

A  
HISTORY OF VIRGINIA,

FROM ITS

DISCOVERY AND SETTLEMENT

BY EUROPEANS

TO

T H E P R E S E N T T I M E .

BY

ROBERT R. HOWISON.

VOL. II.

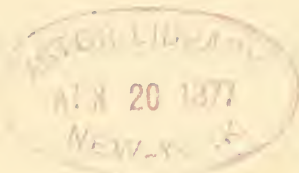
CONTAINING THE HISTORY OF THE COLONY AND OF THE STATE FROM  
1763 TO THE RETROCESSION OF ALEXANDRIA IN 1847, WITH A  
REVIEW OF THE PRESENT CONDITION OF VIRGINIA.

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RICHMOND:  
DRINKER AND MORRIS.

NEW YORK AND LONDON:  
WILEY AND PUTNAM.

1848.



Entered, according to the Act of Congress, in the year 1847,  
By DRINKER AND MORRIS,  
In the Clerk's Office of the District Court of the United States in and for  
the Eastern District of Virginia.

C. SHERMAN, PRINTER,  
19 St. James Street, Philadelphia.



A

# HISTORY OF VIRGINIA,

FROM ITS

DISCOVERY AND SETTLEMENT.

TO  
THE PEOPLE OF VIRGINIA.

This Volume,

CONTAINING

THE REVOLUTIONARY AND MODERN HISTORY  
OF THEIR STATE.

WITH

A REVIEW OF HER PRESENT CONDITION,

IS RESPECTFULLY DEDICATED,

BY

THE AUTHOR.

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# ERRATA.

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## P R E F A C E.

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THE volume now presented to the public concludes the history of Virginia from 1763 to the year 1847, and contains also a review of her present condition. The Author has found the task more interesting and more difficult than the composition of the first volume; and as no one can estimate its difficulty more fully, so it is probable that none can perceive its defects more clearly than himself. But he has persevered in the plan of stating facts upon none but the best authorities, of giving the names of his witnesses to his readers, and of laying open his inferences to full inspection.

It will be at once remarked, that his plan has brought him in contact with many delicate subjects, and with individuals either now living themselves or having near relatives alive. He can hardly hope that he will give satisfaction to all. Were he to pretend that he has no preferences in politics, in religion, or in views of the social system, he would instantly forfeit all right to public confidence. But preferences may be well founded. He has eagerly striven to divest his mind of all prejudice and undue prepossession, and to reach *the truth* wherever it could be attained. If, therefore, any reader shall find in this work any statement which does not please him, he is earnestly asked to pause, to reconsider his own opinion, to examine carefully the authorities cited for facts, and the deductions drawn from them. When he shall have bestowed as much labour in reviewing the statement as has been devoted to its original preparation, if his objections are not removed, the Author will be pleased to hear them from him.

The first volume of the work has been received with a degree of favour for which the Author is truly grateful. It has been

most kindly commented upon by many who were competent to judge of its merits. In confessing the pleasure he has derived from favourable criticisms, he would not forget to render his acknowledgments to those who have undertaken the important duty of pointing out his sins of omission and commission. He has endeavoured to give proper heed to their rebukes. Wherever the censure has seemed to him to be just, and not the result of inexperience, false taste, and undue self-esteem in the critic, he has allowed it full weight in his subsequent labours. Evidence of his willingness to correct what he has thought inaccurate in the first, will be found in the present volume.

There is a healthful philosophy to be learned from the history of Virginia, and the Author would be grieved to think that he had entirely failed in inculcating it. On this subject an immature critic will easily fall into errors. History must not teach her lessons by long courses of reflection and trains of argument, continued like the reasonings in a work on ethics or political economy. She must teach by a proper selection and arrangement of her basis of *facts*. To make a child hate national ingratitude, many laboured reflections on the subject might be administered to him without effect, but if the banishment of Aristides from Athens were related to him, with a single sharply-pointed comment, it would make an impression never to be erased. And men are but "children of an older growth." If the reader of these volumes shall learn from them that idleness and profligacy will produce want and wretchedness; that perseverance against obstacles will insure success; that tyranny in government will lead to rebellion in its subjects; that ceaseless vigilance is the price of independence; that religion, in order to be pure, must be free; that weakness in government may be as dangerous as strength; that children will suffer because of the sins of their parents; and that education is necessary to national happiness,—he will learn lessons in philosophy such as Virginia should be glad to teach, and such as her people will act upon when they fulfil their proper duties as citizens of the oldest member of the American Confederacy.

RICHMOND, VIRGINIA,  
November 11th, 1847.

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LIST OF PRESIDENTS, GOVERNORS, ETC., OF VIRGINIA,  
DURING HER EXISTENCE AS A COLONY AND A STATE.

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1607. Edward Maria Wingfield,	-	-	-	President.
1607. John Ratcliffe,	-	-	-	"
1608. John Smith,	-	-	-	"
1609. George Percy,	-	-	-	"
1609. Thomas West, Lord Delaware,	-	-	-	Governor.
1611. Thomas Dale,	-	-	-	High Marshal.
1616. George Yeardley,	-	-	-	Lieutenant-Governor.
1617. Samuel Argal,	-	-	-	" "
1619. George Yeardley,	-	-	-	Governor.
1621. Francis Wyatt,	-	-	-	"
1626. George Yeardley,	-	-	-	"
1627. Francis West,	-	-	-	"
1628. John Potts,	-	-	-	"
1629. John Hervey,	-	-	-	"
1635. John West,	-	-	-	"
1635. John Hervey,	-	-	-	"
1639. Francis Wyatt,	-	-	-	"
1641. William Berkeley,	-	-	-	"
1645. Richard Kemp,	-	-	-	Lieutenant-Governor.
1645. William Berkeley,	-	-	-	Governor.
1652. Richard Bennett,	-	-	-	"
1656. Edward Digges,	-	-	-	"
1658. Samuel Matthews,	-	-	-	"
1660. William Berkeley,	-	-	-	"
1677. Herbert Jeffries,	-	-	-	Lieutenant-Governor.
1677. Herbert Jeffries,	-	-	-	Governor.
1678. Henry Chicheley,	-	-	-	"
1679. Thomas, Lord Culpeper,	-	-	-	"
1680. Henry Chicheley,	-	-	-	Lieutenant-Governor.
1684. Lord Howard of Effingham,	-	-	-	Governor.
1689. Nathaniel Bacon,	-	-	-	Lieutenant-Governor.
1690. Francis Nicholson,	-	-	-	" "
1692. Edmund Andros,	-	-	-	Governor.
1698. Francis Nicholson,	-	-	-	"
1704. Earl of Orkney,	-	-	-	"
1705. Edward Nott,	-	-	-	Lieutenant-Governor.
1706. Edmund Jennings,	-	-	-	" "

# XVI LIST OF PRESIDENTS, GOVERNORS, ETC.

1710.	Robert Hunter,	-	-	-	-	Lieutenant-Governor.
1710.	Alexander Spotswood,	-	-	-	-	" "
1722.	Hugh Drysdale,	-	-	-	-	" "
1726.	Robert Carter,	-	-	-	-	" "
1727.	William Gooch,	-	-	-	-	" "
1749.	—— Robinson,	-	-	-	-	" "
1749.	Lord Albemarle,	-	-	-	-	Governor.
1750.	Louis Burwell,	-	-	-	-	Lieutenant-Governor.
1752.	Robert Dinwiddie,	-	-	-	-	" "
1758.	John Blair,	-	-	-	-	" "
1758.	Francis Fauquier,	-	-	-	-	Governor.
1768.	John Blair,	-	-	-	-	Lieutenant-Governor.
1768.	Norborne Berkeley De Botetourt,	-	-	-	-	Governor.
1770.	William Nelson,	-	-	-	-	Lieutenant-Governor.
1772.	John, Lord Dunmore,	-	-	-	-	Governor.
1776.	Patrick Henry,	-	(State)	-	-	Governor.
1779.	Thomas Jefferson,	-	"	-	-	"
1781.	Thomas Nelson,	-	"	-	-	"
1781.	Benjamin Harrison,	-	"	-	-	"
1784.	Patrick Henry,	-	"	-	-	"
1786.	Edmund Randolph,	-	"	-	-	"
1788.	Beverley Randolph,	-	"	-	-	"
1791.	Henry Lee,	-	"	-	-	"
1794.	Robert Brooke,	-	"	-	-	"
1796.	James Wood,	-	"	-	-	"
1799.	James Monroe,	-	"	-	-	"
1802.	John Page,	-	"	-	-	"
1805.	William H. Cabell,	-	"	-	-	"
1808.	John Tyler,	-	"	-	-	"
1811.	James Monroe,	-	"	-	-	"
1811.	George W. Smith,	-	"	-	-	"
1812.	James Barbour,	-	"	-	-	"
1814.	Wilson Carey Nicholas,	-	"	-	-	"
1816.	James P. Preston,	-	"	-	-	"
1819.	Thomas M. Randolph,	-	"	-	-	"
1822.	James Pleasants,	-	"	-	-	"
1825.	John Tyler,	-	"	-	-	"
1827.	William B. Giles,	-	"	-	-	"
1830.	John Floyd,	-	"	-	-	"
1834.	Littleton W. Tazewell,	-	"	-	-	"
1836.	Wyndham Robertson,	-	"	-	-	Lieutenant-Governor.
1837.	David Campbell,	-	"	-	-	Governor.
1840.	Thomas W. Gilmer,	-	"	-	-	"
1841.	John M. Patton,	-	"	-	-	Lieutenant-Governor.
1841.	John Rutherford,	-	"	-	-	" "
1842.	John M. Gregory,	-	"	-	-	" "
1843.	James McDowell,	-	"	-	-	Governor.
1846.	William Smith,	-	"	-	-	"

PART III.





# HISTORY OF VIRGINIA.

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## CHAPTER I.

National Debt of Great Britain—Her authority in America—Sir Robert Walpole—Injustice of taxing the Colonies—Lord Chatham—Doctor Johnson—Patrick Henry—His early life—Clergy and Two Penny Act—Clergy suit—Henry's eloquence—Indian War—George Grenville proposes to raise revenue by taxing the Colonies—Virginia remonstrates—Stamp Act—Indignation in America—Virginia Legislature of 1765—Patrick Henry's Resolutions—Their effect—First Congress—Stamp Act repealed—Treasurer Robinson—Death of Governor Fauquier—His character—Charles Townsend—Duties on tea and other articles—Action in Virginia—Norborne Berkley—Baron de Botetourt arrives—His character—First Virginia Convention—English injustice—Death of Botetourt—Lord Dunmore governor—Dabney Carr—Boston Port Bill—Raleigh Tavern—Convention in Williamsburg—Indian Hostilities—General Andrew Lewis—Battle of Point Pleasant—Severe Loss of the Virginians—Savages defeated—Speech of Logan—Convention of 1775 in Richmond—Patrick Henry's great speech—Its effect—Dunmore secretly removes powder from Williamsburg—War.

SINCE the reign of William and Mary, England had felt continually increasing upon her, the weight of that huge debt which seems destined at last to involve the British state in total ruin.<sup>a</sup> But, hitherto, great as were her necessities, they had not so blinded her eyes to the light of justice and of policy,

<sup>a</sup> "Irretrievable ultimate ruin has —Alison, *Hist. Europe*, ii. 407. thus been brought upon the state."



as to induce her to think seriously of taxing her American Colonies.

Her hand had often pressed heavily upon them. Her Sovereigns had infringed their charters, and taken away their lands; and her Parliaments had fettered their trade by Navigation Laws, continued from reign to reign without repeal. It cannot be said that the Colonists had borne her oppressive rule without resistance. We have seen enough already in the History of Virginia to show that the *power*, and not the *right*, of the mother country had been acknowledged in the reluctant submission yielded to each law which subjected the Colony to unequal restraints. The time was now approaching when another struggle was to be made, and America was to demand that right and power should no longer be held in conflict with each other.

Few things are more difficult than the task of defining the precise extent of constitutional authority claimed by Great Britain, and admitted by her American Dependencies, during the whole period of their connexion.<sup>a</sup> He who will examine what has been written on the subject by those who have professed to understand it, will be, at least, as much astonished at their discord of opinion, as he will be edified by their arguments. Many in America, and some in England, held that the Crown alone was the supreme bond of union, and that the English Parliament had no direct legisla-

<sup>a</sup> Read Grahame's remarks and note.—Colon. Hist. ii. 417.

tive control over the Colonies.<sup>a</sup> Others taught that the Parliament was sovereign, and that its law-making power, in every case calling for its exercise, might be extended to the Colonies as fully as to any other part of the British Realm.<sup>b</sup> In America, the rule of the Parliament in its action on the commerce of the Colonies, seems to have been reluctantly, but certainly admitted; and, harsh as were her Navigation Laws, had England never gone beyond them, she would long have retained her dominion over her distant children.

But there was one line beyond which the boldest advocates of English authority had not yet ventured to pass. To annex duties to imports for the purpose of regulating commerce, and directing it into profitable channels, had long been the policy of the mother country, and habit had taught the Colonies to submit; but the scheme of levying a tax in any form, upon America, for the purpose of pouring revenue into the British treasury, had never yet been tried; and, even when spoken of, had always been abandoned. It is true, that as early as 1696, a pamphlet had appeared in England, recommending a Parliamentary tax upon one of the Colonies; but it was immediately answered by two counter-pamphlets, in which the right contended for was

<sup>a</sup> Sir George Calvert's Message to House of Commons, in Grahame, note, *Colon. Hist.* ii. 417.

