autum. Our most violent gales blow from the north eest. A south westerly wind sometimes brings rain, and when it first blows in winter, iz chilly; but it soon moderates cold wether, and in summer it iz the *gentle zepher* of the poets.

In speeking of winds, it iz necessary to correct a vulgar error. It iz commonly said, that north west winds contract their coldness from the vast lakes in the north west regions of the united states. This iz an unphilosophical opinion, for water always moderates the temperature of the air; and it iz a wel known fact

that the large lakes do not freeze at all; so that if we were to feel the wind immediately after passing over them, we should find it always temperate. The truth iz, our westerly winds come from high mountains and high regions of the atmosphere, which are always cool. The top of the blu ridge, or first range of mountains in Virginia, iz about four thousand feet abuv its base. The top of the Allegany or middle ridge, which iz the height of land between the Atlantic and the Missisippi, tho not so far from its base, must be much higher in the atmosphere. How far the base of the blu ridge iz abuv the surface of the ocean, haz not been ascertained; but suppoze it five thousand feet, and the top of the Allegany, two thousand feet abuv the blu ridge, and the greatest elevation of land iz eleven thousand feet abuv the waters of the Atlantic.

The air on the tops of theze mountains iz never heeted to the degree it iz in the low countries. The cold regions of the atmosphere are much neerer to such hights, than to a vast extended plain. Thus the tops of mountains are often cuvered with snow, when the land at the feet of them, iz fit for plowing. From the regions of air abuv theze mountains, proceed the serene cold winds which sweep the Atlantic states, purifying the atmosphere and bracing the bodies of animals.

I would just remark here, that the climate of the trans-alleganean country, wil never be expozed to the frequent changes of air and violent tempests which harrass the inhabitants of the Atlantic shore. The force and disagreeable effects of eesterly winds from the ocean, are broken by the mountains; and the northerly winds wil be tempered by passing over the lakes; while the sutherly winds wil be az

refreshing in summer az on this eestern coast. Theze remarks are now verified by facts; altho by being cleered from forests, the country wil become more expozed to variations of wind.

In the second place, it iz obzervable that the climate of America grows more variable, in proportion to the cultivation of the land. Every person obzerves this effect of cleering the lands in the eestern and middle states. The heet in summer, and the cold in winter, are not so steddy az formerly, being interrupted by cool rains in summer, and moderate wether in winter. Our springs and autums are longer, the former extending into summer, and the latter into winter. The cause of this change iz obvious: By levelling the forests, we lay open the erth to the sun, and it becumes more impressible with heet and cold. This circumstance must multiply changes of wether. The cultivation necessary to produce this effect, haz proceeded about one hundred miles from the Atlantic, or perhaps a little farther. But in Vermont and other back settlements, the wether iz yet steddy; there being few violent storms, especially in winter. The snow falls gently, and lies til spring; whereas neer the Atlantic, moderate wether for three or four days, or a warm rain, often sweeps away the snow in January or February.

But altho the wether iz growing more variable from the cleering of lands, yet the salutary effects of cultivation are vizible in the increesing salubrity of the climate. The agu and fever iz a disorder that infests most new settlements. Cultivation wil totally remoov the causes of this disorder, from every tract of country, which iz capable of being drained. Forty yeers ago, this diseese prevailed in the state of Connecticut, in the same manner it now does in

Maryland. But for twenty or thirty yeers past, it haz hardly been heerd of in the state. There are a few places expozed to the effluvia of marshy grounds, where the disorder stil infests the inhabitants.

Some parts of the suthern states can never be drained; the land iz so low that the freshes in the rivers, or the tides, are almost constantly cuvering it with water. Vegetable putrefaction may be considered az furnishing the miasmata in any country; and the greatest quantities of putrid effluvia are exhaled from lands constantly expozed to a flux and reflux of water.

But all countries, except the very mountanous, when first cleered, are infested with intermittants. Peeple on the fronteers of New York and Vermont, are trubbled with it, especially in low flat tracts of land. The surface of a wilderness iz cuvered with leevs and rotten wood; at the same time, it iz moist, the rays of the sun being excluded by the trees. Therefore when peeple first settle in a wilderness, they are not immediately attacked with intermittents. They must lay open the surface of the erth to the action of heet and wind; the noxious effluvia then begin to rize, and wil infect the air, til the whole surface of the erth iz dry and sweetened by the heet of the sun. The amazing difference in the state of a cultivated and uncultivated surface of erth, iz demonstrated by the number of small streems of water, which are dried up by cleering away forests. The quantity of water, falling upon the surface, may be the same; but when land iz cuvered with trees and leevs, it retains the water; when it iz cleered, the water runs off suddenly into the large streems. It iz for this reezon that freshes in rivers hav becume larger, more frequent, sudden and destructiv, than they were formerly. This

fact should be attended to by the settlers in a new country, that they may gard against sudden and extraordinary freshes in the erection of mills and bridges.

It iz vulgarly suppozed that the wether in summer iz hotter in the suthern states than in the northern. This opinion iz not accurate. The truth iz, at particular times, the northern states experience a greater degree of heet than iz ever known in the suthern. In the summer munths, the mercury in Farenheit often rizes, in the middle of the day, much higher at Boston, than at Charleston, in South Carolina. Thus in July, 1789, the mercury roze to 90° or upwards no less than six days, and once to 93°, in the vicinity of Boston; whereas at Charleston, it roze but once to 88° during the same munth, and but four days to 87°. Besides the meteorological obzervations I hav, were made at Boston, at *one* o'clock, P. M. and in Charleston, at *two* o'clock, when the heet iz usually the greatest. In August, the same yeer, the mercury roze at Boston[165] four days to 90, and once to 95°; but in Charleston, it roze but once to 89°. The remark then ought not to be, that the heet at the suthward iz *greater*; but that it *continus longer*; that iz, the aggregate quantity of heet in the suthern latitudes, exceeds that in the northern. I hav taken some pains to ascertain the difference, and omitting decimals, here giv the result of my enquiries.

The meen degree of heet for the whole munth of July, 1789, in Charleston, South Carolina, by Farenheit's thermometer, waz az follows:

| | |
|---|---|
| At 6 o'clock, A. M. 74° | — Total meen of the month 78. |
| At 2 o'clock, P. M. 83 | |

At 10 o'clock, P. M. 77

For *AUGUST, 1789*.

At 6 o'clock, A. M. 75
At 2 o'clock, P. M. 83
At 10 o'clock, P. M. 72
— Total meen 77 neerly.

The meen degree of heet, at Spring-Mill, a few miles from Philadelphia, for *July*, waz 74.

The meen degree of heet, at Boston, for July, waz

At 7 o'clock, A. M. 67
At 1 o'clock, P. M. 80
At 9 o'clock, P. M. 67
— Total meen 71° neerly.

For *AUGUST*.

At 7 o'clock, A. M. 62
At 1 o'clock, P. M. 77
At 9 o'clock, P. M. 66
— Total meen 68 neerly.

Theze facts, tho they cannot be the foundation of exact calculations, because the observations were not made at the same hour of the day, and perhaps the thermometers were not exactly alike or in the same situation az to heet, the facts I say may stil establish the following conclusion:

That tho the middle of the days in summer may be az warm and even warmer in New England, than in Carolina, yet the nights are much cooler.

In July, the meen temperature at Boston, at seven o'clock in the morning, waz seven degrees less than at Charleston at six o'clock. At one o'clock, P. M. the meen heet at Boston waz within three degrees of the heet in Charleston at two o'clock. At ten o'clock at night, the meen heet at Charleston, waz ten degrees abuv that at Boston at nine o'clock. The meen temperature for the whole month in Charleston, exceeded that in Boston, seven degrees. Similar remarks may be made of the munth of August.

Meen heet at Charleston, for January, 1789.

| | | |
|---|---|---|
| At 7 o'clock, | A. M. 50 | — Total meen 52⅔. |
| At 2 | P. M. 55 | |
| At 10 | P. M. 52 | |

At Boston, for the same munth.

| | | |
|---|---|---|
| At 7 o'clock, | A. M. 21 | — Total meen 25 neerly. |
| At 1 | P. M. 29 | |
| At 9 | P. M. 24 | |

Meen heet at Philadelphia, for January, 1789, 30°.

Here we may remark, that altho the meen heet of New England, in the summer munths, approaches within seven, eight, or nine degrees of that in Charleston, yet in winter, it iz less than *half* the heet

at Charleston; the meen degree in Boston being twenty five, and in Charleston, fifty two.

The meen temperature in Charleston, for March, 1789, waz about sixty one; and in Boston, for the same munth, a little less than thirty five, which iz more than half. In Pensylvania, the same munth, the meen waz forty.

So far az I am able to calculate on obzervations in my possession, I find the aggregate quantity of heet in South Carolina, for a whole yeer, iz to that in New England, az twenty to eleven; yet there are several days almost every yeer, when the mercury in New England rizes higher at noon than it ever does in Carolina at any time. This may be ascribed to the superior length of the days in the northern latitudes.

The heet of the suthern latitude iz suppozed to produce fevers and other fatal disorders which prevail in the Carolinas and Georgia. But heet iz not very often pernicious, unless when operating upon a low, wet, marshy surface of earth. All hilly countries are helthy; and the air of the mountanous parts of Carolina, two or three hundred miles from the see, iz in general salubrious. But the marsh-effluvia iz not the only cause of diseese; bad water iz a cause that should be mentioned, and this abounds in a flat country; whereas the water on hills and mountains iz generally pure. In a great number of towns to the suthward of the Delaware, and in some to the northward, the want of good water iz a capital inconvenience.

On the whole, the climate of America iz az salubrious, az that of any country in the same state of cultivation. The European naturalists, with more spleen than knowlege, hav condemned the climate of America, az unfavorable to animal growth and

perfection; but if their ideas are founded on facts, the facts must be taken from the naborhood of an Indigo plantation. America, like all new countries, haz been expozed to certain annual epidemic disorders; but wherever the surface of the erth haz been, for a few yeers, cultivated, theze disorders hav ceesed to rage. I am confident that Connecticut, the most cultivated state in the union, iz now az helthy az the south of France. I am confident that the inhabitants enjoy az general helth, and liv az long. Az to size, no part of the world can boast of larger and more robust men than the northern states. If I mistake not, the English estimate the meen hight of their men to be *five feet, seven inches*; but I am confident the average hight of the men in New England, iz not less than *five feet nine, or ten inches*.

I could wish to ascertain the difference in the weight of the atmosphere at Boston and Charleston; but hav no obzervations on the barometer from the latter place. The difference between the weight at Boston and Philadelphia, upon an average of thirty days, appeers to be very trifling, altho at any given day or hour, it may be considerable.

There are some curious facts respecting the coast of North America, which dezerve notis.

The Missisippi iz a river of great length, running from the high northern latitudes, in neerly a south direction. It iz deep and rapid. It resembles the Nile in Africa, particularly in making land where it iz discharged into the ocean. By the most accurate obzervations of Mr. Huchins and others, the distance from the Balize to New Orleans, iz something more than two hundred miles, the whole of which iz land formed by the discharge of the river. The Nile, in the time of Herodotus, had formed considerable ilands,

which were then inhabited. Theze ilands stil exist, between the several channels by which that river iz discharged. It iz probable, that by an accurate calculation of the desent of the waters of the Missisippi, in certain places, taking into account the most rapid and most moderate flow, and ascertaining the distance of the mouth from the most northerly sources, we might find, to a tolerable degree of accuracy, the elevation of the land at the sources of that river, abuv the level of the ocean.

Perhaps it wil be found that the mountains and lands at the north west, are much higher in America than in the north of Europe. Iz not this probable from the hight of the Allegany, and the rapidity of the river Missisippi? And would not the fact, if prooved, in conjunction with other causes, which are wel known, fully account for the superior degree of cold in America under the same parallels? It iz wel known that there are no considerable mountains to the north eest of Great Britain, thro Denmark, Sweden and Russia.

On the Atlantic shore of America, the Gulf Streem iz a curious phenomenon. It iz however wel accounted for, on the suppozition that the trade winds drive the waters of the ocean westward into the spacious gulf of Mexico, where meeting the continent, they are forced between the Bahama ilans and the coast of Florida, and take their direction along the shore of the united states. Such an immense body of waters, flowing at the rate of three miles an hour, must produce innumerable currents neer the shore; for every point of land wil occasion an eddy, which wil be in proportion to the extent of the point or cape from main coast. Hence the variety of currents, in all directions, between the streem and the American

coast, which are obzerved by our seemen.

Theze currents and eddies, at the same time *produce* and *add to*, the points of land shooting into the ocean. The cape of Florida iz probably produced between a vast eddy of waters in the Mexican gulf, and the streem which flows between the shore and Bahamas. For theory indicates that the principal body of water, carried along the Spanish main, or between that and the West India ilans, must be forced to bend its course on the Mexican shore, and by the coast of West Florida, be thrown into a circular motion, so az to form a vast eddy to the suthward and westward of Eest Florida. Where this iz met by the streem, a point of land must necessarily be formed.

It iz not improbable that Cape Roman, Cape Fear, Cape Hatteras, and Cape Cod, may be formed by similar currents, within the main Gulf Streem. A considerable extent of land on the coast of Carolina and Georgia, appeers to be made by the washing down of sand from the high country, and the washing up of sand by the Atlantic, whoze surges almost incessantly beet the shore. But this alone wil not account for the extension of points of sand, ten, fifteen or twenty leegs into the ocean.

It iz a fact that capes and promontories are more frequently harrassed with tempests, lightning and thunder, than other parts of the shore or continent. This haz been remarked of New York and Cape Hatteras. Can a philosophical reezon be assigned for this phenomenon? Perhaps there may be some attractiv power in land thus situated; and perhaps tempests are generated by the agitation of the air, produced by a flux and reflux of water, or a variety of opposit currents. A storm hangs over Cape

Hatteras, every day, for a considerable part of the yeer. I hav been witness to the fact, for a number of days in succession. This circumstance increeses the terror of navigating that coast; otherwize so formidable to seemen for shoals and breakers.[166]

In examining the harbors of North America, we find most of them prezent a channel or entrance neerly at right angles with the shore. The entrance into most of them iz between the points of west and north. The entrance into Newport, iz the safest in America, and this iz almost the only harbor in the united states which can be made with a northwesterly wind. This circumstance iz highly favorable to ships coming upon the coast in winter. This harbor iz capacious enough to admit all the navees in Europe, and, if defensible, may be the proper Portsmouth of America.

# No. XXVIII.

*The following iz part of an "Essay on the Dets of the United States," written in 1787, but never before published. The question haz been ably discussed in Congress, and the proposition for a discrimination between original and purchasing holders of certificates, which I had started, without the prospect of support, haz been maintained by very powerful arguments in our federal legislature. Az the question now appeers to my mind, I should vote against the proposition, yet merely on the ground that from the manner in which the certificates were issued, it iz impossible to discriminate, without multiplying the instances of hardship and injustice. But I hav no more dout, that legislatures hav a right to interfere, in certain extreme cases, and suspend or counteract the operation of legal principles, than I hav of any reveeled truth or intuitiv proposition; and were it possible to ascertain the original holders of certificates, I conceev our legislators could not hav neglected a provision for their losses, without violating their oaths, the constitution and public faith. The following extract iz published, because I am desirous my opinion on this subject should be known and recorded.*

HARTFORD, MARCH, 1790.

## *On a* DISCRIMINATION *between the* ORIGINAL HOLDERS *and the* PURCHASERS *of the* CERTIFICATES *of the* UNITED STATES.

OBJECTION 1. It iz said that *public faith* requires the payment of the certificates, according to contract; that iz, to the bearers. Let me ask the men who contend for promise, what they meen by *public faith*? Did the public ever promise to do rong? The money waz du to men who erned it; the money waz not paid. The full valu expressed on the certificates waz du, and the certificates were worth but a fourth, or perhaps an eighth part of that valu. The public

promised the creditors their full demands; but theze promises, at the time of issuing the certificates, were actually worth but a small part of that demand. Ought the creditors to be dismissed with this part of their money, and then compelled to pay the full valu of the certificates to their nabors, who purchased them at their current price? If this iz right, my ideas of justice are *rong*. Public faith iz suppozed to be founded on justice. The public engaged to do justice to its creditors; but this justice *haz* not been done; and it appeers to me az plain az the shining of the sun, that if the certificates should be paid to the bearers, justice *wil* not be done. The creditors at the time of contract, expected to receev gold and silver, or something equivalent; they hav receeved neether the one nor the other. They receeved articles which were worth but a fourth part of their demands; for the remainder of their money, the public iz stil their detor. Public faith therefore requires, that the full valu of the alienated certificates should not be paid to the bearer. It appeers to me that the principles of equity, rather than of law, should decide this important question. It iz the design of the contract, not the words, which should be pursued; for it must be remembered, that the design of the public haz been counteracted. The intention of the public, expressed on the certificates, haz been defeated by the public exigences; and to pursue the words of the engagement, wil now produce an effect which waz not designed, viz. *extensiv injustice*.

In this situation the public haz an undouted right to call in the evidences of the det, and form a system that shall be effectual in the distribution of justice. If the public suppoze that any arrangement for this purpoze can be made, they certainly hav a right to attempt it; for the object of the attempt would be

public justice. The sticklers for paying the det to the present holders, hav the same object in view, *national faith*; but their ideas of this faith, seem to be derived from the practice of other nations, the situation of whoze dets bears very little analogy to that of ours. They therefore advance an argument against their own cauze; for the faith of the public iz prezerved by fulfilling *the intention*, rather than the *words*, of the contract.

Every dollar of old continental currency, promises a Spanish milled dollar. This promise waz founded on the supposition that the valu would be neerly the same, or waz designed to prezerve the valu. But the depreciation of that currency, by the enormous sums in circulation, rendered the fulfilment of the promise impracticable; and had it been attempted, it would hav thrown the united states into confusion. The redemption of the bills, at their nominal valu, would hav done justice to a few, whoze money had depreciated in their hands, but would hav ruined fifty times the number. Thoze who lost their property by continental bills, ought to be indemnified, if the persons and sums lost could be ascertained; but this iz impossible. The case of the certificates iz different. Theze are promissory notes, expressing the sums du, and the persons names to whom they were given. If in some instances the purchasers hav returned alienated certificates to the office, and taken out new ones in their own names, stil the public books may remedy this inconvenience.

2. But it iz said the creditors of the public parted with their certificates voluntarily. It waz at their own option, whether to keep them or not; and if they choze to alienate them at a discount, the public iz not responsible for the loss. *A* owes *B* 100l. he cannot

make immediate payment, but haz property to secure *B*, who takes a promissory note. *B* wants the money, and rather than wait for *A*'s ability to pay it, he assigns the note to *C* for 50l. In this case, *A* cannot refuse to pay the full sum of 100l. because *C* gave but fifty for the note. This reezoning iz applied to the case of the public det; and yet a skool boy ought to be ashamed of the application. The case iz not parrallel, and the reezoning iz defectiv and inapplicable in every particular.

In the first case, it iz not tru that the alienation of the certificates waz a voluntary act; but in most cases, waz an act of necessity. Most of the original creditors were ether *rich* men who loaned money, or poor men who did personal service. In many instances, thoze who loaned money, loaned all their estates; and when they found no provizion made for paying the interest, or when the interest waz paid in paper of less valu than specie, they were left destitute of the meens of subsistence. Some of theze hav been obliged to part with their certificates at a great loss. But a large number of creditors were poor peeple, who had little or no property, but their certificates, who had performed service, and were under a necessity of negociating them on az good terms az they could. Most of the alienations hav therefore been a necessary consequence of public delinquency. Many of the creditors hav experienced a degree of distress, which, in a court of chancery, would entitle them to a consideration and redress. When a number of losses iz so great az to effect the public, the legislature then becumes a court of equity, where the sufferers must seek reparation. The legal principle must be suspended, and special provision made for this particular case. Thoze creditors who were able to keep their certificates, hav generally done it, and

on every principle are entitled to the full nominal valu.

In the second place, the case of an individual assignee of a bond wil not apply; for *B*, in the suppozition, takes the bond voluntarily. *A*, the dettor, haz property, and it iz optional with *B*, whether to bring a suit for the money, recover a judgement, and take *A's* property, or take a bond on interest. This iz generally the case with individuals, but not with the public creditors. Theze hav no alternativ; they must take promises, which the subject cannot compel the public to fulfil, when the money iz wanted. In another particular, the two cases are widely different. *A*, *B*, and *C*, are three distinct persons. *A* iz the dettor, and it iz indifferent whether he pays the det to *B* or *C*. But when *B* haz sold the note for half the valu, he cannot be called upon for the money, nor for any part of it. In the other case, the creditors and the public are, in some mezure, the same person. The same persons who looze their property by public delinquency, are afterwards taxed to pay their proportion to the purchasers. But I wil for a moment suppoze the two cases exactly similar; for I am willing to giv my antagonists the fairest field of argument; and what conclusion can be drawn in favor of paying the certificates to the bearers? Can that reezoning be just which draws general consequences from particular propozitions? Such bad logic ought not to impeech a man's heart; but it can do very little honor to hiz head.

Do men, who reezon in this manner, consider that a principle with respect to individuals, may be perfectly *just*, and yet pursued to a certain degree, it may become entirely false? That the same principle

which may be good in a certain degree, may, in the extreme becume criminal, iz tru not only in politics, but in the natural and moral systems. Heet and water, prouduce vegetables; but too large portions of either, destroy plants. Every passion, natural to man, iz good in itself, and the wurk of a perfectly wise being; but any passion indulged to a certain degree, becumes criminal and destructiv to social happiness. Self-love, the spring of all action, and in the tru sense of the word, the most necessary principle in creation, when it becumes excessiv, iz az criminal and pernicious, az the most malignant passion. Eeting and sleeping are essential to helth; but beyond a certain degree, they are hurtful, and may be fatal to the human body.

In politices, the greatest possible good iz the end of guvernment. Any principle, which may be tru, in particular instances, but which, when extended to the public, does not produce the greatest good to society, iz certainly false in legislation. A law which may be good and necessary in a community, may stil bear hard upon individuals. This iz generally tru of all laws. If a man takes a note of another, and sells it for half its valu, he haz no remedy in law, nor ought the law to make provision for hiz case; for laws are, in their nature and use, general; they do not desend to particular cases. The reezon iz obvious. Were laws to notice every inconvenience, which may flow from their operation, they would produce confusion rather than order, and occasion greater injuries to the public, than would result from the losses of individuals. But when such particular losses becume general, the principle loozes its force. Sufferings, multiplied to a certain number, becume public, and then require the interference of the legislature. If a man iz in det, and cannot pay, he iz at the disposal

of the law; the law cannot be suspended nor relaxed for hiz particular benefit. But when the body of a peeple becume involved, the public safety requires a suspension or relaxation of law. If an individual settles upon land of another man, he iz considered az a trespasser, and iz liable to an ejectment. But let thirty thousand men settle thus upon land that iz not their own, and a wize legislature wil confirm them in their possessions. Necessity or general good, in such cases, suspends the operation of legal right, or rather changes *private rongs* into *public right*. Or to express the idea differently; when evils are increesed and extended to a certain degree, it iz better to let them remain, than to risk the application of a violent remedy. Instances of this kind occur so frequently, that it iz needless to multiply examples. Nothing betrays greater weekness, than the reezoning of peeple, who say, if a principle iz just, it extends to all cases. I should however be very unhappy to hav such men for my legislators. It may be asked, where iz the line of distinction? I answer, it may be impossible to determin. Where the *right* ends, and the *rong* begins; where the legal principle should ceese to operate, and special legislativ interference becumes necessary, it may be difficult to discuver; but the extreme iz always obvious. Whenever the operation of a receeved maxim or principle givs general uneasiness, it iz a demonstrativ proof that it iz rong: that it produces public evil; and a wize legislator wil restrain the operation, or establish a different principle: On the suppozition therefore that the present holders of the public det, are precisely in the situation of the assignees of bonds, stil the principle wil not apply nor warrant the same conclusion in both cases; becauze we cannot reezon from particulars to generals, especially on political

subjects.

Suppoze the original creditors to be five, and the present holders two; more than half the number of creditors hav lost the money which waz due to them; the loss affects them in the first instance, and the hevy taxes which are necessary to appreciate the certificates in other hands, double their injuries and complaints. Theze loozing creditors hav an idea that they are really cheeted, and their murmurs foment that popular jealousy which iz ever bizzy to check large and sudden revolutions of property. The certificates fall into the hands of rich men, at a great discount, and the body of the peeple say, "we wil not suffer our own losses to enrich our welthy nabors."

This outcry, it iz said, proceeds from a levelling principle, which aims to destroy all distinction of rank and property. But in the present case, the popular complaints proceed from equitable principles; nor do I know of any instance of public jelousy, excited by an acquizition of property in the course of honest industry. Fortunes may be suddenly raized in private business, by commercial speculations, and no notice taken of the event; but when public delinquency haz thrown numberless advantages into the hands of a particular class of men, which the peeple know are made at their own expense, it iz impossible that they should behold such a change of property, without questioning the propriety of it, and the justness of the principle by which it iz defended. When the common sense of mankind iz oppozed to such a change, it ought to be considered az a good proof that it iz not just.

Whatever conclusions therefore may be drawn from a principle, established in *courts* of *law*, or among nations in different circumstances, the public sense

of justice must, after all, decide the question. A lawyer may wurk himself up to convictions, in wire-drawing principles; but hiz reezoning iz oppozed to the sense of mankind. Peeple may not be able to *discuver* the fallacy of the reezoning, but they can *feel* it. They may be *silenced*, but cannot be *convinced*.

One grain of common sense iz worth a thousand cobweb theories; and however peeple may be abuzed for refining upon justice, we rarely find them generally dispozed to do rong.

The domestic det of America furnishes a new era in the history of finance. We hav no examples to follow; we must pursu some practicable system, with our eyes invariably fixed on public justice. I know it iz said that the original creditors can purchase certificates now, at the same or a less price than they took for them. But this iz not strictly tru. Individuals might purchase at a low rate; but a general demand for them would raize their valu much abuv their current valu at any past period: For it should be considered that hitherto the sellers hav been numerous, and the purchasers, few; that iz, a full market, with little demand for the articles. Reverse the case. Let the sellers becume the purchasers; the demand would at once raize the valu of the certificates neerly to the face of them.

But if the certificates were to pass at their present low valu, few of thoze who hav alienated them, could re-purchase; for the same necessity which obliged them to sell at a loss, now prevents their repurchasing. Peeple hav not grown rich since the revolution; especially thoze who were faithful in the service of their country. At any rate it iz to be wished that the certificates might ceese to circulate az objects of speculation. They are a Pandora's box to

this country.

Almost the whole activ specie of the country iz employed in speculation. Laws prohibiting usury, restrain the loan of money, while the certain profits of speculation amount to five or ten times the legal interest. No money can be borrowed; no capitals can be raized to encurage agriculture and manufactures: Lucrativ industry iz checked; land iz sunk to two thirds of its real valu, and multitudes of industrious peeple are embarrassed. From such evils, good Lord deliver us.

# No. XXIX.

HARTFORD, JANUARY, 1790.

## *An* ADDRESS *to* YUNG GENTLEMEN.

At a time of life when the passions are lively and strong, when the reezoning powers scarcely begin to be exercised, and the judgement iz not yet ripened by experience and obzervation, it iz of infinit consequence that yung persons should avail themselves of the advice of their frends. It iz tru that the maxims of old age are sometimes too rigorous to be relished by the yung; but in general they are to be valued az the lessons of infallible experience, and ought to be the guides of youth. The opinions here offered to your consideration hav not the advantage of great age to giv them weight, nor do they claim the authority of long experience: But they are formed from *some* experience, with much reeding and reflection; and so far az a zeel for your welfare and respectability in future life merits your regard, so far this address haz a claim to your notis.

The first thing recommended to your attention iz, the care of your helth and the prezervation of your bodily constitution. In no particular iz the neglect of parents and guardians more obvious and fatal, than in suffering the bodies of their children to grow without care. My remark applies in particular to thoze who design their children to get a living without manual labor. Let yung persons then attend to facts, which are always before their eyes.

Nature seldom fails to giv both sexes the materials of a good constitution; that iz, a body complete in all its parts. But it depends mostly on persons themselves to

manage theze materials, so az to giv them strength and solidity.

The most criticcal period of life, in this respect, iz the age of puberty, which iz usually between thirteen and seventeen, or eighteen. Before this period, you are very much in the power of parents or masters, and if they wish to see you strong and robust, they wil feed you with coarse substantial food of eezy digestion. But at fourteen yeers old, yung persons are capable of exercising their reezon, in some degree, and ought to be instructed in the mode of living, best calculated to secure helth and long life. It iz obzervable that yung persons of both sexes grow tall very rapidly about the age of thirteen, fourteen, fifteen or sixteen; but they do not acquire muscular strength in du proportion. It should then be the bizziness of yung persons to assist nature, and strengthen the growing frame by athletic exercises.

Thoze persons who leed a sedentary life, should practis some amusement which requires considerable exertion of the lims; az running, foot ball, quoit; taking care not to injure themselves by too violent exertion; for this would defeet the salutary purpose of such exercizes. But the exercize I would most recommend, iz *fencing*; for the art itself iz highly useful at times, and the practice tends more to render the body firm and vigorous than almost any exercize whatever. It braces the muscles of the arm, spreds the brest, opens the chest to giv the lungs play; an effect of great consequence to persons about the age of puberty. For, az waz before obzerved, persons of this age, shoot up very fast; the body grows tall, but narrow; the mass of flesh and blood iz increesed much faster than the tone of the vessels and muscular strength; the chest iz two narrow for the

lungs to perform their office, and the blood vessels hav not sufficient elasticity to produce a brisk free circulation; the system iz often too week to carry on the necessary secretions of the juices; and the consequence of the whole iz, an obstructed circulation produces ulcers upon the lungs, which bring on a decay, or some infirmities of body, which last for many yeers, and not unfrequently for life.