<sup>b</sup> This was William Pitt's opinion: "At the same time, let the sovereign authority of legislative and commercial control, always possessed by this

country, be asserted in as strong terms as can be devised; and if it were denied, *I would not suffer even a nail for a horseshoe to be manufactured in America.*" — Grahame, iv. 241; Blackstone's *Com.* i. 76–78.

broadly denied, and the ruling powers seem tacitly to have acknowledged the injustice of the attempt.<sup>a</sup> During Sir Robert Walpole's administration, England was beginning to totter beneath her financial burden; but when that sagacious statesman was asked to tax America, he repelled the temptation with prophetic alarm.<sup>b</sup> He declared that "it was a measure too hazardous for him to venture upon," and when afterwards, upon the failure of his celebrated Excise Bill, Sir William Keith renewed the proposition, the baffled minister replied with emphasis: "I have Old England set against me, and do you think that I will have New England likewise?"<sup>c</sup> England needed a mind as comprehensive as that of Walpole to teach her that justice and true policy must always ultimately coincide, and that it is better to bear present ills than, by using an illegal remedy, to insure final retribution.

It is not strange that the American Colonies should have shrunk with horror from the first approaches of the great taxing power to which Britain sought to subject them. They were not represented in her Parliament; and, in the very nature of things, they could not there sustain and secure their interests. Separated by three thousand miles of water, distinct in the products of their soil, their habits and feelings, and already maintaining legislative assemblies of their own, there was every thing to prove

<sup>a</sup> Lord Camden's Speech in 1766, cited in Gordon's *America*, i. 75.

<sup>c</sup> Coxe's *Memoirs of Walpole*, in Belsham, v. 135.

<sup>b</sup> Belsham's *Great Britain*, v. 134; Bisset's *George III.*, 188, in note.

the folly of any scheme which would have sought to countenance their rights by admitting their delegates to the floor of the English House of Commons. And accordingly, this plan never received any general favour, either in America or in the mother country, although political visionaries were not wanting to introduce and by argument to support it.<sup>a</sup> It would have been impossible that the Colonies should have been duly represented in the English Parliament. If neither Ireland nor Scotland has had complete justice done to her in her legislative union with England, it will be easy to see what gross mockery would have been practised upon America, by inviting her delegates to join the law-makers of Great Britain upon English soil. But it has been fortunate that a plan which would have been plausible enough to delay our independence, was yet so ungrateful to the mother country, that she never seriously contemplated its adoption. England taxed her Colonies without even the semblance of justice, that America might stand acquitted in the eyes of all the world in her exercise of the right of revolution.

Money, since its first introduction, has had an importance in human affairs, to which no other physical possession of man can lay claim. It is because money represents every thing else in the world, that men are prone to regard it as more valuable than all other things united. If land and water, houses and cattle, offices and titles, feelings and principles, can be, in a thousand varied forms,

<sup>a</sup> See Dr. Johnson's *Taxation no Tyranny*, Works, Am. edit. 1834, ii. 433.



swayed, moulded, and controlled by money, it is not singular that this universal solvent should be regarded with peculiar interest. It is true that it is only valuable when used, but in order to be used it must be obtained, and hence the fierce opposition shown by all men to every restraint upon their right to obtain this key to the treasuries of earthly good. Let it not then be supposed that the Colonists were moved to resist British taxation by the mere vulgar "love of money," so often attributed to Anglo-Americans. They were governed by precisely the same motives which control all other men, and which had long been admitted in full expansion by their British ancestors. Had they, for a moment, recognised the right of Britain to take their money by an act of Parliament, and without their consent, they would, by a slow but certain process, have been converted into slaves, felling trees, clearing fields, and cultivating tobacco, corn, and cotton, for the benefit of English masters. The selfishness of the human heart would have asserted its power, and Britain would not have heaped additional burdens upon her own shoulders, when she might so readily place them upon her young dependant.

Those who had been most truly imbued with the spirit of the English Constitution, at once denied the right of Britain to tax America, and placed their protest not merely upon the broad ground of natural justice, but upon the more contracted basis of constitutional law. They held that the raising of money was not strictly a part of legislative

power; Parliament might make laws for the realm, might define treason, constitute new crimes and new penalties for crime, regulate commerce, and even attain the blood of the subject, but it was for the people themselves, by their representatives, to grant money for the use of the Crown. Money was a *free gift*, always asked by his Majesty of the House of Commons, and never granted except by a bill first introduced into that jealous body; therefore the attempt of England to draw revenue from America, without her consent, was open robbery. It was the act of the strong man, who wrests treasure from the weak, and seeks to silence conscience by pleading his own necessities. So apparent was the force of this argument, that many sought to evade it by pretending that the American Colonies, though not actually, were yet in theory, represented on the floors of the Houses of Parliament. They compared their condition to that of Birmingham, Manchester, and other large towns in England, which, though without members in the House of Commons, were, in interest, represented in that body,—thus striving to forget that the difference between the two cases was “as wide as the Atlantic Ocean,” and that no *interests* similar to those of the Colonies had any constitutional supporters in the general representation of Britain.<sup>b</sup> These sage

<sup>a</sup> Lord Chatham, in *Grahame*, iv. 241. Even Sir William Blackstone impliedly gives countenance to this doctrine. “It is the ancient indisputable privilege of the House of Commons that all *grants* of subsidies or parliamentary *aids* do begin in their house, and are first *bestowed* by them.”—*Commen.* i. 124, and post, 229.

<sup>b</sup> See Dr. Johnson’s *Taxation no Tyranny*, Works, ii. 432; and read *Grahame*, iv. 199.

reasoners held, that though America did not expressly assent to taxation, her assent might be fairly implied ; but they were not long able to hug this delusion to their bosoms. Her voice of dissent was heard first in petitions, remonstrances, and arguments, and then in the call to battle, and the sound of human conflict.

But English Ministers had resolved that the fatal line should be passed ; and, while we may wonder at their blindness, we have no reason to regret their decision. The time had arrived when America was to be free. Her independence indeed could not have been long delayed. She had grown like a young giant, and her dependence on her parent had already subjected her to so many galling restraints, that she was ever ready to disclaim it. England herself furnished the spark which produced the explosion. How much longer she might have retained her dominion by prudence and justice, we cannot say ; but the moment her own hand applied the torch, a train was fired, which had, during many years, been increasing in inflammable power. The Stamp Act, with the subsequent measures, constituted nothing more than a breach, through which a mighty torrent immediately poured, and swept away for ever the barriers that had so long confined it.

As we approach the time when the mother country was preparing, by her unnatural conduct, to array her children in arms against her, we turn to Virginia, and find a man upon her soil destined to act a brilliant part in the coming struggle. In

viewing his character, it is difficult to reject the belief in a special providence, which now brought him forward to the crisis. Patrick Henry was born in the County of Hanover, in the year 1736. His father was Col. John Henry, a native of Aberdeen, in Scotland,<sup>a</sup> and though respectable in birth, he pretended not to belong to the aristocracy of Virginia. The son, who now claims our attention, has since become one whom the world would be ashamed not to know. He had no blood to give him adventitious honour—no wealth to purchase esteem—no courted connexions to reflect upon him the smiles of society, but he had a soul which more than compensated for all external defects. He was one of nature's noblemen. If the name of Demosthenes be destined to live for ever, the name of Henry cannot die; for, as an orator, the Virginian may not yield to the Greek, and as a man, he will be preferred by all able to discriminate.<sup>b</sup>

He had not enjoyed the advantage of systematic education, but his mind sought for knowledge with a thirst so keen, that it could not be disappointed. Few persons who marked the outward aspect of the awkward and apparently indolent young man, who for several years seemed fitted for no business that he undertook, would have suspected the work that was going on within. He read with avidity all history to which he could gain access, and converted its truths into food for the vast digestive

<sup>a</sup> Burk, iii. 300; Wirt's Life of P. Henry, ii. edit. 1839.

<sup>b</sup> Henry, the forest-born Demosthenes,  
Whose thunders shook the Philip of  
the seas.



powers of his intellect. No man can speak well without ideas, and ideas without knowledge would imply a contradiction. Patrick Henry was not learned, but even when yet young he was wise. When, after reading Coke upon Littleton, and the Virginia Laws, he applied for a license to practise as a barrister, he astonished the accomplished Judge who examined him, by the vigorous operations of a mind which knew law by intuition.<sup>a</sup> And three years after he came to the bar, his wonderful powers developed themselves upon an occasion which in itself was important, and which in its remote bearing, is inseparably connected with the history of Virginia.

The Episcopal Church was established by law, and its ministers, by a statute enacted in 1696, were authorized to receive sixteen thousand pounds of tobacco as a salary attached to their office. This statute was substantially re-enacted in 1748, and had been regularly sanctioned by the Crown.

The price of tobacco had long been stationary at two pence per pound; but this commodity, like every other article of trade, was liable to change according to the law of supply and demand. A short crop in 1755, caused the price to advance,<sup>b</sup> and the Assembly passed an act, declaring that all persons bound to pay in tobacco, might discharge their dues by paying *in money*, at the rate of two pence per pound. This act was to operate during ten

<sup>a</sup> Wirt's P. Henry, 22.

Dickenson, iii. 302; but Mr. Wirt

<sup>b</sup> Burk says the rise was caused by an extravagant speculator named P. Henry, 24.

gives no sanction to this statement.

months, and did not contain the usual clause suspending its effect until it should receive the King's assent.<sup>a</sup> The law was at this time quietly endured, but in 1758, acting on the belief that the crop was again to fall short, the Assembly re-enacted the statute of 1755, and as before, they annexed no suspending clause which would have rendered necessary the sanction of the Crown. The clergy now took fire. It is undoubtedly true that the effect of this law was to deprive each of them of about two hundred and sixty pounds sterling per annum, for tobacco was now worth six pence per pound instead of two pence as before. But they suffered in common with all other creditors, and their loss was occasioned by the double medium of exchange, then existing in Virginia.

Immediately a hot controversy commenced. Rev. John Camm, of William and Mary College, wrote a strong pamphlet, in which the "two penny act" was denounced with keen sarcasm, and assailed by plausible argument. Richard Bland and Landon Carter replied, and so important became the dispute, that His Majesty in Council took up the question, and at once cut the Gordian knot by declaring the act of 1758 null and void.<sup>b</sup> Whereupon, in various counties throughout Virginia, suits were brought by clergymen against their respective parish collectors to enforce the law of 1748. In the County of Hanover, the Rev. James Maury had

<sup>a</sup> See Hening, vii. 240, 241; Wirt's P. Henry, 24; Grahame, iv. 95, 96; 122; Grahame, iv. 96.  
<sup>b</sup> Wirt's P. Henry, 25; Hawks, Hawks' Eccles. Hist. Va., 118, 119.

brought a suit against his vestry, and skilful lawyers had been retained on either side. The action was founded on the statute of 1748, which gives the tobacco in specie. To this the defendants pleaded specially the statute of 1758, and the plaintiff demurred to the plea. He objected to the law of 1758, first, because it had not received the royal sanction when enacted; and secondly, because it had been expressly declared void by the King in Council. When this demurrer came up before the County Court for November, 1763, it was argued by Peter Lyons,<sup>a</sup> for the plaintiff, and by John Lewis for the defendants, and the Court, notwithstanding that popular feeling ran strongly against the clergy, sustained the demurrer, and thus decided that the law of 1748 must take full effect.

This decision reflects honour upon the firmness and integrity of the Court. If the whole question be regarded in an aspect merely legal, there can be no doubt that the clergy were right, and as they are said to have triumphed decidedly in the war of pamphlets which had previously been waged,<sup>b</sup> so they seemed now about to prevail in the judicial combat. The question of law having been disposed of, nothing remained but to call a jury and submit to them the question of damages to which the ministers were entitled because of the obstruction of their legal rights. At this stage, Mr. Lewis with-

<sup>a</sup> Afterwards Judge Lyons of the Virginia Court of Appeals; Wirt's P. Henry, 21-26. pamphlets, ascribes victory to the clergy; P. Henry, 25, and see Dr. Hawks, 118.

<sup>b</sup> Mr. Wirt, upon a review of the

drew from the case, telling his clients that he had done all that he could, and that they must be defeated.

But there was a deeper question than that of mere law affecting the case of the clergy. Already in Virginia, the evils of an establishment had been felt and acknowledged by a large body of the people. The Episcopal rectors had not been so remarkable for their holy lives as to commend their church to the more serious inhabitants, and the vicious and disorderly openly denounced her. A very large number of those who were then properly called "Dissenters," had gathered in the Colony, and embracing in their ranks men of pure lives, of keen intellects, and of accurate knowledge, they powerfully affected public opinion.<sup>a</sup> Any tax, whether in money or in tobacco, for the support of one sect while others were restrained, was justly odious. No law could remove this foul blot from the record. Neither the patents of a King, nor the statutes of a Colonial Assembly, could make it just to compel men to contribute to the support of a religious denomination from whose teachings they dissented, and upon whose ministry they never attended. This was the fatal point in the case of the church, and so strongly did it address itself to the common sense of mankind, that the clergy suits were in universal odium, and were generally stigmatized as the actions of "the parsons against the people."<sup>b</sup>

<sup>a</sup> See Semple's History of Virginia Baptists, 2-7; Hawks, 121, 122.

<sup>b</sup> Wirt's P. Henry, 29, edit. 1839.



Under these circumstances, the case came before a jury of the County Court of Hanover, on the 1st day of December, 1763. Unable to retain Mr. Lewis, and almost in despair as to their cause, the defendants employed Patrick Henry to represent them in the question of damages. His own father was the presiding Justice, and his uncle was one of the very clergymen who were now urging their claims at law. The court-house was crowded to excess. Mr. Lyons, in behalf of the plaintiffs, opened the case, and, certain of success, he contented himself by a statement of the previous steps before the court, and concluded his speech to the jury by a brilliant eulogy upon the merits of the clergy. When he had concluded, Mr. Henry rose and commenced his address. He was awkward and embarrassed; his words faltered; the clergy smiled, nodded, and exchanged glances of compassionate triumph; the people trembled for their champion; his father hung his head in shame and sorrow. But gradually a mighty change came over the speaker; his form became erect and graceful; his eye kindled into fire; his voice grew in thrilling emphasis, and from his lips poured forth words which bound every soul in the assembly as with a magician's spell. A dead silence prevailed, and bending forward from seats and windows and each place where they stood, the people listened in awe and astonishment to the voice of the great spirit of eloquence who had descended among them. His power was such that he made "their blood to run cold in their veins, and their hair to

rise on end." His father sat a listener, and tears of indescribable feeling ran down his cheeks as he marked the triumph of his son. With resistless sway the orator pleaded before the jury the injustice of the plaintiffs' claims. He denounced the act of the King in declaring void the law of 1758, and with prophetic force he urged that the compact between people and sovereign might be dissolved by royal oppression. He painted in glaring colours the conduct of the clergy, and at length, at one withering burst of invective, the ministers present, unable longer to endure, rose and fled from the house in total discomfiture!<sup>a</sup> For one hour Mr. Henry held his hearers in chains, and when the case was submitted to the jury, they returned almost immediately to the bar with a verdict of *one penny damages*. A motion for a new trial was made, but was promptly overruled by a unanimous vote.<sup>b</sup> It seemed as though men were already looking into the future. Justice asserted her right, although law was openly disregarded.

After this decision the clergy abandoned all their suits, and never again urged their claims. Patrick

<sup>a</sup> "Abiit—excessit—evasit—erupit!" Cicero in Catal. Delphin. Class. iv. 1303. The effect of Henry's eloquence was more striking because more immediate than that produced by the great Roman orator. In no other point will it be pretended that the clergy of Virginia were like the seditious Cataline.

<sup>b</sup> Wirt's P. Henry, 28, 29; Grahame, iv. 99; Burk, 302, 303, vol.

iii. It is amusing to note in Dr. Hawks, the struggle between his admiration of Henry's genius and his evident disgust at his success. Prot. Epis. Church in Va., 123, 124. The Doctor could hardly be expected to approve the decision. He insists much upon the demurrer, and expresses the horror of a lawyer at the wide field of discussion which Henry assumed.

Henry became at once dear to the people of Virginia. He had already rendered them service in a cause requiring a mind of peculiar boldness and expansion; but this was only intended for the more important purpose of bringing him forward as their champion in a contest with a stronger enemy than the Established Church.

Though civilized nations were at peace, the savages of America were yet active in hostility. While they were daily diminishing in numbers, they lost nothing of their ferocity, and were increasing in means of annoyance by obtaining a knowledge of European arms. Around the frontiers of the Colonies they continued their assaults, and hoped for impunity by the withdrawal of most of the military force which had been previously supported. Three forts only were now regularly garrisoned,—Detroit, between Lakes Huron and Erie; Niagara, between Erie and Ontario; and Pitt, on the confines of Virginia, at the junction of the two rivers forming the Ohio. The savages renewed their cruelties upon the settlers in the west, and increasing in boldness, they surrounded Fort Pitt with their warriors, and pressed the siege so closely, that its brave defenders feared a fatal result. But General Amherst had despatched Colonel Bouquet with a large supply of provisions and a powerful escort to relieve this important fortress. At his approach the besiegers retired, and joining their comrades in the wilderness, presented a formidable body, ready to renew the attack when the immediate danger should be passed. Colonel Bou-

quet resolved to pursue them. He advanced to a dangerous defile, known as Turtle Creek, on the very verge of civilized settlements, and surrounded on all sides by mountains covered with forest trees. Here the Indians made an attack from their ambuscade: pouring down the sides of the eminence, they fell violently upon the English, and thought to overwhelm them by numbers; but they were received with steady discharges of musketry, and with strokes of the bayonet, which drove them back into their fastnesses above.<sup>a</sup>

The English remained more than a day in the defile, encompassed by enemies, cut off from aid, incessantly on the watch, and suffering from torturing thirst, to relieve which no water was found near their encampment. At this crisis, Bouquet's genius suggested a stratagem. Dividing his command into four companies, he placed two of these in a concealed position behind a projection of the mountain, and directed the remaining two to feign a retreat. (August 6.) Deceived by this movement, and eager to fall upon the disabled foe, the savages came out from their concealment, and with terrific cries fell upon the rear of the retiring troops. Instantly the concealed companies attacked them in flank; a fatal fire was poured on them, and the bayonet commenced its work; the other companies faced about and joined in the assault. The savages were routed with immense slaughter—most of them were left dead upon the field; and the few who

<sup>a</sup> Miller, iii. 48; Bissett's *George III.*, 182, 183; *Grahame*, iv. 107.



escaped could offer no opposition to the English, who returned in triumph to Fort Pitt. Successive reverses after this time, broke the spirit of the savages, and early in the succeeding year, they sought and obtained peace from Sir William Johnstone, who, by his address, had gained over them a controlling influence.<sup>a</sup>

The wars in which England had been engaged had added heavily to her debt, and rendered her financial system the prominent subject for the consideration of her ministers. America had borne a large part of the burden—had given up her children to the battles in which the encroachments of France had been repelled, and had contributed large sums of money for the general good. So important had been her voluntary supplies, that England had felt bound to make return, and at various times she had voted sums, amounting in all to about one million and seventy-two thousand pounds sterling, to repay her Colonies for what they had freely advanced to her.<sup>b</sup> In addition to this, a debt of more than two millions and a half had been contracted by America during the war, for which she had received no indemnity from the mother country.<sup>c</sup> In the face of these facts, it seems singular that statesmen should have held that the Colonies had been “protected by the arms and preserved by the care” of Britain. The war had been for her benefit rather than for their own. It was to sustain her

<sup>a</sup> Miller, iii. 49; Bissett, 183.

in Burk, iii. 280; Belsham's Great

<sup>b</sup> This was all granted between

Britain, v. 165, 166.

the years 1756 and 1763. See note

<sup>c</sup> Note in Belsham, v. 166.

dominion in a time of imminent danger that it was undertaken, and its principal loss, both in blood and treasure, fell upon her colonial offspring.

But George Grenville found in this war and its consequent burdens, a sufficient pretext for introducing a new feature into the policy of his country. He was a Minister to whom America owes more gratitude than Britain. He is entitled to the honour of having applied the torch which kindled the flame of our Independence. Laborious in his habits and skilled in the details of business, he had yet no expansion of view—none of that higher sagacity which had distinguished some of his predecessors. He knew figures better than men. His arithmetic would convince him that a certain tax laid by Parliament on a certain subject, would probably produce a certain amount of money; but how such a measure would affect the complicated passions of man, and the moral aspect of government, were considerations upon which he bestowed but transient thoughts. Yet he did not approach the subject of a tax for revenue upon the Colonies without appearances of perplexity and hesitation.

He commenced by drawing more closely the reins of the Navigation Laws. During many years a trade had existed between the English Colonies and the French West India islands and Spaniards in South America, which was so beneficial to all parties that it was connived at by the ruling British authorities. It circulated English manufactures among the French and Spaniards, and returned gold and silver in exchange. But when Mr. Gren-

ville's eye fell upon this trade, he gave instructions to all the naval commanders in the waters of America to act as custom-house officers, and rigidly to enforce the existing laws.<sup>a</sup> This gave rise to innumerable cases of vexation and petty tyranny, and the remonstrances of the Colonists were so loud as to induce the English Parliament to pass an act sanctioning, upon certain terms, the trade which had been thus interrupted. (April 5.)

Early in the session of 1764, Mr. Grenville presented to Parliament the subject of drawing revenue from the Colonies. An act was passed, in which it was declared to be just and necessary "that a revenue be raised in his Majesty's dominions in America for defraying the expenses of defending, protecting, and securing the same." At the same time intimation was given that the Stamp Act was before the eyes of English law-makers; but, with apparent moderation and real timidity, the Minister announced that this measure would be postponed one year, in order that in the mean time the Colonies might offer an equivalent for its proceeds in any form they thought proper to adopt.<sup>b</sup> A sensitive shrinking from the decisive step was manifested, and Mr. Grenville hoped that America would joyfully accept the chain when it was only to be imposed in the form of a voluntary contribution.

But he had not sounded the depth of feeling with which this subject was regarded in the Colonies.

<sup>a</sup> Grahame, iv. 175; Miller, iii. 49, 50.

<sup>b</sup> Miller, iii. 51.

It was not merely to a *tax* that Americans objected. They were fast increasing in wealth, and might have borne a single infliction without injury ; but their danger was found in the recognition of the right. A *principle*, when once admitted, is steady in its operation, and almost limitless in its influence. It may work slowly and silently, but it is therefore the more dangerous : it were better that a nation should bestow as a gift more than half its wealth, than acknowledge the *principle* of tax-paying to the most insignificant amount. The Colonists were not deceived by the specious proposal of the ministry. They saw that, by voluntarily voting an equivalent, as compensation for the proposed stamp duties, they would recognise the right for which England contended ; and, while some provinces returned equivocal answers, the refusal of the larger number was firm and decided.<sup>a</sup>

Virginia was true to herself in this crisis, but the observant reader will note with interest the respectful and almost suppliant tone she assumed in addressing her mother. In no colony was the spirit of loyalty more prominent : her people were deeply imbued with love to England, which was cherished by the institutions and customs under which they lived ; her church was formed upon the model of that in the mother country ; her clergy threw their influence into the scale adverse to innovation ; her wealthy planters had been generally educated on British soil ; and even her statesmen were strongly infected with this prevalent feeling. But the love

<sup>a</sup> Miller, iii. 50 ; Grahame, iv. 182.



of liberty was stronger than national prepossession. It was strong enough gradually to change her love into hostility, and to array her in battle against the parent who seemed determined to repay her affection by tyranny. It will be instructive to mark the progress of this change.

(November 14.) The General Assembly appointed a committee, consisting of nine of its ablest members,<sup>a</sup> to draw up memorials in answer to the intimations of the English Ministry, which threatened taxes. The address to the King was written by Peyton Randolph. It is dutiful and conciliatory in its tone, and uses entreaty that his Majesty would protect them in "their ancient and inestimable right" of paying no taxes except those imposed by themselves. The memorial to the House of Lords is supposed to be from the pen of Richard Bland. It is even more peaceful and suppliant in its manner than that to the King: it speaks of the burdens the people already bore; of the debt of half a million contracted during the war; the total want of specie, and the late restrictions upon their trade; it humbly deprecates taxation: no firm protest, no vigorous assertion of right can be found through its pages. The address to the Commons was by George Wythe, and in this we mark a brave and manly spirit, which rises at once to meet its subject, and to grapple with its dangers.<sup>b</sup> The King

<sup>a</sup> They were, Peyton Randolph (Attorney-General), Richard Henry Lee, Landon Carter, George Wythe, Edmund Pendleton, Benjamin Harrison, Richard Bland, Mr. Cary, and Mr. Fleming.—Appen. to Wirt's Life of Henry, Note A, 297.

<sup>b</sup> These memorials will be found in Appendix to Wirt's P. Henry, 297-300, edit. 1839.

and the Lords were yet invested with the sanctity of hereditary honours, but the Commons might be approached without awe. Such is the genuine spirit of British loyalty.

(1765.) Finding that he could hope for nothing from the action of the Colonies, the Minister hesitated no longer in his course. On the 7th day of February, the celebrated *Stamp Act* was introduced into the House of Commons. To detail its provisions would now be an unnecessary task. It has become a part of the proverbial knowledge of America. Children hear and read of it as the cause of the Revolutionary war. It declared void wills, deeds, conveyances, leases and contracts, bonds, bills of exchange, and notes, unless they should be duly stamped, and upon each stamp a tax was imposed, varying in amount according to the nature of the instrument.<sup>a</sup> Nothing to which a stamp could be applied escaped the vigilance of Ministers. Parchment, vellum, or paper; declarations, pleas, demurrers and rejoinders, bills and answers in chancery; newspapers, pamphlets, calendars and almanacs, all were laden with the same requisition. The ingenuity long known and applied in England, was called in to aid this scheme; and it seemed as though the whole mechanism of the social system must cease to work in America, or else that she must pay the taxes demanded.