To avoid theze ills, much exercise of the arms and body iz not only useful, but necessary; and when it iz not the lot of yung persons to labor, in agriculture or mekanic arts, some laborious amusement should be constantly and daily pursued az a substitute, and none iz preferable to fencing. A fencing skool iz perhaps az necessary an institution in a college, az a professorship of mathematics; for yung men usually enter college about the age of puberty; and often leev a laborious occupation, to commence a sedentary life, at the very time when labor or other exercize iz the most necessary to giv firmness and vigor to their constitutions. In consequence of this change and an academic life, they often run up into long, slender, effeminate bodies, which a slight cold may throw into a consumption; or by intense application to books, add, to a debilitated frame of body, a week nervous system, which keeps them always dying, tho it may not end life til old age.

Dancing iz an excellent amusement for yung peeple, especially for thoze of sedentary occupations. Its excellence consists in exciting a cheerfulness of the mind, highly essential to helth; in bracing the muscles of the body, and in producing copious perspiration. Az the two first effects are very visibly beneficial, they are the subject of common obzervation; but the last, which iz perhaps the most

generally beneficial, iz rarely mentioned.

Experience haz led me to the following ideas on this subject. Our bodies are so constituted that a large portion of the juices should be thrown off by insensible perspiration; nor can the process be abated without danger, nor wholly obstructed without occasioning diseese. The body must perspire, or must be out of order. A violent cold iz a sudden obstruction of the process, which throws the matter, intended for evacuation thro the pores of the skin, back upon the *intestines*, taking the word, not in a tecknical, but in its original extended sense. All that iz necessary to cure a cold, which iz not attended with symptoms of inflamation, iz to open the pores of the body; which may be done by bracing, az by drinking cold water, which excites circulation by its tonic power; or by relaxing the system, az by the warm bath and warm teas. The first wil answer, where the body haz vigor enough to giv the tonic its full effect; but iz not so efficacious, nor so generally practicable az the last. It iz not so eezy to force thro a wall, az to open a gate.

The common house-wifely remedies, consisting of butter or other oily substances, mixed with spirits, usually hav no effect upon a cold, or a bad one. Flannel, warm teas, or simple warm water, hav the best effect in relaxing; but if they fail of producing a perspiration, the patient should hav recourse to exercise. Dancing in a warm room, or other violent exercise, wil generally throw a person into a copious swet in a few minutes; and this, two or three times repeeted, wil usually releev the person, however obstinate the cold. If every thing else fails, the warm bath should be resorted to az an almost infallible remedy.

But there iz another species of obstructed perspiration more dangerous perhaps than sudden colds, because less perceptible; I meen, that which proceeds from a week habit of body. Whenever the tone of the vessels iz lost, the circulation of the blood becumes languid, the animal heet iz diminished, and the system haz not strength sufficient to throw off the perspirable matter. The consequence iz, the skin becumes dry and rigid, and the person usually feels a dull pain in hiz hed and the back part of hiz neck. Wimen, literary men, clerks, &c. are most expozed to theze symptoms. The remedy for them iz, free perspiration; but the most effectual remedy iz dancing, or other vigorous exercise, which increeses, at the same time, animal heet and the tone of the vessels. Dancing indeed unites to theze, the other advantage of cheerfulness and good spirits, which iz of singular use to persons accustomed to close application to bizziness or contemplation. The only caution to be obzerved iz, not to go into the cold air, without considerable additional clothing.

In cases where persons cannot hav recourse to dancing or other exercize in a warm room, the warm bath may be uzed to great advantage. At first thought, one would imagin, that the cold bath should be prescribed for giving tone to a week system; but on reflection, this would appeer to be generally, tho not always hazardous. The truth iz, a general relaxation of the body checks perspiration; and the first effect of cold, in such cases, iz to brace the exterior parts of the body, and throw the offending matter, lodged in the skin by the debility of the system, back upon the lungs, or other interior parts. If the system haz strength enough, or can receev enough by the operation of cold, to force open the pores and produce a copious perspiration, the cold

bath wil hav an excellent effect. But when the person iz of a week frame, the experiment iz extremely dangerous. The safest remedy iz the warm bath, which remooves the obstructing matter by a gentle relaxation of the surface; thus enabling the vessels to recuver their tone, in a degree, and keep up a brisk circulation. The warm bath then iz the most safe and efficacious remedy for obstructed perspiration, occasioned by debility; and this iz an evil to which all sedentary peeple are expozed, and by which most of them suffer.

I hav been often suprized that the moderns hav so generally neglected the meens of prezerving helth, which were uzed by the ancients. A little attention to the structure of the human body, and the effect of heet and cold upon it, led the ancients to the obvious and almost infallable meens of garding themselves from diseeze. Their method waz to bathe almost daily; and then oil their bodies. By bathing, they kept their perspiration free, and their bodies of course, in vigor and clenly; and by the use of oil, they secured the body from the fatal effects of sudden cold. In the later ages of Rome, warm baths indeed became a luxury, and were uzed to excess; but this waz only an abuse of a good thing, the excellent effects of which had been experienced for ages. The neglect of the same meens, of preventing diseese, haz obliged the modern to hav recourse to physic, a substitute, more expensiv and trublesome, and not always effectual. [167]

Whether in bizziness or amusement, let your whole conduct be guided by temperance. Are you students? Eet moderately, and let your food be of the nutritiv kind, but not oily, high seesoned and indigestible. Drink but little, or rather no distilled liquors; wine and fermented liquors are much to be preferred. A

good cup of tee, iz sometimes a cordial; coffee may be uzed freely; but the constant use of hot liquors seldom fails to debilitate the system and impair the digestiv powers.

Whether you reed or rite, accustom yourselves to stand at a high desk, rather than indulge an indolent habit of sitting, which always weekens, and sometimes disfigures the body. The neerer you can keep every part of the body to an eezy strait posture, the more equable wil be the circulation of the fluids; and in order to giv them the most unconstrained flow to the extremities of the lims, it iz very useful to loosen thoze parts of dress that bind the lims closely.

There iz another kind of temperance which I would warmly recommend; that iz, temperance in study. Little does a helthy robust yuth reflect upon the delicate texture of the nervous system, which iz immediately affected by close mental application. The full fed muscular man may spurn the caution, that warns him against the danger of hypocondriacs; but it iz next to impossible that the hard student, who clossets himself seven or eight hours a day, in deep meditation, should escape the deplorable evil, which makes men valetudinarians for life, without hope of a radical cure, and with the wretched consolation of being perpetually laughed at.

Four hours of uninterrupted study in a day iz generally sufficient to furnish the mind with az many ideas az can be retained, methodized and applied to practice; and it iz wel if one half of what are run over in this time are not lost. It may sometimes be necessary to study or reed *more* hours in a day; but it wil az often be found useful to reed *less*.

When you exercize at any diversion, or go into company, forget your studies, and giv up yourselves

entirely to the amusement. It wil do you no good to leev your books behind, unless you dismiss your attention or train of thinking. Attend to experience. You find it very fateeging to stand, sit or even to lie in one fixed posture, for any length of time, and change affords releef. The same iz tru of the mind. It iz necessary, if I may indulge the expression, to change the pozition of the mind; that iz, vary the train of thought; for by a variety of ideas, the mind iz releeved, in the same degree az the body by a change of posture.

When you reed, always endevor to reed with some particular object. You wil find many books that ought to be red in course; but in general when you take up a treetis upon any science, or a volum of history, without a view to inform yourself of some *particular* in that wurk, you are not likely to retain what you reed. The object iz too general; the mind iz not capable of embracing the whole. For instance, if you reed Hume's England in course, with design to acquaint yourself with the whole story, you wil find, at the end of your labor, that you are able to recollect only a few of the most remarkable occurrences; the greatest part of the history haz escaped you. But if you confine yourself to *one point of history* at a time, for example, the life and policy of Alfred, or the account of Mary, queen of Scots, and reed what every author you can lay your hand on, haz said upon that subject, comparing their different accounts of it, you wil impress the history upon the mind, so az not to be eezily effaced. Law students should attend to theze remarks.

There iz another kind of temperance of more consequence than thoze mentioned, viz. temperance in plezure: For to all the personal evils of an excessiv

indulgence of the animal appetite, we may add innumerable evils of a moral and social nature. No intercourse should take place between the sexes, til the body haz attained to full strength and maturity. In this respect, ancient barbarous nations hav set an example, that ought to make moderns blush for their effeminacy of manners, and their juvenile indulgences. The old Germans accounted it shameful and disreputable for yung men to hav any intercourse with the other sex, before the age of twenty.[168] To this continence were they much indetted for their muscular bodies, their helth and longevity. But such an abstinence from plezure waz not maintained by law; the Germans knew that positiv prohibitions would be ineffectual to restrain this indulgence; they had recourse to the only certain method; they made it *dishonorable*. How different iz the case in modern times! So far iz debauchery from being scandalous, that it iz frequently the boast of men in the first offices of state; and a karacter of licentiousness iz little or no objection in a candidate for preferment.[169]

Oppozed to passion and to false pride, caution wil perhaps be unavailing. But men who wish for permanent happiness, should be persuaded to take the meens for securing it. Wil you then run the risk of erly indulgence in illicit plezure? Some of you *may* escape the evils which generally follow; but the chances are against you. In nine cases of ten, you wil destroy the vigor of your bodies, and thus impair the ability of enjoyment by excess; or what iz an additional evil, you wil contract diseese. What iz the consequence? Eether your taste for the vilest plezures wil grow into habit and make abandoned rakes of you, averse to the innocent enjoyments of the married life, and of course bad members of

society; or you wil perhaps marry amiable wimen, with your strength and helth impaired, and your minds debauched, fickle, prone to jelousy. In this case, you are neether secure of your partners affections, nor wil you be likely to know the valu of their virtues. Having broken over the barriers of virtue, you are forever liable to stray; and the probability iz, you destroy the happiness of your wives, and the peece of your families. Perhaps with some art, and the forgiving temper of your wives, you may conceel the family discord, and the wretched state of your minds, from a censorious world; pride, reputation, every motiv would urge you to this precaution; but iz not this a poor substitute for happiness? A poor consolation for the multiplied evils that follow, in an endless train, from the unreezonable and criminal indulgences of a few yeers? You may be assured also that a woman of good principles cannot feel a pure satisfaction, in the company even of a reformed husband, when she reflects, az she frequently wil, that he haz wasted hiz helth and substance upon the vilest of her sex. My yung frends, it iz idle, it iz weekness and folly to expect any kind of happiness or plezure, which shal indemnify you for the trubble of seeking it, except in the pursuance of the principles which morality prescribes. Whenever you pursu an object, at the expense of any moral principle; when the attainment of your end must injure the person, the property, the reputation or the feelings of one child of Adam, the acquisition of that object wil not giv you happiness; you are pursuing a fantom. This leeds me to say something on one of the most hanous crimes a man can commit, and which the laws of society cannot or at leest do not punish; that iz, seduction.

Fashion, which iz often founded on moral propriety,

and oftener on political convenience, iz sometimes an enemy to both; and public opinion, enlisted in the cauze of vice, iz a greater scurge to society than war or pestilence. It iz one of the evils, or rather of the curses of civilization, that certain crimes, az malignant in their nature, and az fatal in their consequence, az murder and robbery, becume fashionable, and to a certain degree, reputable. Of this kind, iz deliberate seduction. It iz az malignant in its nature az murder, for it iz accompanied with the same aggravation, malice pretense, or a premeditated design: It iz az fatal to society; for reputation iz az deer az life; and the wretched victims of deception, if they lay violent hands on themselves, or linger out a life of disgrace, are equally murdered, equally lost to society. And the only reezon why the seducer and the murderer hav not been placed on a footing by the laws of society, must be, the difficulty of proof, or of ascertaining the degrees of gilt, where there iz a possibility or a presumtion of assent on the part of the woman.

There are however certain instances of this crime which are az capable of proof az, arson, burglary or murder; and why the laws of a state, which prohibit under severe penalties, the taking or giving more than six per cent. interest on the loan of money, even on the fairest contract, should yet permit the seducer to take another's reputation, to doom to indelible infamy the helpless female, whoze reputation iz all her portion, iz one of thoze problems in society, which the philosopher wil impute to human imperfection, and the Kristian number among the inscrutable mysteries of providence.

But I am not addressing legislators; I am reezoning with individuals. Waving the baseness of the crime,

let us attend to its consequences in families and society. You wil doutless acknowlege, for I do not see how you can deny, that when you deliberately commit a crime that affects your nabor, you explicitly admit that your nabor haz an equal right to commit the same crime against yourselves; for I presume no man wil arrogate to himself an exclusiv privilege of being a villan.

You attempt then to seduce the wife, the sister, or the dawter of your frend; but hav you none of theze relations? Hav you not a wife, a sister, a dawter, whoze reputation iz deer to you; whoze honor you would die to defend? You hav attacked the honor of your nabor; haz he not the same right to assail your family, in the same delicate point? But if you has none of theze neer connections, hav you no female frend whoze reputation iz deer to you? Now by attempting the honor of any woman, you wage war with the whole human race; you break down the barriers which nature and society hav established to gard your *own* family and frends, and leev *their* honor and happiness, and consequently your *own*, expozed to the intreegs of every unprincipled retch: You even invite an attempt upon your family and frends; you beet a challenge, and bid defiance to any man who haz the spirit to revenge the rongs of the helpless. Theze are serious considerations, in which men of principle and of no principle are equally interested; for an abandoned rake iz usually az fond of hiz own and hiz family's honor, az the man of the chastest life.

Mingle with your superiors in age and wizdom, whenever you can do it with propriety. If your parents are wize, they wil associate with you az much az possible in your amusements; they wil be

cheerful and facetious, and thus make you az happy az you wish to be at home. A morose crabbed old man iz not inviting company for the yung and sprightly; and you ought rather to shun the illnatured, if possible. But whenever your parents are of a cheerful dispozition, and luv their children, they make the most agreeable and most useful companions. They wil find amusements for you at home, and you wil be happier there than any where else. If your parents are thus dispozed to make themselves your principal companions, always indulge their inclination. You wil thus avoid the contagion of vicious company, you wil form a habit of contentment and satisfaction at home; and remember, if you do not find happiness there, you wil never find much satisfaction abroad.