This act did not pass into a law without strenuous opposition. The arguments of its supporters were

<sup>a</sup> The Stamp Act in full will be found in Otis's Botta, i. 58.62, Notes to Book I.

met by counter-arguments, which might have convinced any mind not blinded to truth. The declamation of Charles Townsend was answered by the eloquence of Colonel Barré, whose defence of America has made his name dear to all of her children. But the decree had gone forth: the dangerous experiment was to be tried. The bill passed the House of Commons by a vote of two hundred and fifty in its favour, and fifty opposed to it; and, after obtaining in the House of Lords yet more decided favour, it received<sup>a</sup> the royal sanction, and on the 22d of March became a law, to take effect in the Colonies on the 1st day of the succeeding November.<sup>a</sup>

Men on both sides of the Atlantic may have expected to hear complaints in America when this law was announced; but few were prepared for the burst of indignant feeling with which it was received. The whole nation seemed to mourn, but it was that mourning which rouses to strength rather than subdues to submission. The act itself, on being issued from the King's press in Boston, was seized upon and torn to pieces.<sup>b</sup> All classes determined that the hateful impost should fail in its effect. In Virginia, nearly every lawyer who had been practising in her courts, resolved rather to abandon his profession than to use the stamps, the very sight of which would have been a memo-

<sup>a</sup> Bissett's *George III.*, 190; *Mil. ler*, iii. 51; *Belsham*, v. 168, 169; *Otis's Botta*, i. 54; *Grahame*, iv. 201; *Gordon*, i. 112-116.

<sup>b</sup> *Belsham*, v. 184; *Burk*, iii. 289.



rial of disgrace.<sup>a</sup> Few persons in the Colony could be found willing to take the office of distributor of stamps, although the strongest desire was felt by the English Ministry that all their agents should be Americans.<sup>b</sup> A Mr. Mercer, to whom this office was assigned in Virginia, immediately rejected it; nor would it have been easy to secure a successor, had the law gone fully into operation.<sup>c</sup>

But though the feeling of indignation was general, the ruling authorities had not yet dared to speak openly on the subject. Habit had too long bound them, to be at once violated, and some of the very ablest men in Virginia would have shrunk from a protest against the right claimed by the mother country. It was reserved for one man to break the charm, and to remove at once the cloud which yet concealed the dangerous crisis that was approaching.

With a special view to the debate on the Stamp Act, William Johnson of Louisa, vacated his seat in the House of Burgesses, and made way for Patrick Henry, who, on the 20th of May, was placed on the Committee for Courts of Justice.<sup>d</sup> Already the fame of the orator had gone abroad through the state, and the wish was felt to have his aid in the coming discussion. In this Assembly we note the names of many who have filled a broad space in the history of America. John Robinson was the Speaker, and he had, also, long discharged the duties of Treasurer to the Colony. He was

<sup>a</sup> Grahame, iv. 220.

<sup>c</sup> Grahame, iv. 220.

<sup>b</sup> Gordon, i. 116.

<sup>d</sup> Wirt's P. Henry, 40.

reputed to be very wealthy : large landed estates had been held by his family during a course of years, and had imparted to him the character and the feelings of the aristocracy of Virginia. He was courteous in manner, and liberal in heart : his very generosity betrayed him into indiscretions which made him false to his public trust, and finally wrought his downfall.

Peyton Randolph was the Attorney-General, and was also a member of the House of Burgesses. He had already distinguished himself in a contest with Dinwiddie, involving the rights of the Colony,<sup>a</sup> and he was at all times ready to promote what he regarded as the true interests of Virginia. Though deeply learned in the law, he had but little of the power of oratory, yet his solid attainments, and his weight of character, made him invaluable in his sphere. Richard Bland was a member of this House : a ripe scholar, a patient and laborious student, a lover of the antique, and a man profoundly versed in the early history of the Anglo-American settlements.

Next may be mentioned the eloquent and accomplished Pendleton. The early education of this gentleman had been defective, but a native dignity of mind rose superior to youthful habit. Fostered by the care of John Robinson, the Speaker,<sup>b</sup> he addicted himself to polite studies and to the law

<sup>a</sup> See vol. i. 482.

ton is said to have passed his early

<sup>b</sup> So says Mr. Wirt, P. Henry, years with *Benjamin Robinson*, 41, 42 ; but see Alden's *Collec. Am.* Clerk of Caroline County Court. Epitaphs, v. 20, where Mr. Pendle-

with success seldom equalled. He became a graceful and impressive speaker. A fine person presented him with advantage to his hearers,—a silvery and melodious voice charmed the ear, and a constant flow of sweet and perspicuous words won the heart. He possessed not the overwhelming power which sweeps away an audience as in a whirlwind of passion, but he could convince the reason and fascinate the soul.

Richard Henry Lee has been truly called the Cicero of the House.<sup>a</sup> Nature had formed his face in the Roman mould, and the whole contour of his head and his person increased the resemblance. He had studied classic literature with exquisite appreciation. The rich colours of Lucretius, the graces of Virgil, and the wit of Horace, had all become his own. He loved History, and opened her stores with indefatigable hand. He was not by profession a lawyer; he knew little of the niceties of special pleading, or of the artificial rules of the English real property system, but he had studied the Constitution of Britain and her Colonies with deep scrutiny, and he knew all that an American statesman needed to know. His manner as an orator was perfect: even the hand which had become withered, and which was covered with a silken bandage, added to his effect; and so graceful was his gesture, that many thought he had gained it before a mirror. His voice was deeper than Mr.

<sup>a</sup> Wirt's P. Henry, 43. The reader will not demand from me any apology for having sought aid from Mr. Wirt's elegant sketches of these great men. How could I have found more beautiful models?

Pendleton's, and having a fervid imagination, he often poured out strains of eloquence which captivated his hearers, and carried them with him in welcome slavery. Yet he was too smooth—too flowing: he never struck those chords which startle the soul, and cause the blood to run like liquid fire through the veins.

No man wielded greater influence in the House than George Wythe. Law had been his favourite study, but with this he united a close acquaintance with the models of ancient literature, and a love of the earlier English writers, which imparted a peculiar tone to his style. He was a powerful reasoner; prompt in seizing the strong points of his subject, witty and sarcastic in reply, yet fair, open, and honourable in every conflict. He spurned all art, and went directly to the point he sought; and if at times a wily adversary gained an advantage, it was more than compensated by the confidence felt by all in the man whose integrity of character had passed into a proverb.

Among these great men, and many others who represented the wealth and intelligence of the Colony, Patrick Henry was now to appear. He came in all the simplicity of nature, but nature soon asserted her dignity, and made art her minister for accomplishing her great ends. Many had heard of his power, yet few had any prescience of the mighty change to be wrought through his influence. His first effort displayed his strength. Habits of extravagance and vice had gained ground in the Colony, encouraged, it is to be feared, by the



example of Governor Fauquier, whose love for the gaming-table was his ruling passion. Seduced by his own good nature, the Treasurer, Robinson, had loaned the public money to his friends in so immense sums, that at length he found exposure inevitable, unless some happy expedient could be found for his relief. With the aid of his friends in the Assembly, he devised the plan of a public loan-office, from which money should be loaned to individuals on good landed security. Had this scheme been adopted, the debt due to Mr. Robinson would have been transferred to the public, and thus his breach of trust would never have been known.<sup>a</sup>

Immediately after Mr. Henry had taken his seat, this plan was proposed. Few members had any knowledge of the secret object for which it was intended. Some knew it who were among the finest speakers and the most influential members of the House, and there was every prospect that it would be carried without serious opposition. But Patrick Henry attacked it, and with his matchless power of words, overwhelmed it in a moment. His clear mind enabled him to see its dangerous tendency, and his honest spirit looked with horror upon the corruption that it would breed. In answer to the argument that it would be beneficial to many who would be ruined if their debts were suddenly exacted, he asked if they expected to "reclaim the spendthrift by filling his pockets with money;" and by the working of a bold common sense,

<sup>a</sup> See Mr. Jefferson's Letter to 46; Tucker's Life of Jefferson, i. Mr. Wirt, in Life of P. Henry, 45, 41-43.



clothed in words pointed by their very simplicity, he so affected members that the plan was voted down by a heavy majority.<sup>a</sup> It is with regret that we are compelled to relate the sequel: Mr. Robinson died in the succeeding year, and on examining his accounts, the huge deficiency was discovered, and the reason for this proposed scheme was made apparent.<sup>b</sup>

Not until near the close of the session was the subject approached, which was beyond all others interesting to every mind. The aristocracy were yet disposed to remonstrate, and to pray rather than to protest, and the more humble members needed a leader to give strength to their action. It was at this juncture that Patrick Henry appeared in his true greatness, and gave an impulse to America which she feels to the present day.

Finding his compeers in the Assembly divided in sentiment and indisposed to action, he instantly resolved to assume the lead. On the blank leaf of an old law book he wrote the rough draft of those celebrated resolutions which were soon circulated through every colony. They were originally five in number: the first declared that the original settlers were entitled to all the "privileges, fran-

<sup>a</sup> Wirt's P. Henry, 46.

<sup>b</sup> Note by Mr. Jefferson, in Wirt's P. Henry, 46, 47; see Burk, iii. 332, who says the default was discovered before Mr. Robinson's death, and that the mortification he experienced hastened his end.

<sup>c</sup> They will be found in full, as

given by Mr. Henry himself, in Wirt's P. Henry, 49. Marshall gives six, and reports them inaccurately, Life of Washington, ii. 130, edit. 1804. Mr. Burk has the same error as to the number, and says two were discarded by compromise, iii. 306-310.

chises, and immunities," at any time held by the people of Great Britain; the second, that these privileges had been expressly secured to them by the charters granted by James I.; the third, that taxation by the people themselves, or their representatives duly chosen, was an essential characteristic of British freedom; and the fourth, that the colonists of Virginia had uniformly enjoyed this right of taxation by their own assemblies, that it had been recognised by the King and people of Great Britain, and that in no way had it ever been forfeited or given up. The fifth is so remarkable that it must be given entire: "Resolved, therefore, that the General Assembly of this Colony have the sole right and power to lay taxes and impositions upon the inhabitants of this Colony: and that every attempt to vest such power in any person or persons whatsoever, other than the General Assembly aforesaid, has a manifest tendency to destroy British as well as American freedom."

When these firm resolutions, with their preamble, were read, conflicting emotions arose in every bosom. Loyalty and freedom, fear and hope, love of the country from whom they drew their birth, and hatred of the injustice she was striving to perpetuate, all mingled strangely together, and kept each heart in agitation. The most powerful men in the House shrunk back, and prepared to oppose their passage. They saw at once the broad line between their feeble memorials, and these nervous and manly protests. They felt that the last resolution, in particular, arraigned the English Legislature,

King, Lords, and Commons, before them; and boldly charged them with despotism and tyranny.<sup>a</sup> But Henry was equal to the task he had assumed. Now, at length, he had a theme worthy of himself. Not confined by technical rules or provincial limits, but broad as the British empire; affecting the rights of mankind, and appealing at once to the highest powers of the intellect, and the warmest feelings of the heart. He rejoiced in his subject, and grasping it like a giant, he expanded it before his astonished hearers, until its sublimity began to force itself upon them. His words were pregnant with a nation's freedom. He reasoned upon the chartered rights of the Colony; he unfolded the written grants of English monarchs, even in an age of servitude, and showed the clauses guarantying the privileges of America. He explored the depths of the British Constitution, and, by long-established precedents, proved the connexion between taxes and the free consent of the people; then, leaving charters and human conventions, he entered upon an inquiry into the natural rights of man, and announced doctrines then almost unheard, but which have since become the basis of our government.<sup>b</sup>

Not without conflict was his triumph achieved. The accuracy of legal learning, the refinements of oratory, and the suggestions of long-tested wisdom, were marshalled against him.<sup>c</sup> Pendleton, Bland, Wythe, and Randolph, all opposed him. It was in the heat of this debate that the memorable scene

<sup>a</sup> See Wirt's Henry, 51.

<sup>b</sup> Burk, iii. 307-309.

<sup>c</sup> Jefferson's note in Wirt's Henry,

54.

occurred which has since become familiar to young and old. Urged on by the strength of his feelings, and glowing with the truth which seemed almost by inspiration to rise in his mind, Henry had reached a climax of eloquence:—"Cæsar," he cried, "had his Brutus; Charles the First, his Cromwell; and George the Third"—"Treason!" burst instinctively from the lips of the President; "Treason! treason!" resounded through the house. The orator paused, then raising himself to his full height, with eyes of fire, and a voice which thrilled through every bosom, he concluded his sentence, "and George the Third may profit by their example; if *this* be treason, make the most of it."<sup>a</sup>

While this debate was in progress, a young student of William and Mary College, stood in the lobby of the house, and listened with reverence and delight to the sounds of Patrick Henry's voice. He was destined, in future years, to fill a large space in the eyes of his country, and he was already learning lessons from a master, far beyond whose teachings on human liberty, he was himself afterwards to advance. On the 29th day of May the debate closed; the vote was taken, and the resolutions were adopted by a majority of a single voice. Immediately after the result was announced, Peyton Randolph came to the door of the house, and the excited young listener heard him exclaim, with every mark of passion, "I would have given five hundred guineas for a single vote." He knew that

<sup>a</sup> Burk, iii. 309; Belsham, v. 185, Wirt's Henry, 55; Howe's Hist. not perfect; Grahame, iv. 209; Collect. 297, 298.



one would have divided the House, and the President, Robinson, would have given a casting vote in the negative.<sup>a</sup> Thus freedom triumphed, notwithstanding the opposition of those who were, afterwards, her warmest friends.

George Johnston, of Alexandria, had ably seconded the efforts by which the victory was gained. On the evening of the day on which the resolutions passed, Mr. Henry left Williamsburg for his home, cheered by the proud consciousness of having led Virginia to her duty. The next morning the Governor and Council were busy in efforts to have the bold protests erased from the journals of the House, and they partially succeeded. The fifth resolution was so strong that even those who had voted for all were startled as they read it, and consented that it should be stricken out, provided the others might stand. Thus the journals of the House for May 30th, 1765, bear the four of which notice has already been taken. Finding the Burgesses infected with a spirit which threatened ruin to the influence of the King, on the 1st of June the Governor dissolved the Assembly.<sup>b</sup>

No sooner were the resolutions of Virginia made known than they kindled a flame throughout America. They furnished precisely what was needed in the crisis to unite men in opposition to the claims

<sup>a</sup> Jefferson's account, in Wirt, 52; Tucker's Jefferson, i. 43; Burk says the resolutions were adopted by a large majority; forty only voting against them.

<sup>b</sup> Gordon, i, 119; Burk, iii. 310; Grahame, iv. 209, 210. Mr. Wirt thinks the Governor did not dissolve the Assembly, note, 54; but the fact seems to me sufficiently proved.



of Britain.' Similar resolutions were adopted on every side: newspapers which had been forward in endeavours to reconcile the Colonies to the Stamp Act, now came out boldly against it.<sup>a</sup> Non-importation agreements were made by merchants and wealthy planters. Stamp agents were compelled to resign, and so strenuous was the spirit of resistance, that by the 1st of November, when the law was to take effect; "not a sheet of stamped paper was to be found throughout the Colonies."<sup>b</sup> Clubs were formed in nearly all the Provinces, bearing the expressive name of "Sons of Liberty," whose duty it was to correspond with similar bodies in other places, and foster the spirit of freedom; and, finally, Massachusetts presented a scheme of all others best fitted for uniting America against the common foe. She proposed that the plan for a General Congress should be revived, and that each Colony should send delegates to New York in October.

The Legislature of Virginia having been dissolved, she was unable to comply with this request, and therefore her delegates did not sit in the First American Congress. Twenty-eight members, from Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, and South Carolina, met on the appointed day, and Timothy Ruggles, of Massachusetts, was elected President.<sup>c</sup> They proceeded to adopt reso-

<sup>a</sup> See an example in the Pennsylvania Gazette, 20th June, 1765; Wirt's Henry, note, 56; Grahame, ii. 210.

<sup>b</sup> Belsham, v. 185; Burk, iii. 298. Verbatim from Belsham.

<sup>c</sup> Grahame, iv. 222; Otis's Botta, i. 79.

lutions, in which the rights of the Colonies are set forth, and their freedom from taxation, except by their own Assemblies, is declared. Memorials to the King, and to Parliament, were drafted, which were conceived in a mild, courteous, and conciliatory tone, not entirely welcome to some of the more enthusiastic patriots; but which clearly conveyed the grievances of America, and her claims upon her mother.<sup>a</sup>

On the fatal 1st of November, signs of sadness were seen in every part of the Colonies. In Boston, muffled drums beat dead marches; bells tolled as if funerals were in progress; long processions of mourners passed through the streets; and a coffin, containing the emblematic corpse of "Liberty," was solemnly interred. These were not mere mummeries to catch the vulgar eye. They were expressions of deep feeling which sought for utterance in acts stronger than words. The only appearance of submission to the Stamp Act was in the shutting up of the ports for customs, and the suspending of judicial business, and even these gradually ceased. In Virginia, about the close of November, the Courts were reopened and business proceeded without the slightest regard to the hated stamp requirements.<sup>b</sup> This was the passing of the Rubicon; when a law loses its moral power over the mind of the subject, it will soon be openly despised and disobeyed.

Meantime a change had taken place in the

<sup>a</sup> See the resolutions and memorials in Burk, iii. 311-322.

<sup>b</sup> Gordon, i. 132; Grahame, iv. 233.

British Ministry; Lord George Grenville had been displaced, and the Marquis of Rockingham, a Whig nobleman of wealth and influence, had succeeded. When Parliament convened in December, the exciting topic was the Stamp Act and the resistance of the Colonies. England thought of her fleets and armies, and many proposed force; but numberless petitions from every part of the kingdom poured in, praying for a repeal of this law. (1766.) Early in the succeeding year the debate in the House of Commons commenced. It was powerful in interest, and drew forth from the friends of liberty appeals which will long be remembered. Mr. Grenville yet argued for the continuance of the law: he urged that America was protected and therefore might be taxed; he told of Durham and Chester, which had been taxed before they were represented, and asked when America had been emancipated? In a glow of generous indignation, William Pitt denounced the act, and pressed for its unconditional and immediate repeal. "I rejoice," he said, "that America has resisted: three millions of people so dead to all the feelings of liberty, as voluntarily to submit to be slaves, would have been fit instruments to make slaves of all the rest."<sup>a</sup> In reply to Mr. Grenville's question, when the Colonists had been emancipated, he asked when had they been enslaved? He showed that the cases of Durham and Chester proved nothing, except that even in a despotic reign, a monarch, ashamed that

<sup>a</sup> Pitt's Speech, in Belsham, v. 327, 328; Otis's Botta, i. 94. 193; in Grahame, iv. 239; Burk, iii.

any part of his people should be taxed without being represented, had admitted their members to the House of Commons. He spoke of the power of England, and of the force threatened against America: "I know the valour of your troops,—the force of this country,—but in such a case success would be hazardous; America, if she fell, would fall like a strong man, she would embrace the pillars of the state, and pull down the Constitution with her."<sup>a</sup>

Slowly and reluctantly the enemies of freedom yielded to the storm. Doctor Franklin was examined in the presence of the House of Commons, and by his practical wisdom, his simple and courteous manner, and his transparent words, won many friends for his country. On the 22d day of February, a day already hallowed by the birth of George Washington, the vote was taken, and the bill repealing the Stamp Act passed the Commons by a vote of two hundred and seventy-five to one hundred and sixty-seven. It was immediately carried, attended by nearly two hundred members, to the House of Lords, where, after stern opposition, it was likewise passed, twenty-eight Lords entering a solemn protest against it, on its third reading.<sup>b</sup> On the 19th day of March, the King gave it his sanction, and it became a law. But with express design to prove that the repeal of the

<sup>a</sup> Belsham, v. 194; Burk, iii. 329; dent approbation; but see Belsham, Otis's Botta, i. 95. contra, v. 197. It is difficult to be-

<sup>b</sup> Miller gives their reasons in lieve that Miller and Belsham belonged to the same nation. full, George III., 58, and with evi-



Stamp Act was not intended to recognise the rights claimed by America, this measure was accompanied by a *Declaratory Act*, asserting the right of the King and Parliament of Great Britain, by law "to bind the Colonies and people of America, in all cases whatsoever."<sup>a</sup> Thus the authority to impose taxes was affirmed. England was destined to drive her Colonies into independence.

When the repeal was announced, joy pervaded every bosom in the Provinces. The brightest hopes of the friends of loyalty in Virginia were more than realized. In the first emotions of their gratitude, the Assembly voted thanks to the King and both Houses of Parliament, and decreed that a statue and an obelisk should be raised to preserve the memory both of the Sovereign and of the distinguished statesman to whom they believed their deliverance to be due.<sup>b</sup> But we have reason to believe that no measures were taken to carry this resolution into effect.<sup>c</sup> Subsequent oppression came too soon to leave undisturbed their dreams of happiness.

In the session of 1766, the breach of trust of which Mr. Robinson, the Treasurer, had been guilty, was made apparent; and, as it was manifest that his place as Speaker of the House had exposed him to the temptation of loaning to members, it was resolved that in future the two offices should be divorced. Peyton Randolph was elected Presi-

<sup>a</sup> Grahame, iv. 240; Burk, iii. 330;

<sup>b</sup> Burk, iii. 331; Gordon, i. 144.

Belsham, v. 196; Miller's George

<sup>c</sup> Wirt's Henry, 56.

III., 58; Bissett, 202.



dent, and Robert Carter Nicholas was made Treasurer. His integrity and skill fitted him for its duties, and during the time he discharged them, no cause of dissatisfaction was given.<sup>a</sup>

(1767.) As the session of the succeeding year wore away, the health of Governor Fauquier, which had long been declining, rapidly failed, and he died on the 3d of March, 1768, in the 66th year of his age. He had endeared himself to many in the Colony by his graceful manners and social disposition. His taste was refined, and his education had been liberal: he made learning attractive, and endeavoured to infuse a love of letters into his colonial charge. Yet he had vices, both of opinion and of practice, which made him a dangerous companion for the susceptible hearts of Virginia. He had imbibed much of the infidel spirit then so prevalent in Europe, and made fashionable by the most elegant writers of the French nation.<sup>b</sup> He had an insatiate passion for gaming. It has been said, that on the return of the great navigator, Anson, from his voyage round the world, he played at cards with Fauquier, and in a single night won the whole of his property, and afterwards, by way of showing his compassion, exerted his influence to obtain for him the government of Virginia.<sup>c</sup> Untaught by experience, Fauquier continued his course: he gamed furiously in the Colony. During each vacation he made a social tour among the rich planters of the country, and everywhere at his approach

<sup>a</sup> Burk, iii. 332, 333; Wirt, 57, 58.

<sup>c</sup> Burk, iii. 354.

<sup>b</sup> See Tucker's Jefferson, vol. i. 41.

dice rattled, cards appeared, money in immense sums was lost and won; and, to the present day, the contagion of his example may be felt in the ancient Dominion.

John Blair, as President of Council, succeeded to the vacant office, and convened the Legislature at an earlier day than was usual, to provide for danger threatened on the frontiers by Indians. But a more imposing peril than this soon absorbed their thoughts.

In England the Duke of Grafton had succeeded Rockingham as Prime Minister, and Charles Townsend had been made Chancellor of the Exchequer. Not for a moment had ministers abandoned the resolve to draw money from America by taxation. Provoked by the violent opposition which had been made in New York to the Stamp Act, Parliament passed a law suspending the powers of the government of that Colony until proper satisfaction should be made. This law has been approved even by the more liberal among English writers,<sup>a</sup> but it excited deep emotion in America, and drew from Virginia expressions of sympathy for her oppressed sister.<sup>b</sup> Charles Townsend was not content with this triumph. Active and excitable in mind, brilliant in debate, and formidable as a party leader, he was intriguing and unscrupulous as a politician. He openly boasted that he knew a method by which he could draw revenue from the Americans with-

<sup>a</sup> Belsham, v. 266, 267. Of course, "Pennsylvania Farmer," written by Miller approves, iii. 64. John Dickenson, Virginia Gazette,

<sup>b</sup> See the celebrated "Letters of a beginning January 7, 1768.

out offending them, and George Grenville, who was always alive to this subject, urged him to open his plan. Incautious writers and declaimers in the Colonies and in Britain, had tried to draw a distinction between *external* and *internal* taxes. They contended that England had a right to impose the first but not the latter, forgetting that an external tax or duty on imports might be just as much for the purpose of raising revenue as a duty on stamps. Cunningly availing themselves of this unsound distinction, Ministers introduced a bill imposing duties in America upon lead, painters' colours, glass, paper, and tea, imported, and in the month of May this bill became a law, having encountered little opposition in either House.<sup>a</sup>

When this action was made known, the Burgesses of Virginia again addressed a grave memorial to the King and Parliament. Their argument was now more solid, their tone more decided, and their assertion of right more emphatic, than they had ever been before.<sup>b</sup> They exposed the folly of the attempted distinction between external and internal taxes, and proved that a duty on articles which had become necessary to civilized life would operate as a tax for revenue.<sup>c</sup> They spoke strongly of the injustice done to New York, and declared that none of the Colonies were safe while these restrictions remained. We note with interest and

<sup>a</sup> Miller, iii. 64; Belsham, v. 271; Grahame, iv. 263.

<sup>b</sup> Burk gives the substance of these memorials, iii. 336-341.

<sup>c</sup> This was the great point argued in the "Letters of a Pennsylvania Farmer," Virginia Gazette, Feb., 1768.

pleasure the advance of the free spirit, and the approach to independence.

(1768.) In October of this year a new Governor arrived. Norborne Berkley, Baron De Botetourt, came out from Portsmouth in the Rippon, sixty-gun ship, and was received in Hampton Roads with all due honour.<sup>a</sup> It has been supposed that he had been instructed to assume more than wonted dignity, and to dazzle the disaffected colonists by a display of splendour reflected from the Crown. In a beautiful carriage, presented by the King, he was slowly drawn by six milk-white horses in gorgeous trappings through the streets of Williamsburg. He met the Assembly with all the rites and ceremonies observed when the English Sovereign received his Parliaments.<sup>b</sup> But this empty show was worse than vain. It gained no hearts and bewildered no heads: it was distasteful to the Governor himself; and failing to produce the desired effect, he laid aside the burden. This excellent nobleman felt his position in Virginia to be painful. He was the first governor-in-chief who had come to reside in the Colony since Lord Culpeper, and under any other circumstances he might have been a blessing to the people he ruled. Moderate in temper, and devoted to peace, he earnestly desired to see Virginia cordial in her submission to her mother; but so strong was his sense of justice, that he could not shut his eyes to the truth of her griev-

<sup>a</sup> Virginia Gazette, in Howe, 326. 342; and Mr. Grahame follows him,

<sup>b</sup> Note, in Burk, iii. 363. In his iv. 290.

text, Mr. Burk adds *two more* horses,



ances. His duty to his Sovereign required that he should check the first approaches of rebellion, yet his duty to the people, who loved him, and whom he learned to love in return, forbade him to urge harsh measures against them. Thus was he involved in perplexity which must soon be mentioned.