In choosing society however, be careful not to push yourself into company. Yung men are often impatient of the restraints which modesty and decorum impoze upon them. They are anxious to associate with thoze of greater age and rank than themselves; and expect more notis than mankind in general suppoze they dezerv. This proceeds from the ambition and fire of youth; the motivs I beleev to be often innocent and laudable; the ambition therefore should be guverned, rather than repressed. A little experience wil dictate patience and a modest deportment, which, with yeers and information, wil always ensure respectability. I once knew a man of twenty two chagrined even to petulence, becauze he could not be admitted a trustee of a college. I waz surprized at hiz severe remarks on the venerable body of gentlemen who rejected him. He thought himself a man of more science than some of the corporation; and therefore better qualified to direct a literary institution. Admit the fact, that he excelled in scientific attainments,

yet the vexation he felt at hiz disappointment waz proof enough that he waz destitute of the first requisits in the overseers of yuth, *coolness* and *judgement*.

In the world, avoid every species of affectation, and be az fashionable az convenience wil warrant. Yet never be the first to invent novelty, nor run to excess in imitation. This advice, *to be fashionable*, should however be qualified, and restrained to things indifferent, in point of morality. Az the moral karacter of men does not depend on the shape of their garments, it iz generally best to wear our clothes in the model that fashion prescribes; unless your circumstances forbid, or the fashion itself iz inconvenient: For if you are not able to afford the expense, it iz criminal in you to follow the customs of the welthy; and if the shape of a garment makes it uneezy upon you or cumbersome, the fashion iz ridiculous, and none but week peeple, the common coxcombs and butterflies of the world, wil adopt it. For this reezon follow lord Chesterfield's maxims with great caution. His letters contain a strange compound of the *best* and *worst* instructions ever given to a yung man; indeed it would be expected of a man, whoze object waz not to make hiz son *good*, but to make him *showy*.

Hiz lordship, I think, recommends to hiz son to wear *long nails*; in consequence of which advice, long nails are very fashionable wherever hiz letters are red. But a man ought to be consistent. Why did he not at the same time recommend long beards? Both are very proper among savages, who hav no ideas of neetness; and one would think, they should always go together; but among civilized peeple, both are equally slovenly. Hiz lordship givs an excellent

reezon for hiz advice; that mekanics pare their nails, and *gentlemen* ought to be distinguished from *laborers*. Why did not he add, that az mekanics walk on two feet, gentlemen, for sake of distinction, ought to walk on all fours? But hiz lordship had better reezons for hiz advice. Long nails are a most commodious substitute, or at leest furnish a reddy alleviation of the evils arizing from a sparing use of ivory. Besides, hiz lordship waz a courtier, fond of royal examples, &c. He found a princely one in the Assyrian monark, who, when he waz a beest, wore hiz nails in the same manner. Nebuchadnezzer however waz under the direction of a divine impulse; an authority that hiz lordship could not claim for *all* hiz injunctions and maxims.

Never let fashion blind you to convenience and congruity. Do not introduce foreign customs, without reezon, or by the halves. The French feed themselves with forks, uzing knives merely to cut their meet; therefore knives with sharp points, are for them the most convenient. But it iz really laughable to see the Americans adopting the use of sharp pointed knives, without the practice of feeding themselves with forks. They do not see the particular convenience of the custom in France, where it originated; but it iz *the fashion to uze them*, and this iz all they think of. They are however well punished for their servile apishness, especially when they are hungry; for a man may az wel feed himself with a bodkin, az with a knife of the present fashion.

Be equally careful of affectation in the use of language. Uze words that are most common and generally understood. Remember that sublimity and elegance do not consist principally in words; az the modern stile of writing would make us beleev.

Sublimity consists in grand and elevated ideas; and elegance iz most generally found in a plain, neet, chaste phraseology. In pronunciation be very cautious of imitating the stage, where indeed nature *should be represented*, but where in fact we find too much strutting, mouthing, rant, and every kind of affectation. The modern pronunciation of our language on the English stage iz, beyond mezure, affected and ridiculous. The change of *t*, *d* and *s* into *ch*, *j* and *sh*, in such words az *nature*, *education*, *superstition*, originated in the theatrical mouthing of words; and iz, in language, what the stage-strut iz in walking. The practice haz indeed spred from the stage among our polite speekers, who hav adopted it, az peeple do other fashions, without knowing why. Were it a matter of indifference, like the shape of a hat, I would recommend it to your imitation; but I hav cleerly prooved in another place,[170] that the practice iz not vindicable on any good principles; that on the contrary, it materially injures the language, both in orthography and the melody of speeking. There iz such a thing az tru and false taste, and the latter az often directs fashion, az the former. The *nachure* and *edjucation* of modern times are to purity of language, what red fethers and yellow ribbons are to elegance in dress; and could the practice be represented with a pencil, it would be az boldly caricatured, az the enormous hed-dresses of 1774.

Do not adopt such phrases az *averse from*, *agreeably to*, *going past*, and other modern alterations of the usual idiom; for they are gross violations of the principles of the language, az might be eezily prooved, were this the place. If you are a lawyer, do not confound such terms, az, *witness*, *testimony* and *evidence*, calling a *witness*, an *evidence*. *Witness* iz the

person testifying; *testimony* iz what he declares in court; and *evidence* iz the effect of that testimony in producing conviction. Do not confound such words az, *genius* and *capacity*, or *sense*, *lerning* and *knowlege*. *Genius* iz the power of *invention*; *capacity*, the power of *receeving* ideas. *Sense* iz the faculty of perception; *lerning* iz what iz obtained in *books*; *knowlege* iz what iz acquired by *observation*.

Attach yourselves to bizziness in the erly part of life. Shun idle dissipated karacters az you would the plague. Listen to nature and reezon, and draw just ideas of things from theze pure sources; otherwize you wil imbibe *fashionable sentiments*, than which a more fatal evil cannot happen to you. You wil often heer bizziness condemned az drudgery and disgrace. Despize the sentiment. Nature speeks a different language. Nature tells you, "that she haz given you bodies, which require constant exercize; that labor or some other exercize iz essential to helth; that employment iz necessary to peece of mind; and industry iz the meens of acquiring property." Nature then haz rendered *bizziness* necessary to *helth and happiness*, az wel az to *interest*; and when men neglect her dictates, they are usually punished with poverty, diseeze and retchedness. It sometimes happens that a man's ancestors hav accumulated such an estate, that he iz wel secured from *poverty*; but the very estate he possesses, iz the meens of entailing upon him diseeze and all its consequential evils: For a rich man iz strongly tempted to be lazy; and indolence, by debilitating the animal system, destroys the power of enjoyment. Besides, a man of eezy circumstances iz very apt to looze the virtu of self denial; he indulges hiz appetite too freely; he becumes an epicure in eeting, and perhaps a bakkanalian; he iz then a slave of the worst kind, a slave to hiz own desires, and hiz

faithful services to himself are rewarded with the gout.

In addition to this, he may squander away hiz estate; and then he iz poor indeed! For a man who iz bred in affluence, seldom haz the resolution or the knowlege requisit to repair a broken fortune. The way to *keep an estate*, iz to lern in youth how to *acquire one*; and the way to *enjoy* an estate, iz to be constantly in some bizziness which shal find employment for the faculties of the mind. Idleness and plezure fateeg az soon az bizziness; and indeed when bizziness haz becume habitual, it iz the first of plezures.

In forming a matrimonial connection, bridle fancy, and reduce it to the control of reezon. You wil perhaps be in luv at sixteen; but remember, you cannot rely on the continuance of the passion. At this erly period of life, a man's passions are too violent to last; he iz in raptures and ecstacy; but *raptures and ecstacy* never continu *thro life*. While a man talks of raptures and paradise on erth, he iz not fit to be married; for hiz passion, or rather hiz frenzy, warps hiz judgement; he iz az unqualified to form a just estimate of a woman's karacter, az a blind man to judge of colors. The probability iz, in all such cases, that a man wil make a bad choice; at leest the chances are ten to one against him. Before a man marries, he should liv long enuf to experience the fallacy of hope, and to moderate hiz expectations down to real life. He wil then meet with fewer disappointments, and be better prepared to realize the happiness that iz within hiz power.

If you feel a *violent* passion for a young lady, the chance iz that the first opportunity you hav, you wil discloze it, and assure her you are dying for her. Should passion hurry you to such a declaration,

before you hav much acquaintance with her, and before you hav, by your attentions, made some favorable impressions on her hart, you may be sure of a repulse; for your sudden professions frighten the lady, and ladies are never frightened into luv. A widow wil sometimes surrender to the most unexpected attack; but yung coy maidens are to be taken only by gradual approaches. To ensure success, take the advice of a very sensible woman; "first be the frend, and then the luver." Be polite and attentiv; show yourself a particular frend, for ladies are not alarmed at professions of esteem; be neether bashful, nor discuver uncommon solicitude; and the lady's hart wil probably be yours before she knows it.

Do you ask, how you shal discuver the tru karacter of a woman, so az not to be deceeved? I answer, this must depend mostly on obzervations of your own, or of thoze that are more acquainted with the sex than yourself. The virtues of good nature, delicacy, modest rezervedness, prudence, &c. are discuverable only by considerable acquaintance. I would however advize you to be cautious of connecting yourselves with the following karacters: First, wimen who hav been accustomed to indulge familiarities, even in company, such az kissing, playing with their hands, and the like. Secondly, thoze who wil never be seen in the morning; for if a lady runs out of a room, and avoids you in a morning dress, the suspicion iz that she iz a slut, and that she iz conscious of her unfitness to be seen. A neet woman wil never be ashamed of her dishabille, for in this she wil show her neetness to the best advantage. A slut may look tolerably wel in silks; but a neet woman only wil appeer wel in a kitchen or at a brekfast table in her own family.

Thirdly, never connect yourselves with a very loquacious or fretful woman; such a partner wil teeze you thro life. Fourthly, avoid one who haz a slanderous tung; she wil keep your family and the naborhood in perpetual discord. Fifthly, form no connection with a woman, who haz no acquaintance with a kitchen. She wil trust every thing to servants, who wil waste more than you consume; she wil not know how to reform abuses or guvern domestics; the clothes wil be ill washed, the food wil be badly cooked; you wil be harrassed with disorders and irregularity in the family; and you wil be ashamed of your wife, if she iz not ashamed of herself. A master of a vessel should not *come in at the cabin windows*; nor should a man be placed at the hed of an army, without an intimate knowlege of the duty of a private soldier. How then can a lady be qualified for the care of a family, without being acquainted with every part of domestic bizziness? Sixthly, marry, if possible, a lady of virtu and religion; for religion iz her best gard from temptation and the allurements of vice. At any rate, *marry*. A *married man*, especially a *father*, iz a better citizen than a bachelor. Hiz benevolent affections are called in to exercize in hiz family; and he iz thus prepared to luv and to bless society in general.

# No. XXX.

NEW YORK, 1788.

## *An* ADDRESS *to* YUNG LADIES.

MY AMIABLE FRENDS,

Altho men in general are expozed to the suspicion of your sex, and their opinions are often construed into flattery or stratagem, yet the tenor of the following remarks wil, it iz presumed, bear such marks of sincerity az to giv them a place in your confidence. They are not the precepts of a morose instructor, nor the opinions of a hoary sage who haz lost all relish for the joys of life, and wishes to restrain the innocent plezures of sense. They do not proceed from a peevish old bachelor, whom a phlegmatic constitution, or repeeted disappointments, hav changed into a hater of your sex; but they come from a heart capable of being softened by your charms or your misfortunes; a heart that never harbored a wish but to see and make you happy. They are the sentiments of a yung *frend*; one who haz lived long enuf, if not to feel his *own* faults, at leest to *discuver* thoze of others; and to form a tolerable estimate of your worth in social life.

Our Saviour, when on erth, took a child in hiz arms and said, "of such iz the kingdom of heaven." I never view a circle of little misses without recollecting the divine comparison. A collection of sweet little beings, with voices az melodious az the notes of the nightingale, whoze cheeks even a whisper wil cuver with blushes, and whoze hearts are az pure az the falling snow drop; iz heaven in miniature. Such iz the description of my little female frends in the

bloom of childhood. To prezerve that delicacy of mind, which nature furnishes; which constitutes the glory of your sex, and forms the principal gard of your own virtue, iz the bizziness of education. In this article, you hav an opportunity to display the excellence of your character, and to exert your talents most successfully in benefitting society.

A woman without delicacy, iz a woman without reputation; for chastity really exists in the mind; and when this fountain iz pure, the words and actions that flow from it, wil be chaste and delicate. Yung misses therefore should be remooved az far az possible from all company that can taint their minds, or accustom them to indecency of any kind. Their nurses, their companions, their teechers, should be selected from peeple of at leest uncorrupted morals and amiable manners.

But a more advanced stage of life, the time when yung ladies enter into society, iz, with respect to their future reputation, a period extremely critical. Little, my deer friends, do you reflect, how important iz the manner in which you enter into life. Prudery and coquetry are extremes equally to be shunned, becauze both are equally disagreeable to our sex, and fatal to your reputations. It haz been said that coquetts often looze their reputation, while they retain their virtu; and that prudes often prezerve their reputation, after they hav lost their virtu. I would only add this remark, that coquetts are *generally*, but prudes *almost always* suspected; and suspicion iz az fatal to a female karacter, az a crime. Iz this unjust? Coquetry and prudery are both affectation; every species of affectation dezerves punishment; and when persons relinquish their own natural karacters for thoze which are borrowed, iz it

unjust to suspect their motivs, az a punishment for the offence?

You are taught to suspect the man who flatters you. But your good sense wil very eezily distinguish between expressions of mere civility and declarations of real esteem. In general one rule holds, that the man who iz most lavish in declarations of esteem and admiration, luvs and admires you the leest. A profusion of flattery iz real ground for suspicion. Reel esteem iz evinced by a uniform course of polite respectful behaviour. This iz a proof on which you may depend; it iz a flattery the most grateful to a lady of understanding, because it must proceed from a real respect for her karacter and virtues.

Permit me here to suggest one caution. You are told that unmeening flattery iz an insult to your understandings, and sometimes you are apt to resent it. This should be done with great prudence. Precipitate resentment iz dangerous; it may not be dezerved at the time; it may make you an enemy; it may giv uneeziness to a frend; it may giv your own harts pain; it may injure you by creating a suspicion that it iz all affectation. The common place civilities of dangling beaux may be very trifling and disagreeable, but can rarely amount to an insult, or dezerve more than indifference and neglect. Resentment of such trifles can hardly be a mark of tru dignity of soul.

At this period of life, let the prime excellence of your karacters, *delicacy*, be discuvered in all your words and actions. Permit me, az one acquainted at leest with the sentiments of my own sex, to assure you, that a man never respects a woman, who does not respect herself. The moment a woman suffers to fall from her tung, any expressions that indicate the leest

indelicacy of mind; the moment she ceeses to blush at such expressions from our sex, she ceeses to be respected; becauze az a lady, she iz no longer respectable. Whatever familiarity of conversation may be vindicable or pardonable in ether sex alone, there iz, in mixed companies, a sacred decorum that should not be violated by one rude idea. And however dispozed the ladies may be to overlook small transgressions in our sex, yet unforgiving man cannot eezily forget the offences of yours, especially when thoze offences discuver a want of all that renders you lovely.