(1769.) The Governor having presented no special subject for their consideration, the Burgesses took up the late measures of England, and passed four resolutions, couched in firm but respectful language, in which their rights are declared (May 16). After denying the power of taxation, except by themselves, they declare that persons accused of crime in the Colony ought to be tried at home, and that to seize them and send them to Britain for trial, was "highly derogatory of the rights of British subjects." They point to union in these resolutions, and recommend that they shall be sent to all the other Colonies for their concurrence.\* Lord Botetourt seems not to have been prepared for this action. The bold assertions of the Burgesses astonished him: he saw the influence of the King fading away in the land. He summoned the Speaker and Assembly to the council chamber, and addressed them in laconic terms.

"Mr. Speaker, and Gentlemen of the House of Burgesses: I have heard of your resolves, and augur ill of their effects. You have made it my duty to dissolve you, and you are dissolved accordingly."

\* The Resolutions are in Burk, iii. 342, 343; Grahame, iv. 291.



But now the spirit of freedom had risen too high to be at once allayed. The measure of the Governor was the occasion of a decisive step, which went far in the path to Independence. Instead of returning quietly to their homes, as they had done before, when dissolved, the Burgesses, almost as with one accord, reassembled at a private house in Williamsburg, and formed the first revolutionary "Convention" that Virginia had known. Nothing like it in any respect can be found in her past history, except the meeting called by Nathaniel Bacon in the time of his rebellion<sup>a</sup>—and the parallel both in place and in purpose between these two events, will not escape the notice of the philosophic reader. When the representatives of the people begin to debate public measures on their own authority, they are fast approaching to self-government.

The Convention made no attempt to make laws: they simply adopted a preamble, in which they expressed their sense of the wrong done them by the late acts of Parliament, and they then entered into a non-importation agreement, binding themselves to be frugal, to import no taxed article, and none of the manufactures or products of Britain, until she should return to the practice of justice. The agreement is signed by an array of names which cannot be read without feelings of veneration. The noblest of Virginia's sons will be found among them.<sup>b</sup> Long-cherished prepossessions were fast

<sup>a</sup> Vol. i. 349, 350.

will be found in Burk, iii. 345-349,

<sup>b</sup> The agreement and signatures in note.

yielding to a love of freedom, and a desire for independence.

The effect of their action was soon apparent. Copies of the agreement were spread through the country, and thousands of signatures attested the sentiments of the people. Old and young, great and humble, wealthy and poor, united in opposition to the claims of the mother country. The other Colonies caught the flame kindled in Virginia, and fanned it into conflagration. Meanwhile, England was not ignorant of the course of her Colonists, and for a time, at least, she again paused. The Earl of Hillsborough, the Secretary of Foreign Affairs, wrote to Lord Botetourt, assuring him that it was not the intention of Ministers to draw revenue by duties from America, and that at the next meeting of Parliament, the customs on glass, paper, and colours, would be repealed, as being adverse to the interests of commerce. The generous Governor glowed with delight in receiving these assurances, and his letter communicating them to the Council and House of Burgesses, expresses in nervous language how much he felt interested for his colonial charge.<sup>a</sup> Once more hope revived; the Council and Assembly united in sentiments of gratitude to the Governor, and of respect for the King; but their hopes were destined to speedy betrayal.

Charles Townsend died in the month of September, and was succeeded in his office by Frederic, Lord North, the eldest son of the Earl of Guildford.

(1770.) In January, the Duke of Grafton resigned

<sup>a</sup> Documents, in Burk, iii. 350-353.

his place, and Lord North became First Lord of the Treasury, and Premier of England.<sup>a</sup> The administration of this nobleman was memorable; fatal to the best interests of Britain, and only beneficial to America, because it drove her into war.

In the month of March, urged on by numberless petitions from British merchants, he introduced a bill repealing the duties on glass, colours, lead and paper, but retaining that on *tea*. This last was retained with express design to affirm the right to tax, and in urging it, his Lordship openly declared his policy: "To temporise is to yield; and the authority of the mother country, if it is now unsupported, will in reality be relinquished for ever: a total repeal cannot be thought of till America is *prostrate at our feet*."<sup>b</sup> The bill in the form proposed became a law, and was transmitted to America.

Lord Botetourt was deeply wounded by this result. His hopes, based on the assertions of Hillsborough, vanished into air, and so much was he mortified by the position in which his own government had placed him, that he asked leave to resign. While his application was pending, the pain of a generous mind aggravated a disease of his body, and he died during the summer, deplored not merely by personal friends, but by all classes in the Colony, capable of appreciating his worth.<sup>c</sup> In death he has not been forgotten; one of the most beautiful counties in the valley bears his name,

<sup>a</sup> Belsham, v. 285, 286; Bissett's George's III., 256, 257.

<sup>b</sup> Belsham, v. 358.

<sup>c</sup> Burk, iii. 361.

and a monument at Williamsburg, erected by order of the Assembly,<sup>a</sup> perpetuates the memory of the man who preferred the love of Virginia to the smiles of his King.

After the death of Botetourt, William Nelson, President of Council, administered the affairs of the Colony. The appointment of a governor at this crisis, had become a matter of great delicacy and importance, and had the English rulers sought through their dominions, they could hardly have made a worse selection than the man on whom their choice fell. (1772.) From the Province of New York, Lord Dunmore was transferred to Virginia. He is said to have been coarse in his person, rude in his manners, and unscrupulous in his morals: he wanted the courtesy, the refinement, the sensitive love of justice possessed by his predecessor in so eminent a degree.<sup>b</sup> He brought with him Captain Foy, as his private secretary, an officer of the British army who had distinguished himself in the bloody battle of Minden. To provide well for his favourite, Dunmore resorted to a practice honoured by the renowned examples of Culpeper and Effingham, and invented a new list of fees, which promised to bring him some revenue; but the first Assembly after his arrival, scrutinized the matter so rigidly, that he was obliged to desist.<sup>c</sup> With much reason it has been supposed that a military companion was selected by Dunmore with a special view to the disturbed state of the Colony,

<sup>a</sup> Howe, 326; Burk, iii. 364, in note.

<sup>b</sup> Wirt's Henry, 99.

<sup>c</sup> Burk, iii. 368-370.



and the forcible measures he might find it expedient to adopt.

Though harsh and unprepossessing in his manners, his Lordship had decided talents, and an ability for diplomacy, upon which the English Court placed some reliance. He detected a scheme of extensive forgery of the public securities, and brought the offenders to justice by means so stern and summary, that the Assembly could not approve.<sup>a</sup> But events of greater importance were soon to attract his attention. (1773.) The Assembly of this year, contained members of great power of mind, and of uncompromising patriotism. Among the youngest and most brilliant were Dabney Carr and Thomas Jefferson. Mr. Carr was already a rival of Patrick Henry at the bar. His person was fine, his voice full of melody, his feeling keen, his reason unclouded; his heart overflowed with love to his country, and his tongue was ever ready to express it. On the 12th March, he introduced important resolutions, appointing "a standing committee of correspondence and inquiry," to consist of eleven members, whose duty it should be, to watch Britain and commune with the other Colonies. This measure was powerful in its operation, and we may judge of its weight by the men placed on the committee. They were the leaders of America in the approaching struggle.<sup>b</sup> It is sad

<sup>a</sup> Burk, iii. 371.

Dudley Digges, Dabney Carr, Archi-

<sup>b</sup> They were Peyton Randolph, R. C. Nicholas, Richard Bland, Richard Henry Lee, Benjamin Harrison, Edmund Pendleton, Patrick Henry, bald Cary, and Thomas Jefferson.—Wirt, 69, 70; Burk, iii. 392; Tucker's Life of Jefferson, i. 52, 53.



to reflect how short a time the young statesman who had introduced it, survived the triumph of his scheme. Mr. Carr died in Charlottesville, on the 16th of May, in the thirtieth year of his age.<sup>a</sup>

Every day brought nearer to explosion the storm which was gathering in the British Colonies. It was delayed as long as forbearance was possible. Had the war been a sudden outburst, it would have had as sudden a termination. But it was the legitimate consequence of years, and even centuries of oppression; and therefore it was destined, when commenced, to end only with the total removal of its cause. It was a war of *principle*, and not of mere expediency. Of this, the best proof is found in the conduct of the adverse parties, as the contest drew near to its *acme*. Hoping to reconcile the Colonists to the payment of the tax of three pence on tea, England by law permitted the East India Company to withdraw from her ports millions of pounds of this commodity which they had there in store, and to ship them to America without paying any duty in the custom-house, of the mother country. The effect of this was to make the price of tea actually lower in America than it had been *before* the duty was imposed. But the eyes of the Colonists were now open to the subject; they were not to be deceived by the appearance of fairness. So long as duty was demanded in the ports of America, so long was she taxed without her own consent, and until this *principle* was abandoned, she

<sup>a</sup> Virginia Gazette, May 29, 1773; Wirt, 71.

determined not to receive a pound of the hateful commodity.<sup>a</sup> Hence the well-known scene in the harbour of Boston, where, on the 16th of December, persons dressed as Mohawk Indians boarded a tea ship, and in two hours hoisted out and threw overboard three hundred and forty-two chests of her cargo, and then quietly dispersed to their homes.<sup>b</sup>

(1774.) When news of this event reached England, Ministers thought the time had come for violent restraint. A bill was introduced, and passed in Parliament, providing that after the 1st of June, the port of Boston should be closed; her trade should be cut off, and thus her energetic population would have been consigned to idleness, and, after a time, to poverty. But the time of safety was passed; violence did but inflame the spirits of the people. When the Boston "Port Bill" was made known in Virginia, her Assembly was in session; and, without a moment's delay, they adopted resolutions expressing the deepest sympathy for their oppressed fellow-patriots; setting aside the fatal 1st of June as a day of humiliation, fasting, and prayer, and ordering that a suitable sermon should be preached on the occasion.<sup>c</sup> (May 25.) The day after these resolutions passed, Lord Dunmore summoned the

<sup>a</sup> The London Times for January 2d, 1847, speaking of the proposal in the late U. S. Congress, to tax tea and coffee, says, "It is little more than seventy years since the Colony rebelled, rather than pay a duty of 3*d.* per pound on the former article. The whole population rose in de-

fence of *an untaxed teapot.*" However undesignedly, the writer pays a high tribute to the steady adherence to principle shown by America in the revolution.

<sup>b</sup> Gordon, i. 225; Grahame, iv. 344; Otis's Botta, i. 121.

<sup>c</sup> Wirt, 74, 75; Burk, iii. 378.

Burgesses to his presence, and addressed them in lordly style: "I have in my hand a paper published by order of your House, conceived in such terms as reflect highly upon his Majesty and the Parliament of Great Britain, which makes it necessary for me to dissolve you, and you are dissolved accordingly."<sup>a</sup>

Forthwith the members repaired to the Raleigh Tavern, in Williamsburg, and formed another association, in which they spoke with indignant earnestness of the measures against Boston; denounced tea as the source of all their evils, and administered a just rebuke to the East India Company for joining hands with tyranny. They recommended that the members to be elected for the next Assembly should meet "in convention," at Williamsburg, on the 1st of August, and should then appoint deputies to represent Virginia in the "General Congress" to be held this year.<sup>b</sup> Then going to their homes, the members spread far and wide their influence. The 1st of June was a day of real mourning; the pulpit began to speak on the temporal liberties of man; each bosom caught the spirit, and it seemed as though an electric shock had passed through every part of the Colony.

The body assembled at Williamsburg on the 1st of August, is generally spoken of as the "First Virginia Convention." It was, indeed, the first regularly constituted and authorized to act by the

<sup>a</sup> Burk, iii. 378; Tucker's Jefferson, i. 56.

eighty-nine members. Tucker's Jefferson, i. 56, 57; Wirt, 75.