If your *words* are to be so strictly watched, how much more attention iz necessary to render your *conduct* unexceptionable. You charge our sex, with being the seducers, the betrayers of yours. Admit the charge to be partially tru, yet let us be candid. Az profligate az many of our sex are acknowleged to be, it iz but justice to say, that very few are so abandoned az to attempt deliberately the seduction of an artless and innocent lady, who shows, by her conduct, that she iz conscious of the worth of her reputation, and that she respects her own karacter. I hav rarely found a libertine who had impudence enuf to assail virtue, that had not been expozed by some improprieties of conduct. There iz something so commanding in virtu, that even villans respect her, and dare not approach her temples but in the karacter of her votaries.

But when a woman iz incautious, when she iz reddy to fall into the arms of any man that approaches her, when she suffers double entendres, indecent hints and conversation to flow from her lips in mixed companies, she remooves the barriers of her reputation, she disarms herself, and thousands

consider themselves at liberty to commence an attack.

When so much depends on your principles and reputation; when we expect to derive all the happiness of the married life from that source, can it be a crime to wish for some proof of your virtu before the indissoluble connection iz formed? Iz that virtu to be trusted which haz never been tempted? Iz it absurd to say that an attack may be made even with honorable intentions? Admit the absurdity; but such attempts are often made, and may end in your ruin. The man may then be retched in hiz mistake becauze he iz disappointed in hiz opinion and expectations. Be assured, my frends, that even vile man cannot but esteem the woman who respects herself. We look to you, in a world of vice, for that delicacy of mind, that innocence of life, which render *you* lovely and *ourselves* happy.

Do you wish for admiration? But admiration iz az transient az the blaze of a meteor. Ladies who hav the most admirers, are often the last to find valuable partners.

Do you wish to be esteemed and luved? It iz eezy to render yourselves esteemable and lovely. It iz only by retaining that softness of manners, that obliging and delicate attention to every karacter, which, whether natural or acquired, are at some period of life, the property of almost every female. Beauty and money, without merit, will sometimes command eligible connections; but such connections do not answer the wishes of our hearts; they do not render us happy. Lerning, or an acquaintance with books, may be a very agreeable or a very disagreeable accomplishment, in proportion to the discretion of the lady who possesses it. Properly employed, it iz

highly satisfactory to the lady and her connections; but I beleev obzervation wil confirm my conjecture, that a strong attachment to books in a lady, often deters a man from approaching her with the offer of hiz heart. This iz ascribed to the pride of our sex. That the imputation iz always false, I wil not aver; but I undertake to say, that if pride iz the cauze, it iz supported by the order of nature.

One sex iz formed for the more hardy exercizes of the council, the field and the laborious employments of procuring subsistence. The other, for the superintendance of domestic concerns, and for diffusing bliss thro social life. When a woman quits her own department, she offends her husband, not merely becauze she obtrudes herself upon *hiz* bizziness, but becauze she departs from that sphere which iz assigned *her* in the order of society; becauze she neglects *her* duty, and leeves *her own* department vacant. The same remark wil apply to the man who visits the kitchen and gets the name of a *betty*. The same principle which excludes a man from an attention to domestic bizziness, excludes a woman from law, mathematics and astronomy. Eech sex feels a degree of pride in being best qualified for a particular station, and a degree of resentment when the other encroaches upon their privilege. This iz acting conformably to the constitution of society. A woman would not willingly marry a man who iz strongly inclined to pass hiz time in seeing the house and furniture in order, in superintending the cooks, or in working gauze and tiffany; for she would predict, with some certainty, that he would neglect hiz proper bizziness. In the same manner, a man iz cautious of forming a connection with a woman, whoze predilection for the sciences might take her attention from necessary family concerns.

Ladies however are not generally charged with a too strong attachment to books. It iz necessary that they should be wel acquainted with every thing that respects life and manners; with a knowlege of the human hart and the graceful accomplishments. The greatest misfortune iz, that your erly studies are not always wel directed; and you are permitted to devour a thousand volumes of fictitious nonsense, when a smaller number of books, at less trubble and expense, would furnish you with more valuable trezures of knowlege.

To be *lovely* then you must be content to be *wimen*; to be mild, social and sentimental; to be acquainted with all that belongs to your department, and leeve the masculine virtues, and the profound researches of study, to the province of the other sex.

That it may be necessary, for political purposes, to consider man az the superior in authority, iz to me probable. I question whether a different maxim would not destroy your own happiness.

A man iz pleezed with the deference hiz wife shows for hiz opinions; he often loves her even for her want of information, when it creates a kind of dependence upon hiz judgement. On the other hand, a woman always despises her husband for hiz inferiority in understanding and knowlege, and blushes at the figure he makes in the company of men who possess superior talents. Do not theze facts justify the order of society, and render some difference in rank between the sexes, necessary to the happiness of both? But this superiority iz comparativ, and in some mezure, mutual. In many things, the woman iz az much superior to her husband, az he iz to her, in any article of information. They depend on eech other, and the assumption of any prerogativ or superiority

in domestic life, iz a proof that the union iz not perfect; it iz a strong evidence the parties *are* not, or *wil* not be happy.

Ladies are often ridiculed for their loquaciousness. But ridicule iz not the worst punishment of this fault. However witty, sprightly and sentimental your conversation may be, depend on it, az a maxim that holds without exception, that the person who talks incessantly, wil soon ceese to be respected. From congress to private families, the remark iz tru, that a man or woman who talks much, loozes all influence. To your sex, talkativness iz very injurious; for a man wil hardly ever chooze a noizy loquacious woman for hiz companion. A delicate rezerv iz a becuming, a commanding characteristic of an amiable woman; the want of which no brilliant accomplishments wil supply. A want of ability to converse, iz scarcely so much censured, az a want of discretion to know when to speek and when to be silent.

In the choice of husbands, my fair reeders, what shall I say? It haz been said or insinuated, that you prefer men of inferior talents. This iz not tru. You are sensible that a good address and a respectful attention, are the qualities which most generally recommend to the esteem of both sexes. A philosopher, who iz absent and stupid, wil not please az a companion; but of two persons equal in other respects, the man of superior talents iz your choice. If my obzervations hav not deceeved me, you pride yourselves in being connected with men of eminence. I mention this to contradict the opinion maintained in the Lounger, that ladies giv a sort of preference to men of inferior talents. The opinion wants extension and qualification; it extends to both sexes, when tru, but iz never tru, except when men of talents are

destitute of social accomplishments.

Money iz the great object of desire with both sexes; but how few obtain it by marriage? With respect to our sex, I confess, it iz not much to a man's credit to seek a fortune without any exertions of hiz own; but the ladies often make a capital mistake in the meens of obtaining their object. They ask, *what iz a man's fortune*? Whereas, if they are in pursuit of welth, solid permanent welth, they should ask, *is he a man of bizziness*? *Of talents? Of persevering industry? Does he know the use of money?* The difference in the two cases iz this: The man of fortune, who haz not formed a habit of acquiring property, iz generally ignorant of the use of it. He not only spends it, but he spends it without system or advantage, and often dies a poor man. But the man who knows how to *acquire* property, generally keeps hiz expenditures within hiz income; in exerting hiz talents to *obtain*, he forms a habit of *uzing* hiz property to advantage, and commonly enjoys life az wel in *accumulating* an estate, az the man of fortune does in *dissipating* one. My idea iz breefly this; that the woman who marries a man of bizziness, with very little property, haz a better chance for a fortune in middle life and old age, than one who marries a rich man who livs in idleness.

After all, ladies, it depends much on yourselves to determin, whether your families shall enjoy eezy circumstances. Any man may acquire something by hiz application; but *economy*, the most difficult article in conducting domestic concerns, iz the womans province.

You see with what frankness and candor I tell you my opinions. This iz undoutedly the best mode of conducting social intercourse, and particularly our

intercourse with the fairest part of the creation.

I rite from feeling; from obzervation; from experience. The sexes, while eech keep their proper sphere, cannot fail to render eech other social and happy. But frail az yours iz commonly represented, you may not only boast of a superior share of virtu yourselves, but of garding and cherishing ours. You hav not only an interest in being good for your *own* sakes, but *society* iz interested in your goodness; you polish our manners, correct our vices, and inspire our harts with a love of virtue. Can a man who loves an amiable woman, abandon himself to vices which she abhors? May your influence over our sex be increesed; not merely the influence of beauty and gay accomplishments, but the influence of your virtues, whoze dominion controls the evils, and multiplies the blessings of society.

THE END.



## FOOTNOTES:

[1] This remark is confined solely to *its construction*; in point of orthography, our language is intolerably irregular.

[2] In our colleges and universities, students read some of the ancient Poets and Orators; but the Historians, which are perhaps more valuable, are generally neglected. The student just begins to read Latin and Greek to advantage, then quits the study. Where is the seminary, in which the students read Herodotus, Thucydides, Xenophon, Polybius, Dionysius Halicarnasseus, Livy, Velleius, Paterculus and Tacitus? How superficial must be that learning, which is acquired in four years! Severe experience has taught me the errors and defects of what is called a liberal education. I could not read the best Greek and Roman authors while in college, without neglecting the established classical studies; and after I left college, I found time only to dip into books, that every scholar should be master of; a circumstance that often fills me with the deepest regret. "Quis enim ignorat et eloquentiam et cæteras artes descivisse ab ista vetere gloria, non inopia hominum, sed desidia juventutis, et negligentia parentum, et inscientia præcipientium, et oblivione moris antiqui?—Nec in auctoribus cognoscendis, nec in evolvenda antiquitate, nec in notitia vel rerum, vel hominum, vel temporum satis operæ insumitur."—*Tacitus, de Orat. Dial. 28. 29.*

[3] The veneration we have for a great character, ceases with an intimate acquaintance with the man. The same principle is observable in the body. High seasoned food, without frequent intervals of abstinence, loses its relish. On the other hand, objects that make

slight impressions at first, acquire strength by repetition. An elegant simplicity in a building may not affect the mind with great pleasure at first light; but the pleasure will always increase with repeated examinations of the structure. Thus by habit, we become excessively fond of food which does not relish at first tasting; and strong attachments between the sexes often take place from indifference, and even from aversion.

[4] Great caution should be observed in teaching children to pronounce the letters of the alphabet. The labials are easily pronounced; thus the first words a child can speak are *papa* and *mama*. But there are some letters, particularly *l* and *r*, which are of difficult pronunciation, and children should not be pressed to speak words in which they occur. The difficulty may produce a habit of stammering.

[5] How different this practice from the manner of educating youth in Rome, during the flourishing ages of the republic! There the attention to children commenced with their birth; an infant was not educated in the cottage of a hireling nurse, but in the very bosom of its mother, whose principal praise was, that she superintended her family. Parents were careful to choose some aged matron to take care of their children; to form their first habits of speaking and acting; to watch their growing passions, and direct them to their proper objects; to guard them from all immodest sports, preserve their minds innocent, and direct their attention to liberal pursuits.

"—Filius—non in cella emptæ nutricis sed gremio ac sinu matris educabatur, cujus præcipua laus, tueri domum, et inservire liberis. Eligebatur autem aliqua major natu

propinqua, cujus probatis spectatisque moribus, omnis cujuspiam familiæ soboles committeretur, coram qua neque dicere fas erat quod turpe dictu, neque facere quod inhonestum factu videretur. Ac non studia modo curasque, sed remissiones etiam lusus que puerorum, sanctitate quadam ac verecundia temperabat." In this manner were educated the Gracchi, Cæsar, and other celebrated Romans. "Quæ disciplina ac severitas eo pertinebat, ut sincera et interga et nullis pravitatibus detorta unius cujusque natura, toto statem pectore, arriperet artes honestas."—— *Tacitus de Orat. Dial. 28.*

The historian then proceeds to mention the corruption of manners, and the vicious mode of Education, in the later ages of Rome. He says, children were committed to some maid, with the vilest slaves; with whom they were initiated in their low conversation and manners. "Horum fabulis et erroribus teneri slatim et rudes animi imbuuntur; nec quis quam in toto domo pensi habet, quid coram infante domino aut dicat aut faciat."—— *Ibid. 29.*

[6] The practice of employing low characters in schools is not novel—Ascham, preceptor to Queen Elizabeth, gives us the following account of the practice in his time. "Pity it is that commonly more care is had; yea and that among very wise men, to find out rather a cunning man for their horse, than a cunning man for their children. They say, nay, in word; but they do so, in deed. For to one they will give a stipend of two hundred crowns, and loth to offer the other two hundred shillings. God, that sitteth in the Heaven, laugheth their choice to scorn and rewardeth their liberality as it should: for he suffereth them to have *tame*

and *well ordered horses*; but *wild* and *unfortunate children*: and therefore in the end they find more pleasure in their horse, than comfort in their child."

This is *old language*, but the facts stated are *modern truths*. The barbarous Gothic practice has survived all the attacks of common sense, and in many parts of America, a gentleman's groom is on a level with his schoolmaster, in point of reputation. But hear another authority for the practice in England.

"As the case now stands, those of the first quality pay their *tutors* but little above half so much as they do their *footmen*."—*Guardian*, No. 94.

"'Tis monstrous indeed that men of the best estates and families are more solicitous about the tutelage of a favorite *dog* or *horse*, than of their *heirs mate*."—*Ibm.*

[7] The fact related by Justin, of an ancient people, will apply universally. "Tanto plus in illis proficit victiorum ignoratio, quam in his cognitio virtutis." An ignorance of vice has a better effect, than a knowlege of virtue.

[8] Plus ibi boni mores valent, quam alibi bonæ leges.

Tac. de Mor. Germ. 19.

[9] Spirit of Laws. Book 4.

[10] The power of entailing real estates is repugnant to the spirit of our American governments.

[11] I have known instructions from the inhabitants of a county, two thirds of whom could not write their names. How competent must such men be to decide an important point in legislation!

[12] Middleton's life of Cicero, volume 1, page 14.

[13] It is worthy of remark, that in proportion as laws are favorable to the equal rights of men, the number of crimes in a state is diminished; except where the human mind is debased by extreme servitude, or by superstition. In France, there are but few crimes; religion and the rigor of a military force prevent them; perhaps also, ignorance in the peasantry may be assigned as another reason. But in England and Ireland the human mind is not so depressed, yet the distribution of property and honors is not equal; the lower classes of people, bold and independent, as well as poor, feel the injuries which flow from the feudal system, even in its relaxed state; they become desperate, and turn highwaymen. Hence those kingdoms produce more culprits than half Europe besides.

The character of the Jews, as sharpers, is derived from the cruel and villanous proscriptions, which they have suffered from the bigotry of Christians in every part of Europe.

Most of the criminals condemned in America are foreigners. The execution of a native, before the revolution, was a novelty. The distribution of property in America and the principles of government favor the rights of men; and but few men will commence enemies to society and government, if they can receive the benefits of them. Unjust governments and tyrannical distinctions have made most of the villains that ever existed.

[14] It has been already observed that a child always imitates what he sees and hears: For this reason, he should hear no language which is not correct and decent. Every word spoken

to a child, should be pronounced with clearness and propriety. Banish from children all diminutive words, all whining and all bad grammar. A boy of six years old may be taught to speak as correctly, as Cicero did before the Roman Senate.

[15] Nothing can be more fatal to domestic happiness in America, than a taste for copying the luxurious manners and amusements of England and France. Dancing, drawing and music, are principal articles of education in those kingdoms; therefore every girl in America must pass two or three years at a boarding school, tho her father cannot give her a farthing when she marries. This ambition to educate females above their fortunes pervades every part of America. Hence the disproportion between the well bred females and the males in our large towns. A mechanic or shopkeeper in town, or a farmer in the country, whose sons get their living by their father's employments, will send their daughters to a boarding school, where their ideas are elevated, and their views carried above a connexion with men in those occupations. Such an education, without fortune or beauty, may possibly please a girl of fifteen, but must prove her greatest misfortune. This fatal mistake is illustrated in every large town in America. In the country, the number of males and females, is nearly equal; but in towns, the number of genteelly bred women is greater than of men; and in some towns, the proportion is, as three to one.

The heads of young people of both sexes are often turned by reading descriptions of splendid living, of coaches, of plays, and other amusements. Such descriptions excite a desire to enjoy the same pleasures. A fortune becomes the principal object of pursuit; fortunes are

scarce in America, and not easily acquired; disappointment succeeds, and the youth who begins life with expecting to enjoy a coach, closes the prospect with a small living, procured by labor and economy.

Thus a wrong education, and a taste for pleasures which our fortune will not enable us to enjoy, often plunge the Americans into distress, or at least prevent early marriages. Too fond of show, of dress and expense, the sexes wish to please each other; they mistake the means, and both are disappointed.

[16] Cicero was twenty eight years old when he left Italy to travel into Greece and Asia. "He did not stir abroad," says Dr. Middleton, "till he had completed his education at home; for nothing can be more pernicious to a nation, than the necessity of a foreign one."—*Life of Cicero, vol. 1. p. 48.*

Dr. Moore makes a remark precisely in point. Speaking of a foreign education, proposed by a certain Lord, who objected to the public schools in England, he says, "I have attended to his Lordship's objections, and after due consideration, and weighing every circumstance, I remain of opinion, that no country but Great Britain is proper for the education of a British subject, who proposes to pass his life in his own country. The most important point, in my mind, to be secured in the education of a young man of rank of our country, is to make him an Englishman; and this can be done no where so effectually as in England." See his *View of Society and Manners*, &c. vol. 1, page 197, where the reader will find many judicious remarks upon this subject. The following are too pertinent to be omitted.—"It is thought, that by an early foreign education, all ridiculous English prejudices, will be

avoided. This may be true; but other prejudices, perhaps as ridiculous, and much more detrimental, will be formed. The first cannot be attended with many inconveniencies; the second may render the young people unhappy in their own country when they return, and disagreeable to their countrymen all the rest of their lives." These remarks, by a change of names are applicable to America.

[17] Not that the English nation was originally in slavery; for the primitiv Saxons and Germans were free. But the military tenures, established by the Gothic conquests, depressed the people; so that under the rigor of the feudal system, about the date of Magna Charta, the King and Nobles held their tenants in extreme servitude. From this depression, the English have gradually emerged into ancient freedom.

[18] The first convention of deputies in a state, is usually designed to direct the mode in which future legislatures shall be organized. This convention cannot abridge the powers of future legislatures, any further than they are abridged by the moral law, which forbids all wrong in general.

[19] The *nominal* distinction of *Convention* and *Legislature* was probably copied from the English; but the American distinction goes farther, it implies, in common acceptation, a difference of *power*. This difference does not exist in G. Britain. The assembly of Lords and Commons which restored Charles II, and that which raised the Prince of Orange to the throne, were called *Conventions*, or *parliamentary Conventions*. But the difference between these Conventions and an ordinary Parliament, is merely a difference in the manner of assembling; a *Convention* being an

assembly or meeting of Lords and Commons, on an emergency, without the King's writ, which is the regular constitutional mode of summoning them, and by custom necessary to render the meeting a *Parliament*. But the powers of this assembly, whether denominated a *Convention* or a *Parliament*, have ever been considered as coextensive and supreme. I would just remark further, that the impossibility of establishing perpetual, or even permanent forms of government, is proved already by the experience of two States in America. Pensylvania and Georgia, have suffered under bad Constitutions, till they are glad to go thro the process of calling a new Convention. After the new forms of government have been tried some time, the people will discover new defects, and must either call a third Convention, or let the governments go on without amendment, because their Legislatures, which ought to have supreme power, cannot make altertations.——[1789.]

[20] This is the date of the first writs now extant, for summoning the Knights and Burgesses.

[21] In Pensylvania, after the late choice of Delegates to Congress by the people, one of the Gentlemen sent his resignation to the President and Council, who refered it to the Legislature then sitting. This body, compozed of the servants of the people, I suppoze, solemnly resolved, that there was no power in the State which could accept the resignation. The resolv was grounded on the idea that the power of the people is paramount to that of the Legislature; whereas the people hav no power at all, except in choosing representativs. All Legislativ and Executiv powers are vested in their

Representativs, in Councilor Assembly, and the Council should have accepted the resignation and issued a precept for another choice. Their compelling the man to serve was an act of tyranny.

[22] This pernicious error subverts the whole foundation of government. It resembles the practice of some Gentlemen in the country, who hire a poor strolling vagabond to keep a school, and then let the children know that he is a mere *servant*. The consequence is, the children despise him and his rules, and a constant war is maintained between the master and his pupils. The boys think themselves more respectable than the master, and the master has the rod in his hand, which he never fails to exercise. A proper degree of respect for the man and his laws, would prevent a thousand hard knocks. This is *government in miniature*. Men are taught to believe that their rulers are their *servants*, and then are rewarded with a prison and a gallows for despising their laws.

[23] "In a democracy there can be no exercise of sovereignty but by suffrage: In England, where the people do not debate in a collective body, but by representation, the exercise of this sovereignty consists in the *choice of Representatives*." *Blackstone's Com. b. 1. ch. 2.* This is the sole power of the people in America.

[24] The septennial act was judged the only guard against a Popish reign, and therefore highly popular.

[25] Notes on Virginia, page 197. Lond. Edit. Query 13.

[26] Contracts, where a Legislature is a party, are excepted.

[27] Some jealous people ignorantly call the

proposed Constitution of Federal Government, an *aristocracy*. If such men are honest, their honesty deserves pity: There is not a feature of true aristocracy in the Constitution; the whole frame of Government is a pure Representativ Republic.

[28] Calvini Lexicon Juridicum.

[29] See Laws of the Saxon Kings.

[30] Such is the article, which excludes the clergy from a right to hold civil offices. The people, might, with the same propriety, have declared, that no merchants nor lawyers should be eligible to civil offices. It is a common opinion that the business of the clergy is wholly *spiritual*. Never was a grosser error. A part of their business is to inform the minds of people on all subjects, and correct their morals; so that they have a direct influence on government. At any rate they are subjects of law, and ought as freemen to be eligible to a seat in the Legislature; provided the people incline to choose them.

[31] No. II. IV. V.

[32] It is a capital defect in some of the States, that the government is so organized as not to admit subordinate acts of legislation in small districts. In these States, every little collection of people in a village must petition the Legislature for liberty to lay out a highway or build a bridge; an affair in which the State at large has very little interest, and of the necessity and utility of which the Legislature are not suitable judges. This occasions much trouble for the State; it is a needless expense. A State should be divided into inferior corporations, veiled with powers competent to all acts of local police. What right have the inhabitants of Suffolk to interfere in the

building of a bridge in Montgomery?[a] Who are the most competent judges of a local convenience; the whole State, or the inhabitants of the particular district?

[a] This was written in New York.

[33] An error, originating in mistake, is often pursued thro obstinacy and pride; and sometimes a familiarity with *falsehood*, makes it appear like *truth*.

[34] New York.

[35] Some have suspected from these sentiments, that I favor the insurrection in Massachusetts. If it is necessary to be more explicit than I have been in the declaration, "*I reprobate, &c.*" I must add, that in governments like ours, derived from the people, I believe there is no *possible situation* in which violent opposition to laws can be justified; because it can never be necessary. *General evils* will always be legally redressed, and *partial evils* must be borne, if the majority require it. A tender law, which interferes with *past* contracts, is perhaps the wickedest act that a Legislature can be guilty of; and yet I think the people in Rhode Island have done right, in not opposing their's, in a violent manner.

[36] Pensylvania.

[37] This assertion may seem to be contradicted by the opposition of Connecticut to the half pay act; but that opposition did not even threaten violence or arms: It was conducted in a peaceable manner; and I do not know that the State has furnished an instance of a tumultuous interruption of law.

[38] These remarks are not applicable to the mercantile part of the people, who, since the revolution, have been distinguished by their

punctuality.

[39] Published in Rhode Island, shortly after the preceding letter.

[40] See page 125.

[41] See the records of this State, where rum is called strong water. This was soon after the first distilling of spirits, and rum was not then named. It seems, however, that our pious ancestors had a taste for it, which their posterity have carefully improved.

[42] I would just mention to my fair readers, whom I love and esteem, that feathers and other frippery of the head, are disreputable in Europe.

[43] Some of the bills of rights in America declare, that the people have a right to meet together, and consult for the public safety; that their legislators are responsible to them; that they are servants, &c. Such declarations give people an idea, that as individuals, or in town meetings, they have a power paramount to that of the Legislature. No wonder, that with such ideas, they attempt to resist law.

[44] As well may the New Zealanders, who have not yet discovered Europe, fit out a ship, land on the coast of England or France, and, finding no inhabitants but poor fishermen and peasants, claim the whole country by *right of discovery*.

[45] General Prideaux was killed by the bursting of a mortar, before the surrender of the French.

[46] It has been controverted whether the capture of General Cornwallis was the result of a plan preconcerted between General Washington and Count de Grasse; or rather whether the arrival of the Count in the

Chesapeak was predetermined and expected by General Washington, and consequently all the preparations to attack New York a mere finesse to deceive the enemy; or whether the real intention was against New York, and the siege of Yorktown planned upon the unexpected arrival of the French fleet in the bay. The following letter will let the matter in its true light.

*Mount Vernon, July 31, 1788.*

SIR,

I duly received your letter of the 14th instant, and can only answer you briefly and generally from memory; that a combined operation of the land and naval forces of France in America, for the year 1781, was preconcerted the year before; that the point of attack was not absolutely agreed upon,[b] because it could not be foreknown where the enemy would be most susceptible of impression; and because we (having the command of the water with sufficient means of conveyance) could transport ourselves to any spot with the greatest celerity; that it was determined by me, nearly twelve months before hand, at all hazards, to give out and cause it to be believed by the highest military as well as civil officers, that New York was the destined place of attack, for the important purpose of inducing the eastern and middle States to make greater exertions in furnishing specific supplies, than they otherwise would have done, as well as for the interesting purpose of rendering the enemy less prepared elsewhere; that by these means, and these alone, artillery, boats, stores, and provisions, were in seasonable preparation to move with the utmost rapidity to any part of the continent; for the difficulty consisted more in providing, than knowing how to apply the

military apparatus; that before the arrival of the Count de Grasse, it was the fixed determination *to strike the enemy in the most vulnerable quarter*, so as to ensure success with moral certainty, as our affairs were then in the most ruinous train imaginable; that New York was thought to be beyond our effort, and consequently that the only hesitation that remained, was between an attack upon the British army in Virginia and that in Charleston: And finally, that, by the intervention of several communications, and some incidents which cannot be detailed in a letter, the hostile post in Virginia, from being a *provisional and strongly expected*, became the *definitiv and certain object* of the campaign.

> [b] Because it would be easy for the Count de Grasse, in good time before his departure from the West Indies, to giv notice, by expressing at what place he could most conveniently first touch to receive advice.

I only add, that it never was in contemplation to attack New York, unless the garrison should first have been so far degarnished to carry on the southern operations, as to render our success in the siege of that place, as infallible as any future military event can ever be made. For I repeat it, and dwell upon it again, some splendid advantage (whether upon a larger or smaller scale was almost immaterial) was so essentially necessary, to revive the expiring hopes and languid exertions of the country, at the crisis in question, that I never would have consented to embark in any enterprise, wherein, from the most rational plan and accurate calculations, the favorable issue should not have appeared as clear to my view as a ray of light. The failure of an attempt against the posts of the enemy, could, in no

other possible situation during the war, have been so fatal to our cause.

That much trouble was taken and finesse used to misguide and bewilder Sir Henry Clinton, in regard to the real object, by fictitious communications, as well as by making a deceptiv provision of ovens, forage, and boats, in his neighborhood, is certain: Nor were less pains taken to deceive our own army; for I had always conceived, where the imposition did not completely take place at home, it could never sufficiently succeed abroad.

Your desire of obtaining truth, is very laudable; I wish I had more leisure to gratify it, as I am equally solicitous the undisguised verity should be known. Many circumstances will unavoidably be misconceived and misrepresented. Notwithstanding most of the papers, which may properly be deemed official, are preserved; yet the knowlege of innumerable things, of a more delicate and secret nature, is confined to the perishable remembrance of some few of the present generation.

With esteem, I am, Sir, your most obedient humble servant,

G. WASHINGTON.

To ——.

[47] A dollar, in sterling money, is 4*s*6. But the price of a dollar rose in New England currency to 6*s*; in New York to 8*s*; in New Jersey, Pensylvania and Maryland to 7*s*6; in Virginia to 6*s*; in North Carolina to 8*s*; in South Carolina and Georgia to 4*s*8. This difference, originating between paper and specie, or bills, continued afterwards to exist in the nominal estimation of gold and silver.

*Franklin's Miscel. Works, p. 217.*

[48] A dollar was usually cut in five pieces, and each passed by toll for a quarter; so that the man who cut it gained a quarter, or rather a fifth. If the State should recoin this silver, it must lose a fifth.

[49] This pernicious opinion has prevailed in all the States, and done infinit mischief.

[50] Columbian Magazine for May, 1787.

[51] The existence of a custom of paying respect to these *Indian heaps*, as they are called, is proved by a ludicrous practice, that prevails among the Anglo Americans in the vicinity, of making strangers pull off their hats as they pass by this grave. A man passing by with one who is a stranger to the custom, never fails to practise a jest upon him, by telling him that a spider, a caterpillar, or some other insect is upon his hat; the unsuspecting traveller immediately takes off his hat, to brush away the offending insect, and finds by a roar of laughter, that a trick is put upon him. I have often seen this trick played upon strangers, and upon the neighbors who happen to be off their guard, to the great amusement of the country people. The jest, however, is a proof that the aborigines paid a respect to these rude monuments, and in ridicule of that respect, probably, originated the vulgar practice of the English, which exists to this day.