<sup>b</sup> The association was signed by

people, though we have seen that informal bodies of the same character had before existed. Its action was entirely confined to the absorbing topic of the day. The distress of Boston; the obstinacy of the English Ministry; the duties on tea;\* were the grievances: non-importation of British commodities, was the chief remedy; but they went farther, and declared that unless their woes were healed before the 10th of August, 1775, they would not after that time *export* a pound of tobacco to Great Britain. A member had been elected from Albemarle to this Convention, who, though yet young in years, had already assumed a prominence in the councils of his country, which was afterwards ever increasing. Thomas Jefferson was prevented, by sickness from attending; but he sent his thoughts in writing, which were afterwards published, under the title of a "Summary View of the Rights of British America." The doctrines sustained in this composition were too bold to be adopted, even by the patriots of 1774; but the tract was universally admired. It was afterwards published in England, and though eagerly read by opposition members, it is said to have gained for its author the honour of being included in a bill of attainder for treason,

\* The third article deserves to be recorded: "Considering the article of tea as the detestable instrument which laid the foundation of the present sufferings of our distressed friends in the town of Boston, we view it with horror; and, therefore,

resolve that we will not, from this day, either import tea of any kind whatever, nor will we use or suffer even such of it as is now on hand to be used in any of our families."—Burk, iii. 384.



introduced, but not passed, by the House of Commons.<sup>a</sup>

The members appointed as deputies to Congress, were Peyton Randolph, Richard Henry Lee, George Washington, Patrick Henry, Richard Bland, Benjamin Harrison, and Edmund Pendleton. On the 4th of September, at Carpenter's Hall, in Philadelphia, the venerable body assembled which was to speak in behalf of the liberties of three millions of men. To detail its action, would not be consistent with the unity of this work. Virginia's noblest sons took part in its counsels, and led on to the conflict. Peyton Randolph was in the chair; Patrick Henry and Richard H. Lee, opened the argument in speeches of matchless power. Its proceedings have become a part of the history of America, and its very name is heard with reverence and gratitude.

Meanwhile, Governor Dunmore was engaged in schemes which have been enveloped in a cloud of mystery, and which will, probably, never be fully explained. He has been charged with having desired to break the opposition of British America to the mother country, by involving two of the most powerful Colonies in war with each other concerning their boundaries, and with producing Indian hostilities, to divert the attention of Vir-

<sup>a</sup> This tract is not now in general circulation. The author examined it, together with Richard Bland's "Inquiry into the Rights of the British Colonies," published in 1766, in the Library at Cambridge, Mass., in February, 1847. The "Summary View," was republished in the "American Archives," vol. i.; and in Jefferson's Works, i. 100-116. See Tucker's Life of Jefferson, i. 58-61.



ginia from the proceedings of the English Ministry.<sup>a</sup> The evidence to prove these charges is too vague to bring conviction, yet the facts furnished are suspicious. He employed a Pennsylvanian, one Doctor Conolly, a man of popular arts, of intriguing disposition, and of doubtful patriotism. He gave to him command of the fort at Pittsburg, with the title of Major. A dispute between Pennsylvania and Virginia as to their boundaries west of Fort Pitt, was nursed into importance, and, but for the forbearance and generosity shown by the Assemblies of both provinces, they might have been urged into civil war.<sup>b</sup>

But the Indian hostilities assumed a more serious aspect. Single murders, on both sides, had been committed by parties on the Ohio frontiers, and in the month of April, several relatives of a distinguished Indian chief had been slain, without adequate provocation, by white men, under the direction of one Captain Cresap.<sup>c</sup> These events were followed by bloody retaliation; the savage war-whoop once more sounded among the bold pioneers of the Ohio valley. Women and children were put to death, or dragged into captivity. When expresses arrived in Williamsburg, announcing the danger, Lord Dunmore resolved to make a vigorous attack upon the natives, and crush them at a blow.

<sup>a</sup> Jacob's Account, in Kercheval, 165, 166, 186.

<sup>b</sup> Jacob, in Kercheval, 162-165; Burk, iii. 374, 375.

<sup>c</sup> Doddridge's Account, in Kercheval, 148, 149; Appendix to Jef-

erson's Notes, 238-274; Withers' Border Warfare, 117-120. This work is rare in Eastern Virginia; a copy has been kindly presented to me by Thomas Mathews, Esq., of Richmond.

He directed that General Andrew Lewis, a brave officer of Botetourt County, should raise about one thousand men, and march to the Ohio; while his Lordship should put himself at the head of a similar number, in the higher part of the valley, and should proceed to Fort Pitt. It was intended that the two forces should unite at Point Pleasant, now in the county of Mason, and just in the fork of the Ohio and Great Kanawha Rivers.

Immediately, these orders were carried into effect. The counties of Berkeley, Hampshire, Frederick, and Shenandoah, Augusta and Botetourt, yielded more than two thousand riflemen, who eagerly prepared for the field. They were men of tried courage, and of astonishing skill in the use of their weapon. General Lewis, at the head of a detachment of more than a thousand, passed through the trackless forest between Camp Union and Point Pleasant. Captain Matthew Arbuckle was the pioneer, and most skilfully was his duty performed.<sup>a</sup> On reaching Point Pleasant, the 1st of October, they found that Dunmore had not arrived, and, doubtful of his plans, General Lewis sent scouts to meet him and receive his orders. On the 10th, while the army was in camp between the rivers, two young men, who had ventured out to hunt, were suddenly attacked by a large body of Indians. One was slain, and the other fled wounded to the camp, to rouse his comrades to battle. The whole army was speedily in motion, and drawn out in order four hundred yards from the camp. Fifteen

<sup>a</sup> Doddridge, in Kercheval, 152.

hundred savages advanced to the attack; and so terrible was their fire, that many of the leading division of whites were slain. Colonel Charles Lewis, a brother of the General, was mortally wounded, and with difficulty dragged himself into the camp, where soon afterwards he expired.

But a reinforcement was at hand. Colonel Fleming in a loud voice encouraged his men, and by his example animated them to the conflict. He received two balls through his left arm, and was wounded in the lungs, yet he continued to cheer on his command. In a short time every man in each army was under cover: from behind trees they sought their enemies with their weapons; the forest rang with the sharp reports of the rifle,—and so unerring was the fire, that few balls were thrown away: nearly all who fell were shot in the head or the breast. Colonel Field, while incautiously pressing in pursuit, received a mortal wound, and for a long time the victory was doubtful. The savages were led on by Cornstalk, a gigantic warrior, already well known in border warfare. His huge frame was often seen gliding from tree to tree, as he encouraged his men; and his stentorian voice, crying “Be strong! Be strong!” sometimes rose above the tumult of the battle.\*

At length the skill and valour of the Virginians prevailed. Holding out their hats from behind the trees, the riflemen would often tempt the savages to fire. The hat would then drop; and when the warrior rushed forward to scalp his fancied prey, a rifle

\* Doddridge, 154; Withers, 129.

bullet brought him down.<sup>a</sup> From early in the morning until sunset, the combat raged without intermission. The Indians began to give way, and retire slowly from the field. Cornstalk urged them to the fight, and with his own hand struck dead one of his followers who showed signs of cowardice. But the whites pressed upon them, and soon drove them from the ground. Yet the victory, though complete, had been dearly bought. One hundred and forty men were either killed or wounded. Two field officers were killed, and a third desperately wounded. More than half the captains and subaltern officers were among the slain or hurt. The loss of the savages could not be precisely ascertained, as they carried off the wounded, and are said to have thrown the dead into the Ohio, in the midst of the fight.<sup>b</sup>

The whole honour of this bloody battle must rest with General Lewis and his gallant men. Dunmore is entitled to no part of it, and little merited the thanks which the Virginia Convention afterwards bestowed on him.<sup>c</sup> From Fort Pitt he had proceeded down the Ohio to Hockhocking; and before the south division under Lewis arrived, he concluded a treaty of peace with the principal Indian tribes. The warrior Cornstalk made a long harangue, and boldly set forth their causes of complaint. Among the native chiefs, it was observed that Logan, the pride of the Cayugas, did not appear; but he assented to the treaty, and despatched an interpreter to Dunmore

<sup>a</sup> Burk, iii. 394.

Kercheval, 153.

<sup>b</sup> Burk, iii. 395; Doddridge, in

<sup>c</sup> Wirt, 99.



with a belt of wampum containing his speech for the occasion. This celebrated specimen of savage eloquence has since become known through all enlightened lands. It has been admired by Europe and America; nor has it gained interest merely because it was delivered under circumstances so novel and romantic. Simple, grave, and full of the purest pathos, it finds its way at once to the heart, and brings immediately before us the desolated red man, whose love to the whites had been repaid by the murder of all who had his blood running in their veins.<sup>a</sup> The only benefit Lord Dunmore ever conferred upon Virginia was in bringing from the west this noble oration.

This Indian war was the immediate precursor of the memorable struggle between a civilized mother and her own oppressed offspring. (1775.) In the month of March, the Virginia Convention assembled at Richmond, in the county of Henrico. It was then a small town, consisting chiefly of wooden houses rising over hills which ascended from the banks of James River. The time-honoured church on Richmond Hill was the place in which the Convention met; and the picturesque beauties of this spot are now heightened by the historic associations which linger around it. The body contained the patriots of the Colony. Already the sound of war had been heard in the land; English fleets were hovering on the coasts of America, and English armies were quartered in her cities; yet the hearts

<sup>a</sup> Jefferson's Notes, 66, and Ap. Doddridge, in Kercheval, 155, 156. pendix, 239; Burk, iii. 397, 398;



of many shrank from actual combat; they still hoped for peace, purchased with less than liberty.

The first measures of the Convention were indecisive. They expressed their satisfaction at the course of the late Congress, and their thanks to their own delegates who had acted in its councils. They declared their pleasure in receiving a petition and memorial to the King from the Assembly of Jamaica, in which earnest offers of compromise were proposed for the pending difficulties.

But they were not long to rest in this inglorious calm. On the 23d of March, Patrick Henry presented resolutions declaring that a "well-regulated militia, consisting of gentlemen and yeomen," was the natural defence of the country, alluding in direct terms to the presence of British armies, and the dangers threatening American freedom, and finally proposing that the Virginia colony should be put in a state of defence, and that measures should be immediately taken "for embodying, arming, and disciplining such a number of men as may be sufficient for that purpose."<sup>a</sup> This proposal came like the shock of a thunderbolt upon the "peace party" in the house; and when they were in some measure recovered, they made a vigorous stand against it. Richard Bland, Robert Carter Nicholas, Edmund Pendleton, and Benjamin Harrison all opposed it. Every argument that ingenuity could suggest, and learning sustain, was brought against it. They told of the weakness of America and the strength of England: a country without

<sup>a</sup> Wirt, 90.

soldiers—without arms—without generals, opposed to the formidable power which had shaken Christendom to its centre: they urged the duty of loyalty, the advantages of connexion with Britain, the domestic comforts they might enjoy, contrasted with the horrors of civil war.

It was now that Patrick Henry appeared in majesty. Rising slowly from his seat, he commenced a speech which made every soul thrill with ineffable emotion. Enough of this address has been preserved to give to us some idea of the topics he presented; but none can paint the living power, the fire which animated his form and burned in his words. With mighty strokes he hewed down the defences which had been erected before the King and the Parliament, and disclosed them in all their deformity.

“Let us not, I beseech you, sir, deceive ourselves longer. We have done every thing that could be done to avert the storm which is now coming on. We have petitioned—we have remonstrated—we have supplicated—we have prostrated ourselves before the throne, and have implored its interposition to arrest the tyrannical hands of the Ministry and Parliament. Our petitions have been slighted; our remonstrances have produced additional violence and insult; our supplications have been disregarded; and we have been spurned with contempt from the foot of the throne. In vain after these things may we indulge the fond hope of peace and reconciliation. There is no longer any room for hope. If we wish to be free—if we mean to preserve in-

violate those inestimable privileges for which we have been so long contending—if we mean not basely to abandon the noble struggle in which we have been so long engaged, and which we have pledged ourselves never to abandon until the object of our contest shall be obtained—we must fight! I repeat it, sir, we must fight! An appeal to arms and to the God of hosts is all that is left us.

“There is a just God who presides over the destinies of nations, and who will raise up friends to fight our battles for us. The battle, sir, is not to the strong alone; it is to the vigilant, the active, the brave. Besides, sir, we have no election. If we were base enough to desire it, it is now too late to retire from the contest. There is no retreat but in submission and slavery. Our chains are forged; their clanking may be heard on the plains of Boston. The war is inevitable, and let it come. I repeat it, sir, let it come.

“Gentlemen may cry peace! peace! but there is no peace. The war is already begun. The next gale that sweeps from the north will bring to our ears the clash of resounding arms. Our brethren are already in the field. Why stand we here idle? What is it that gentlemen wish?—what would they have? Is life so dear, or peace so sweet, as to be purchased at the price of chains and slavery? Forbid it, Almighty God! I know not what course others may take; but as for me, give me liberty, or give me death!”

Amid silence, dead and solemn, the orator resumed his seat. Not a murmur was heard; not a whisper of comment disturbed the Assembly; feel-

ings too deep for utterance were struggling in every heart. The past, the present, and the future—the wrongs endured—the remedy offered—the slavery of peace—the terrors of war—the fear of defeat—the hope of success—all mingled together, and for a time stilled every tongue. But the moment of hesitation had passed. Quickly the blood returned with redoubled impetus to its channels. Every lip seemed ready to call to arms.<sup>a</sup> Richard Henry Lee rose, and with graceful oratory seconded the resolutions. His voice was not needed to add to the effect of that eloquence which had seemed almost enough to call the dead to life. The proposal of Mr. Henry was adopted, and in a short time Virginia was alive with military preparation. In every county men were to be enrolled, arms prepared, powder and ball provided. The eastern counties were particularly recommended to raise companies of horse, and to train them with all diligence to the sound of firearms and the movements of the field. All things indicated that peace could not long endure.