[52] Camden's Britannia, volume II, page 759.

[53] Mona Antiq. Restaur, page 47.

[54] That the primitiv Britons may claim a very direct descent from the ancient inhabitants of Syria and Phenicia, whose languages were but branches from the same common stock, with as Hebrew, may be made

to appear probable by a comparison of their customs; but may be almost demonstrated by a collation of the old British language with the Hebrew roots. *See my Dissertations on the English Language, Appendix.*

[55] Britannia, volume I, page 127.

[56] One as large as that is said to be found at Grave Creek, about eighty miles above Muskingum.

[57] Volume II, page 763.

[58] Camden, volume II, page 751.

[59] Mons. Mallet, in his Northern Antiquities, has produced unquestionable testimony, from the Chronicles of Iceland and others histories of the north, that the American continent was discovered about the tenth century; and the esquimaux are clearly of the same race as the Greenlanders.

[60] Elements of Criticism. Vol. I, page 198.

[61] A line of houses built on the descent of land to the river, with a street adjacent to the houses on both sides.

[62] This title, and many of the following ideas, are borrowed from a treatise of Mr. Michaelis, director of the Royal Society of Gottingen.

[63] Any person may prove this by a trifling experiment. Let him place a glass receiver or bowl over the grass in a summer's day, and the next morning he will find as much dew *under* it as around it.

The truth is this; the particles of water are constantly exhaled from the earth by the heat of the sun. During the day time, these particles ascend in an imperceptible manner, and furnish the atmosphere with the materials of

clouds and rain. But in the night, the atmosphere grows cool, while the earth, retaining a superior degree of heat, continues to throw off the particles of water. These particles, meeting the colder atmosphere, are condensed, and lodge upon the surface of the earth, grass, trees and other objects. So that the expression, *the dew falls*, is in a degree true, altho it *first rises* from the earth.

[64] It is a fact, supported by unquestionable testimony, that the savage nations on the frontiers of these States, have fewer vices in proportion to their virtues, than are to be found in the best regulated civilized societies with which we are acquainted.

[65] Uxores habent deni, duodenique inter se communes; et maxime fratres cum fratribus, et parentes cum liberis. Sed si qui sunt ex his nati; eorum habenter liberi a quibus primum virgines quæque ductæ sunt.—— *Cæsar de bell. Gall. Lib. 5.*

[66] Let an individual depend solely on his own exertions for food, and a single failure of crops subjects him to a famin. Let a populous country depend solely on its own produce, and the probability of a famine is diminished; yet is still possible. But a commercial intercourse between all nations, multiplies the chances of subsistence, and reduces the matter to a certainty. China, a well peopled country, is subject to a famin merely for want of a free commerce.

[67] *Jacob Dict.* word, *domesday*.

[68] Cowel Dict. *Daysman*.

[69] Coke Litt. 3. 248.

[70] It iz singular that the last syllable of this word *domesday*, should hav been mistaken for

*day*, a portion of time; for the latter in Saxon waz written *daeg* and *daegum*, az in the Saxon version of the Gospels; whereaz the termination of *domesday* waz formerly, and ought now to be, spelt *dey*.

[71] Cowel, Law Dict. *dome*.

[72] In some words *dom* is substituted for the ancient termination *rick*; and in one sense, it iz equivalent to *rick*, which implies jurisdiction or power. *King rick* waz used az late az Queen Elizabeth: *Bishop-rick* iz stil used, denoting the territory or jurisdiction of a bishop.

[73] Johnson derives *lay* from the Greek λαος; as he does all other words which hav some resemblance to Greek words in sound or signification. I beleev the Saxon or Gothic original and the Greek may be the same, and of equal antiquity.

[74] Blackstone Com. vol. I. 112.

[75] Camden's Britannia. *Baron.*

[76] Let no one question the probability of such changes of consonants which are formed by the same organs; for to this day *b* and *v* are often used promiscuously. In the Spanish language, we are at liberty to pronounce, *b* az *v*, or *v* az *b*; and with us, *marble* is often pronounced *marvle*. It is also certain that the Roman *vir* is found in the word mentioned by Cesar. Com. 11. 19. *Vergo bretus*, an annual magistrate among the Ædui, a nation of Germany. This word is derived from *vir*, and *guberno*, altho Cesar and Tacitus never suspected it. The same word iz mentioned by Mc Pherson, az stil existing in the Erst language, *Fergubreth*; and its meaning iz the same az in Cesar's time: A decisiv argument that *vir*, *fer*, and *bar*, are radically the same; and that the ancient Celtic language had a

common origin with the Latin. A similar change of consonants iz observable in the words *volo* and *bull* (the Pope's decree) which are radically the same; az also the German *woll* and the English *will*. So the ancient *Pergamus* iz called by the modern Turks, *Bergamo*. See Masheim's Eccle. Hist. Vol. I. and my Dissertations on the Eng. Language, Appendix.

[77] The feudal system iz commonly supposed to hav originated in the conquest of the Roman empire by the northern nations. The rudiments of it however may be discovered az erly az the Cimbric invasion of Italy, a century before the Christian era. Se Florus. lib. 3. c. 3. The Cimbri and Teutones were tribes of the same northern race, az the Germans and Saxons.

[78] So it iz spelt in the Saxon laws; but its root waz probably *circe*, from *sciran*, to divide. *C* before *i* and *e* was in Saxon pronounced *ch* or neerly; hence *circe* is *chirche*.

[79] Blackstone Com. vol. I, 112. That each shire had its bishop, seems to be obvious from a law of Edgar, c. 5, where, respecting the county court, it iz ordered, "celeberrimo huic conventui episcopus et aldermannus intersunto;" not *unus episcoporum*, but *the bishop* and *erl*.

[80] *Parson* iz said, by Coke and others, to be derived from *persona*, because this officer represents the corporation or church, *vicem seu personam ecclesiæ gerere*. This reezon seems to be obscure and unsatisfactory. It iz possible the word may proceed from the same root az *parish*, viz. *par*.

[81] Great synod—great meeting.

[82] Stuarts English Constitution, p. 275.

[83] Mallets North. Antiq. Vol. I. 61. The

northern nations had, like the Greeks, *twelv* principal deities, and this article in their religious beleef might originate the institution of *twelv preests*, *twelv judges*, &c. Many civil institutions among rude nations, may be traced to their religious opinions; and perhaps the preference given to the number *twelv*, in Germany, in Greece, and in Judea, had its origin in some circumstances az ancient az the race of the Jews.

*Odin*, which in Anglo Saxon, waz *Woden*, waz the supreme god of the Goths, answering to the Jupiter of the Greeks: And it iz remarkable that the words, *god*, *good*, *odin* and *woden*, all sprung from one source. We shall not be surprized that the same word should begin with such different letters, when we reflect that such changes are very common. The Danes omit *w* in *word*; a dictionary they call *ord-bog*, a word book; and the Spaniards, in attempting to pronounce *w*, always articulate *g*. See my Dissertations, p. 335.

[84] North. Antiq. Vol. I. 169.

[85] London, in England, probably had its name from this place.

[86] North. Antiq. Vol. II. 41.

[87] See Chardin's Travels, Vol. III.

[88] Tac. de Mor. Germ. c. 7.

[89] Tac. de Mor. Germ. c. 11.

[90] C. 12.

[91] De Bello Gallico. lib. VI. c. 21.

[92] Com. Vol. III. 35. This cannot be strictly true; for the *principes* were electiv; and therefore could not hav owned the land (pagus) or exercised the office of judge in right of their property. The kings, princes, and

generals of the ancient Germans were elected; some for their *nobility*, that iz, the respectability of their families, arising from the valor and merits of their ancestors; others, az their *duces*, military commanders, were chosen for their *virtues*, their personal bravery. This I take to be the meening of that passage in Tacitus, "Reges ex nobilitate, duces ex virtute sumunt."

"The *Comites ex plebe*," says Selden, chap. 18, "made one rank of freemen superior to the rest in wisdom." The Saxon nobles were called *adelingi*, or wel born; the freemen, *frilingi*, or free born; the latter might be assistants in the judicial department. The lower ranks were called *lazzi* or slaves; and indolence iz so necessary a consequence of bondage, that this word *lazzi*, or *lazy*, haz become sinonimous with *indolent*, *sluggish*. This word iz a living national satire upon every species of slavery. But the effect of slavery iz not merely indolence; its natural tendency iz to produce *dishonesty*; "almost every slave, being, says Dr. Franklin, from the nature of hiz employment, a theef." Az a striking proof of this, we may instance the change of meening in the words *villain* and *knave*, which at first denoted *tenant* and *plowman*, but during the oppressions of the feudal system, come to signify, *a rogue*. *Vassal* also denoted originally, a *tenant* or *feudatory* of a superior lord. It waz an honorable name, the barons being called the kings *vassals*. But servitude iz to natural a consequence of the tenure of lands under a proprietor, in see, that *vassal* haz become sinonimous with slave.[c] The change of meening in theze words iz a volum of instruction to princes and legislators. Reduce men to bondage, and they hav no motiv but feer to keep them industrious and honest, and of course, most of them commence

rogues and drones. Why hav not the tyrants of Europe discovered this truth? Good laws, and an equal distribution of the advantages and the rights of government, would generally be an effectual substitute for the bayonet and the gallows. Look thro Europe; wherever we see poverty and oppression, there we find a nursery of villains. A difference in the property, education and advantages, originates the difference of character, between the nobleman of nicest honor, and the culprits that swing at Tyburn.

> [c] Blackstone, Vol. II. 52, says, "we now uze the word *vassal* opprobriously, az sinonimous to slave or bondman, on *account of the prejudices we hav justly conceived against the doctrins grafted on the feudal system*." So good a man ought not to hav uzed the word *prejudice*; and so great a man ought to hav assigned a better reezon for this *opprobriousness* of the modern word *vassal*.

[93] De Mor. Germ. c. 13.

[94] The practice of choosing assistant judges in the Roman commonwealth, waz something similar to our mode of impannelling a jury. Theze assistants were sometimes a hundred, and it iz not improbable, the Roman and German customs of electing that number might be derived from the same original.

[95] See Coke Litt. and Hargraves notes on this subject.

[96] Mallets North. Antiquities.

[97] Mentioned in the preceding note, copied from Mallet.

[98] These facts gave rise to Cokes quaint remarks, "that the law delighteth herself in the number of twelv;" and he adds, "the number of

twelv iz much respected in holy writ; as 12 apostles, 12 stones, 12 tribes, &c." On juries, fol. 155.

[99] Com. Vol. I. 398.

[100] Com. Vol. I. 399.

[101] I am by no meens certain that this derivation of *counts* from *comites*, iz just; it iz at leest az probable az otherwise, that *contees* may be a Gothic word. But this iz conjecture.

[102] See Cowel on the word *thane*; and in Domesday, "thanus, est tenens, qui est caput manerii."

[103] Com. Vol. I. 403. "But the same author, in page 399, says, the right of *peerage* seems to hav been originally territorial, that iz, annexed to lands, manors, &c. the proprietors of which were, in right of thoze estates, allowed to be *peers of the relm*;" that iz, in plain English, certain men, in right of their estates, were allowed to be *equals* of the relm. This will not pass for reezon and truth on this side of the Atlantic.

[104] Horne, in hiz Mirror of Justices, chap. I. sect. 2. says, "altho the king ought not to hav any *peer* (that iz, *equal*) in the land, yet because he cannot be a judge in a case where he iz a party, it waz behovefull by the law that he should hav *companions* to heer and determin of all writs and plaints of all wrongs, &c. Theze companions are now called *countees*, *earles*, according to the Latin *comites*, &c." This iz singular! The king ought to hav no *equal*; therefore he ought to hav *companions* for judges; or, in plainer words, if possible, the king ought not to hav *equals* in the kingdom, therefore he should hav *peers* to heer and determin criminal causes. Common sense at leest, if not etymology, will say, "the king

ought not to hav *equals*, but he must hav *judges*."

[105] Blackstone, Vol. I. 157, from Staunford P C. 153.

[106] It iz now held that *e converso*, a vote of the spiritual lords, if a majority, iz good against all the temporal lords; but Coke douts it. Supposing this to be admitted, the privilege is modern, and makes nothing against my supposition.

[107] It haz been remarked that *baron* iz the most general title of nobility; indeed every nobleman waz originally a *baron*. Coke. I. 74. The lords of manors, both in England and on the continent, were the suitors in the king's court, and called *pares curtis* or *curiæ*. The lords tenants were called the *peers* of hiz court baron. See Blackstone, Vol. I. ch. 4.

[108] The Norman princes might well call their councils *parliaments*, *meetings of barons*; for they often summoned none but the barons and clergy, and sometimes but a few of the barons. Henry the third, once summoned but twenty five barons of two hundred and fifty, then in the kingdom, and one hundred and fifty of the clergy. Yet this meeting waz a *parliament*. Selden, chap. 67.

[109] Thoze who wish to see a more particular account of the extensiv judicial powers of the barons in Europe, may consult Robertson's Charles V. Vol. I. page 49, and note [Z] page 250, where the authorities are referred to.

[110] Coke Litt. 74. That the freeholders were judges iz tru; but that the barons and freeholders derived their authority from kings, iz wholly a mistake.

[111] 1. Coke Litt. 73.

[112] Cap. I. Sect. III.

[113] He must speak of the state of things after the conquest, otherwise *justices in eyre* would

not hav been mentioned.

[114] Law Dict. *Court baron.*

[115] Bacon's Selden chap. 24.

[116] Some say this see waz eight hundred akers of land; others, six hundred and eighty, or 20l. a year, which, considering the difference in the value of money, waz equal perhaps to 300l. or 400l. at the present time. Here seems to be a confusion of ancient and modern ideas. The ancient knights see waz a certain tract of land; in later times that see was valued at 20l. in money.

[117] Hale's Hist of Com. Law, 154.

[118] L L Ethel. c. 4.

[119] We find by ancient records, that the clergy, before the conquest, were sometimes summoned az jurors or judges in the temporal courts.[d] But the *thanes* were the most usual judges in the courts baron. The proper Saxon name of this court waz *halimate* or *halmote, hallmeeting*; "Omnis causa terminetur vel hundredo, vel comitatu, vel *halimote*, socam habentiam, vel dominorum curia."[e] And in W. Thorn, Anno 1176, the judges of this court are expressly said to be thanes, "*thanenses, qui* in *Halimoto* suo, in Thaneto, omnia sua judicia exerceri," (debent.) Selden, chap. 47, mentions a law of Henry I, which recites a custom of that time, by which "the *bishops* and *erls*, with *other the cheef men* of the county, were present in the county court az assistants in directory of judgement." Nothing can be more explicit. And altho Selden, in a passage hereafter quoted, mentions a compromise between Gunthrune, the Dane, and the Saxon king, that men of a rank inferior to lords should be tried by their *equals*, yet this inferior rank could extend only to *freemen*; for others were never admitted

upon juries.

[d] See Selden, tit Sax. bishops.

[e] L. L. Hen. I. cap. 10.

[120] "And the sheriffs and bailiffs caused the free tenants of their bailiwicks to meet at the counties and hundreds, at which justice waz so done, that every one so judged hiz nabor by such judgement az a man could not elsewhere receev in the like cases, until such times az the customs of the relm were put in writing, and certainly established."—— Mirror. chap 1. sect. 3.

[121] Fleta. lib. I. c. 47.

[122] *Laghman*, to this day, iz the name of a judge or magistrate, both in Sweden and Iceland. In theze countries it retains its primitiv and tru English meening.—Mallets North. Antiq. Vol. I.

[123] Selden waz forced to confess the *jure consulti* and *ætate superiores*, so often mentioned in the Saxon laws, az composing the homage or jury of twelv, to hav been *cheef men both for experience and knowlege*. To such as *stumble at this conceet*, as he expresses it, he remarks that the work of jurors requires them to be cheef men, az they *judge of matter of fact*; (a reezon drawn from the modern notions of jurymen's province.) And he adds, the jurors, who were co-assessors, with the bishop or sheriff in the court, were seeted in the most eminent place, and might hav held it to this day, az they do in Sweden, had the *cheef men* still holden the service. But the great became negligent of such public duties, and left the business to thoze of a meener condition, who would not or durst not take the bench; and therefore took their seets on the floor—(took separate seets.) He says further, that the Danes,

on their settlement in England, would not associate with men of this condition; so that a compromise took place between Alfred, the Saxon king, and Gunthrune, the Dane, by which it waz decreed, that a lord or baron should be tried by twelv lords, and one of inferior rank, by *eleven of his equals* and *one lord*. This waz in the case of homicide only; tho afterwards the law might extend to other cases and civil suits. By hiz own account of the matter, this writer supposes the trial by *twelv* waz originally a trial by the *cheef men*, (*thanes lahmen*) and the idea of equality waz never suggested in the practice till the ninth or tenth century. But juries existed az courts for centuries before; and the word *peers* iz acknowleged to hav had its origin on the continent, where it signified the lords or members of the high court instituted by Charlemagne. In modern use, trial by *peers* iz trial by equals *generally*; for men are mostly become freemen and landholders; but this waz not the primitiv practice; nor was *equality* the basis of the institution. Even if we suppose the word peer to hav signified *equal*, as uzed originally on the continent, it extended no privilege on that account to the body of the nations where it waz used; for it ment only the *kings equals*, hiz *comites*, hiz dukes, erls and barons, among whom he waz merely *primus inter pares*. In England Bracton, who wrote under Henry III, declares the king waz considered in this light; and that the "*erls and barons are his associates*, who ought to bridle him, when the law does not."[f] The courts then which Charlemagne instituted in France and Germany, consisted merely of the kings *peers* or *equals*; and in theze countries, the courts remain mostly on the ancient footing; so that none but the nobility can be tried by their

*equals*. In this sense of the word therefore juries were not used in England, till the compromise between Alfred and Gunthrune, about the year 900. Before that period, the jurors were not called or considered az *equals*; but they were *thanes*, *jure consulti*, *lahmen* and *clergymen*. A distinction afterwards took place, and lords were tried by *their* equals, and commoners by *theirs*.

[f] L. I. c. 16.

[124] "The division of the county waz done by *freemen*, who are the *sole judges thereof*."[g] Selden, Matthew, Paris, and others, testify that the *folk-mote*, peeple's meeting or county court, waz a county parliament, invested with legislativ or discretionary powers in county matters. In theze small districts, they appeer to hav been competent to decide all controversies, and make all necessary local regulations. The legislativ, judicial and executiv powers, both civil and ecclesiastical, were originally blended in the same council; the witena-gemote had the powers of a legislature, of a court of law, and of a court of equity over the whole kingdom, in all matters of great and general concern. But this court waz composed of lords, bishops, and *majores natu* or *sapientes*, men respected for their age and lerning, who were of the rank of *freemen*. All the freemen were bound also to do suit in the lords court, and to attend the *folk-mote* on the sheriffs summons; but *twelv* were usually selected to sit az judges in common cases.

[g] Selden on the authority of Polydore.

The vast powers of the county court, when the freeholders were all summoned and actually sat in judgement, may be understood by two facts. One, the conquerors half-brother, and Lanfrank, archbishop of Canterbury, had a

dispute about certain lands and tenements in Kent. The archbishop petitioned the king, who issued hiz writ, and summoned the freemen of the county, to take cognizance of the suit. After three days trial, the freemen gave judgement for the archbishop, and the decision waz final.

In like manner, two peers of the relm, a Norman and an Italian, submitted a title in fifteen manors, two townships, and many liberties, to the freeholders of the county, whose judgement waz allowed by the king.[h]

[h] Selden. Chap. 48.

[125] "Magnaque et comitum æmulatio, quibus primus apud principem suum locus; et principum, cui plurimi et acerrimi comites."[i] The princes kept az many of these retainers in their service in time of peace, az they could support. "Hæc dignitas, hæ vires, magno semper elestorum juvenum globo circumdari, in pace, decus, in bello, præsidium. Ibid."

[i] Tacitus de mor Germ. c. 13.

[126] In the time of Henry II, there were in England eleven hundred and fifteen castles, and az many tyrants az lords of castles. William of Newbury says, in the reign of Stephen, "Erant in Anglia quodammodo tot reges, vel potius tyranni, quot domini castellorum." It waz the tyranny of theze lords or their deputies, which rendered the intervention of twelv judges of the naborhood, highly necessary to preserve the peeple from the impositions of their rapacious masters. Hence the privilege of this mode of trial derived an inestimable valu.

[127] Connecticut.

[128] About the year 580.

[129] Heriots or reliefs.

[130] Lancæe.

[131] Possibly for *Mancusæ*, i. e. thirty pence.

[132] Capatanei.

[133] This opinion of the lerned Camden, adds no small weight to my conjectures reflecting the origin of trial *per pares*.

[134] Optimos.

[135] Blackstone Com. Vol. I. 100.

[136] Lelands Introd. to Hist. of Ireland.

[137] L. L. Hoeli.

[138] See my Dissertations on the English language, 313.

[139] This iz not accurate. The thaneships or lordships of the Saxons, at the conquest, took the title of *baronies*; but the divisions probably existed before.

[140] *Curtis*, *court* and the Spanish *Cortez* are all the same word.

[141] In a conversation I had at Dr. Franklin's on this subject, the doctor admitted the principle, and remarked, that a man who haz 1000l. in cash, can loan it for six per cent. profit only; but he may bild a house with it, and if the demand for houses iz sufficient, he may rent hiz house for fifteen per cent. on the value. This iz a fair state of the argument, and I challenge my antagonists to giv a good reezon for the distinction which the laws make in the two cases; or why a man should hav an unrestrained right to take any sum he can get for the use of hiz house, and yet hiz right to make profit by the loan of money, be abridged by law.

[142] See Blackstone on this subject, Com. Vol. II. 455, where the author's reezoning holds

good, whether against fixing the value of horse hire or money lent. All exorbitant demands are unjust *in foro conscientiæ*; but what right haz a legislature to fix the price of money loaned, and not of house-rent?

[143] The legislatures of several states during the late war, were rash enough to make the attempt; and the success of the scheme waz just equal to the wisdom that planned it.

[144] Blackstone Vol. II. 462.

[145] What are marine insurances, bottomry, loans at respondentia and annuities for life, but exceptions to the general law against usury? The necessity of higher interest than common iz pleeded for theze exceptions. Very good; but they proov the absurdity of attempting to fix that, which the laws of nature and commerce require should be fluctuating. Such laws are partial and iniquitous.

[146] Robertsons Charles V. Vol. I. 280.

[147] Blackstone Com. Vol. I. 369.

[148] Blackstone remarks that allegiance iz applicable, not only to the political capacity of the king, or regal office, but to hiz *natural person* and *blood royal*. I would ask then what *blood royal* there can be in a man, except in hiz *kingly capacity*?

[149] Except the case of Ambassadors or other agents.

[150] It may be said, that *moral right* and *rong* must ultimately be resolved into the wil of Deity, because society itself depends on hiz wil. This iz conceded; I only contend that moral fitness and unfitness result *immediately* from the state of created beings, with relation to eech other, and not from any arbitrary rules imposed by Deity, subsequent to creation.

[151] By the ancient laws of England, relations in the same degree, whether by consanguinity or affinity, were placed exactly on a footing. See the suttle reezoning by which the prohibitions were supported, in Reeve's History of the English Laws, Vol. IV.

[152] Lands in Connecticut desend to the heirs in the following manner: First to children, and if none, then to brothers and sisters or their legal representativs of the whole blud; then to parents; then to brothers and sisters of the half blud; then to next of kin, the whole blud taking the preference when of equal degree with the half blud.

[153] See my Dissertations on the English Language, page 106.

[154] See Winthrop's Journal, Mather's Magnalia, and Hutchisons Collection of papers.

[155] During the late war, eight thousand newspapers were published weekly at one press in Hartford.

[156] This iz an evil of great magnitude.

[157] Uxor deinde ac liberi amplexi; fletusque ab omni turba mulierum ortus, et comploratio sui patriæque, *fregere tandem virum*.—Liv. lib ii. 40.

[158] The foregoing facts are taken from Leaming and Spicer's Collection; a concise view of the controversy, &c. published in 1785; and from the acts of the legislature of New Jersey.

[159] See Dr. Franklins Review of the guvernment of Pensylvania.

[160] The powers of legislation by the late constitution, were designed to be vested in the peeple; but in fact were vested no where. The pretended legislature consisted of but one

house; and no bill, except on pressing occasions, could be passed into a law, until it had been published for the assent of the peeple.

[161] Clerk or register.

[162] See the proceedings of the legislature of Maryland in 1785.

[163] Virginia however iz not alone in this mezure. Rhode Island formerly took the same steps, and stil adheres to its *liberality*.

[164] The consumption of beef in New England iz the reezon why the exports of that article do not exceed thoze of Ireland. Most of the laboring peeple in New England eet meet twice a day, and az much az their appetites demand. Suppose eech person to eet but six ounces a day on an average, which iz a low estimate, and the inhabitants of New England consume more than *one hundred million* pounds of meet, in a yeer. I do not know what proportion of this iz beef, but the greatest part iz beef and pork, worth *two pence*, and *two pence half penny* a pound. By the best accounts from Ireland, it iz probable the inhabitants do not consume a *twentieth part* of the meet, consumed in the northern states, in proportion to their numbers. But suppoze they consume a *tenth*; let the New England peeple reduce the consumption of meet in the same proportion, and they would save *ninety millions* for exportation. This at two pence a pound makes the sum of *two million five hundred thousand dollars*, which iz a very handsome commercial income. Let the reduction proceed to all kinds of food and clothing; let our common peeple liv like the poor of Ireland in *all respects*, and they would save twice the sum. I would not recommend this to my countrymen; I wish them to enjoy good eeting and drinking. But I

make theze estimates to show them that they never wil hav much *money*; for they eet and drink all they ern.

[165] I say Boston, but I beleev the observations to be made at Cambridge.

[166] I once passed the cape at *five* or *six leegs* from the breakers, and found but seven fathoms of water.

[167] It iz evident, from the silence of all ancient monuments, that the heeling art waz not cultivated, and scarcely known among the old Romans. For several ages from the bilding of Rome, there iz hardly any mention made of a physician. Pliny relates, that Rome flurished, six hundred yeers, without physicians; that iz, the profession waz not honorable, being confined to servants or other low karacters. In Seneca's time, many of theze had acquired estates by the bizziness; but they were stil held in no estimation. "Bona in arte medendi humillimisque quibus contingere videmus." After the conquest of Greece and Asia, the manners of the Romans were corrupted by the luxuries of the eest; diseeses multiplied, and the practice of physic became more necessary and more reputable; but the art of surgery waz not separated from that of medicin, til the times of the emperors.

[168] Qui diutissime impuberes permanserunt, maximam inter suos ferunt laudem: Hôc ali staturam, ali vires, nervosque confirmari putant. Intra annum vero xx feminæ notitiam habuisse, in turpissimis habent rebus.—— Cesar De Bel. Gal. lib. 6. 19.

[169] The ancients were wiser than the moderns in many respects; and particularly in restraining certain vices by *opinion*, rather than by *positiv injunctions*. Duelling and profane

swearing are prohibited by the laws of most countries; yet penalties hav no effect in preventing the crimes, whilst they are not followed by loss of reputation. Vices which do not immediately affect the lives, honor or property of men, which are not *mala in se*, which are eezily conceeled, or which are supported by a principle of honor or reputation, are not restrainable by law. Under some of theze description fall, duelling, profane swearing, gambling, &c. To check such vices, public opinion must render them infamous.[j] Thoze who hav the distribution of honors and offices, may restrain theze vices by making the commission of them an insuperable bar to preferment. Were the *Prezident* and the executivs of the several states, to be az particular in enquiring whether candidates for offices are given to gambling, swearing or debaucheries; whether they hav ever given or receeved a challenge, or betrayed an innocent female; az they are in enquiring whether they are men of abilities and integrity; and would they, with undeviating resolution, proscribe from their favor and their company, every man whoze karacter, in theze particulars, iz not unimpeechable, they would diminish the number of vices, exclude some wholly from society, banish others from genteel company, and confine their contagion to the herd of mankind. But where iz the man of elevated rank, of great talents, of unshaken firmness, of heroic virtue, to begin the glorious reformation? America may now furnish the man, but where shall hiz successor be found?

[j] See Vattels Law of Nations, b. I. ch. 13.

[170] See my Dissertations on the English Language, 4.

## TRANSCRIBER'S NOTE:

In some essays the writer makes extensive use of phonetical spelling. Inconsistencies in spelling have therefore not been corrected.

Missing punctuation has been silently corrected. Unmatched double quotation marks in the text were not corrected.

The text on page 37 has been moved to a footnote after the second paragraph on page 5 as the author suggests.

## CORRECTIONS:

| page | original | correction |
|---|---|---|
| xvi | [missing in original] | 322 |
| 021 | mein | mien |
| 24 | governments | government |
| 028 | abandonded | abandoned |
| 057 | dictinction | distinction |
| 125 | crying | carrying |
| 153 | Pensylvavia | Pensylvania |
| 160 | removeaable | removeable |
| 164 | concurrred | concurred |
| 196 | intrisic | intrinsic |
| 221 | Nothwithstanding | Notwithstanding |
| 242 | hackeyned | hackneyed |
| 262 | my | may |
| 265n | propietor | proprietor |

| | | |
|---|---|---|
| 279 | be-before | before |
| 302 | clossing | closing |
| 323 | examininning | examining |
| 333 | statues | statutes |
| 333 | prohited | prohibited |
| 376 | Brirain | Britain |
| 377 | Eeest | Eest |
| 395n | 'ma la | mala |
| 397 | prepense | pretense |
| 398 | reputatation | reputation |

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