The words of Patrick Henry were prophetic. The next breeze which blew from the north might have swept over the plains of Concord and Lexington while the combat between the British troops and Massachusetts yeomanry was in progress; and one day after this battle, a body of marines from the armed English schooner *Magdalen*, acting under the orders of Lord Dunmore, came up to

<sup>a</sup> See Wirt's Henry, 95.

Williamsburg in the dead of night, and carried off from the public magazine twenty barrels of powder, which they stored before daybreak in the hold of their vessel.<sup>a</sup> (April 20.) Thus the war of the Revolution commenced in Virginia.

. <sup>a</sup> Skelton Jones's *Virginia*, 2; Wirt, 100, 101; Tucker's *Jefferson*, i. 68; Burk, iii. 407.



## CHAPTER II.

Excitement in Williamsburg—Armed force from the Fowey man-of-war—Captain Montague—Proceedings in Fredericksburg—Patrick Henry marches at the head of a volunteer company to retake the powder—Richard Corbin, King's Receiver-General—Last House of Burgesses in Virginia—Conciliatory plan of English Ministry—Its duplicity—Virginia not deceived—Explosion in the Williamsburg magazine—Dunmore retires aboard the Fowey—Correspondence between the Governor and the House of Burgesses—Vigorous preparations for war—Dunmore enters Norfolk harbour—Seizure of Holt's printing press—Predatory warfare—Attack on Hampton—Gallant defence—Enemy repulsed—Dunmore's success in Princess Anne—His inhuman proclamation—Plot with Connolly—Great Bridge—Colonel Woodford marches with the Virginia force—Conflict at the Great Bridge—Death of Fordyce—Success of the Virginians—Howe and Woodford enter Norfolk—Consternation of the Tories—English fleet—Norfolk fired upon and burned—Dunmore's degradation—General Charles Lee—Removal of people from Princess Anne and Norfolk Counties—Gwynn's Island—Dunmore takes possession of it—General Andrew Lewis attacks him—Drives him out with loss—Miserable condition of the enemy—Dunmore sails to New York—Finally leaves America—His character—Virginia and the Revolution—Civil and religious freedom—Seldom enjoyed in the world—Virginia resolves, if possible, to secure them—Her gradual approaches to independence—Paine's Common Sense—Virginia Gazette—Convention of 1776—Declaration of May 15—Bill of Rights—Constitution—Its character considered—Establishment of civil liberty.

WHEN the removal of the powder was made known in Williamsburg, intense excitement prevailed. The people crowded together in groups, uneasy, irritated, and alarmed. Each man looked to his arms, and many threatened violent retaliation.

With promptness the Common Council of the city addressed a message to the Governor, expressing their concern at the late occurrence. They reminded him that the powder had been provided for public use, and after intimating that danger was apprehended from the slaves, who had been lately instigated to rebellion by "wicked and designing persons," they earnestly asked that the Governor would explain his conduct, and direct that the powder should be restored.<sup>a</sup> Lord Dunmore's answer was evasive and insincere: he talked much of the safety of the Colony, but his mind was evidently absorbed in his own selfish interests. When he heard that the citizens were in arms, his passions were roused, and with mingled fear and rage he swore that if any injury was offered to himself or to those who had acted in the affair of the gunpowder, he would *proclaim freedom to the slaves*, and reduce Williamsburg to ashes. A threat so inhuman was not fitted to allay the popular storm. Some may have thought that it was the result of momentary feeling; but others, who knew Dunmore well, believed him capable of all excesses, and events soon proved that his purpose had been deliberately formed.

The people around the capital were in high excitement, and their sentiments were fully shared by others at a distance. By advice of the Council, Dunmore issued a proclamation full of vague threats and hollow promises, and giving no satisfactory ac-

<sup>a</sup> Skelton Jones, 3; Wirt, 101, 102; Burk, iii. 408.

count of his action about the powder.<sup>a</sup> (May 8.) So little did this paper answer the purpose for which his lordship intended it, that it became the signal for renewed trouble. Hardly had it appeared, before a number of persons entered the magazine at night, and removed a great quantity of muskets, cartouch boxes, swords, and other military munitions. This act was unjustifiable, and was properly condemned by the civil authorities of Williamsburg; but it was made a pretext for measures which hastened the coming conflict.

At this time England maintained a naval armament on many parts of the American coast, and several ships of war were in the waters of Virginia. Among these was the Fowey, then lying near Yorktown, and commanded by Captain George Montague. Alarmed at each advance of the patriotic power, Dunmore opened a correspondence with the British officer, and when the magazine was rifled, he requested that a guard of marines might be sent from the Fowey to protect the palace at Williamsburg. Montague complied with the request; and at the same time that the detachment commenced its march, he addressed to Thomas Nelson, President of Council, a letter which, in its savage spirit, might be ranked with the threats of the Governor. He speaks of the party he is sending to guard Dunmore, and hopes they will not be molested, declaring that if they should be attacked, he would immediately open upon Yorktown the batteries of his

<sup>a</sup> Jones, 5, 6.

ship.<sup>a</sup> When this letter was laid before the committee for the town of York, it excited the warmest indignation against its author. Mr. Nelson had been active in soothing the discontented, and upholding the royal authority; the notice was given *after* the marching of the marines, so that no efforts could be made to preserve them from attack; the town of York was defenceless, and was full of women and children. Taking these facts into view, the committee voted that Captain Montague had "testified a spirit of cruelty unprecedented in the annals of civilized times," and they recommended that no marks of civility should be shown to him, except those required by "common decency and absolute necessity."

While these events were in progress, the country was kindling into flame. On every side, as the news of the seizure of the powder and the threats of the Governor were made known, the people ran to arms. Hanover, Caroline, Spotsylvania, Frederick, and Berkeley were alive with volunteers preparing rifles and muskets, or mounting troops for scouring the lower counties. The meeting in Fredericksburg merits a special notice. Six hundred men, well armed, and in uncommonly fine discipline, assembled at the call of their officers, and despatched some delegates to ascertain the posture of things at Williamsburg. While together, these patriots held a meeting, consisting of one hundred and two persons, citizens, soldiers, and

<sup>a</sup> This letter is dated May 4. Skelton Jones, 9, 10; Wirt, 107, 108; Burk, iii. 416, 417.



delegates to the Assembly, and adopted resolutions bolder in spirit, and more nearly approaching to a declaration of independence than any that had yet appeared. They denounced Dunmore's measures with freedom, and without evasion or fear they declared that "the troops would preserve their liberty at the hazard of their lives and fortunes." Though they deprecated civil war, yet, considering the liberties of America to be in danger, they pledged themselves to reassemble at a moment's warning, and by force of arms to defend the laws, and the rights "of this or any sister Colony" from invasion; and they concluded by the sentence: "GOD SAVE THE LIBERTIES OF AMERICA!"<sup>a</sup> When their messengers arrived from Williamsburg, they reported affairs as quiet for a time, and the volunteers returned to their homes.

Patrick Henry had watched the progress of events with deep interest. Believing that a sudden and decisive stroke would do much to rouse the hearts of his countrymen, and commit them for the war, he accepted the command of a body of troops raised in Hanover for the express purpose of marching to retake the powder removed from the magazine. His very name kindled enthusiasm. The neighbouring counties raised companies of infantry and horse, who hastened to array themselves under so

<sup>a</sup> The author hopes he may be pardoned for recording with pride this declaration, made in his native town, fourteen months before the celebrated instrument of the Continental Congress. The resolutions in Fredericks-

burg bear date April 29, 1775; and they were, therefore, twenty-one days prior to the Mecklenburg Declaration in North Carolina. See Skelton Jones, 11, 12; Purdie's Virginia Gazette.



distinguished a leader. It is supposed that in a short time not less than five thousand men were in arms, and ready to march at a moment's warning. But while Henry and his men were advancing, Dunmore sought means to divert the storm which threatened destruction to his authority. He sent Richard Corbin, the King's Receiver-General, to meet the determined American, and offer him terms of settlement. (May 4.) At Doncaster's ordinary, in New Kent, Henry received from Mr. Corbin three hundred and thirty pounds sterling, as compensation for the powder, and passed to him a written acknowledgment stating all the facts of the case.<sup>a</sup> The object of their march being accomplished, Mr. Henry offered their services to Treasurer Nicholas, as a guard for Williamsburg, if danger was apprehended; but an answer was received declining the offer, and the soldiers returned in triumph to their abodes in the country.

The Governor's perplexity was extreme. His own imprudence and harshness had irritated the people to measures which approached nearly to war. At this juncture, by advice of his Council, and with the hope of allaying the popular ferment, he summoned an Assembly to meet the 1st day of June. This House of Burgesses was the last that ever sat upon the soil of Virginia, although many of its members were afterwards prominent in her independent legislatures. Nothing could more forcibly have shown the state of the public mind than the appearance of the burgesses as they arrived and

<sup>a</sup> Jones, 14; Wirt, 108, 109.

took their seats in the house. All bore faces of seriousness and resolve; many were clothed in hunting shirts, and brought with them the faithful rifles, which were afterwards to be companions in the field.<sup>a</sup> Yet the proceedings were opened with due ceremony, and the Governor's address was more than usually courteous. He commended to their consideration the late resolutions of the House of Commons, in which Lord North professed to hold forth the olive branch to America, and to declare that all her real grievances should be removed.

This "conciliatory plan" had been introduced by the Prime Minister on the 20th of February, and had at first surprised both the friends and foes of America. It provided that whenever the Legislature or General Court of any Colony should make due appropriation for bearing its part in the expenses of the kingdom, and for the support of its own rulers and officers, then it would be expedient that Great Britain should cease to tax such Colony.<sup>b</sup> Had such a proposition been made at an early stage of the dispute, it might perhaps have calmed the colonists for a season, but now their eyes were open. None could fail to see that the plan offered no real remedy. It simply said, if you will tax yourselves for our benefit to the amount we require, we will not tax you; but the implication was irresistible, that, directly or indirectly, the tax was to be paid.

<sup>a</sup> Burk, iii. 421, 422; Skelton Jones, 18.

<sup>b</sup> This measure was one of the weakest of Lord North's administra-

tion. The reader would do well to examine it. See Bissett, 346-348; Belsham, vi. 118-124; Graham, iv. 389, 390; Gordon, i. 301, 302.

In truth, the measure was but an insidious attempt to distract the Colonies, and rend asunder that union which was so formidable to the Ministry. Lord North did not conceal that such was his object; and his adherents in the House repeated his views. The bill became a law by a considerable majority.

Virginia was not duped by this scheme. The House of Burgesses appointed a committee to examine it, who in a few days brought in a report adverse to the proposition. This able paper was from the pen of Thomas Jefferson, and it bears stamped upon its face the impress of his acute and powerful mind. It declared that the plan was rejected, because they had the right to give their money as they pleased, without coercion; because other grievances were left unredressed; because England had already invaded their country by sea and land; because free trade was not allowed to them; and, finally, because they would not treat without the concurrence of all the Colonies. The report concluded in a strain of eloquent asseveration, and in committing to the justice of Heaven the cause which could hope for nothing from the rulers of Britain.<sup>a</sup>

Dunmore's conduct betrayed a strange mixture of presumption and wavering, of boasting and cowardice, of pretended firmness and real alarm. He had issued a proclamation speaking of Patrick Henry in most contemptuous terms, and warning all men to oppose him in his attempts to disturb

<sup>a</sup> Tucker's Jefferson, i. 72; Skelton Jones, 32-35.

the peace of the Colony;<sup>a</sup> yet he yielded to the House when its members sought to investigate the affair of the gunpowder, and declared his readiness to render to them the key of the magazine. Deep, indeed, must have been the malignity which, under smiles and concessions, sought to cover a purpose of treachery and revenge.

On the night of the 5th of June, several young men entered the magazine to procure arms. As they passed the door, a cord attached to it discharged a spring gun, and three of the party were severely wounded. One had his shoulder torn to pieces with small bullets, and another lost three fingers of his left hand. When this incident was made known, none doubted that the contrivance was by Dunmore's order, and popular feeling against him increased in violence.. A committee of the House of Burgesses was appointed to search the magazine, and several barrels of powder were found buried under its floor, which were doubtless to be used as a mine, when the Governor thought proper to blow up the building and all who ventured into it.<sup>b</sup> The indignation of the people was no longer concealed. The Assembly used every exertion to preserve order in the town, but it seemed impossible to prevent a rupture. Terrified by the consequences of his own conduct, and being in mortal fear for his life, at 2 o'clock on the morning of the 8th, Dunmore fled from the palace, and, in company with his wife and some of his domestics, took

<sup>a</sup> Jones, 16; Wirt, 110.

<sup>b</sup> Jones, 25; Wirt, 113; Purdie's Gazette.



refuge on board the *Fowey* at Yorktown. He was of course accompanied by Foy, who feared the citizens hardly less than did the Governor himself.

From this time until the 24th of June, messages were almost daily exchanged between the House of Burgesses and his lordship. Dunmore alleged as a reason for his flight, that he was no longer safe in Williamsburg, and that he had constant reason to fear personal violence. The House addressed to him several dignified missives, professing their readiness to unite with him in measures for quieting the country; but no persuasions would induce him to trust his precious person to their guardianship. Several bills of high importance were passed, among which was one making provision for the officers and soldiers in the late Indian war; but the Governor refused his assent, unless they would comply with his unreasonable demands. At length the dispute reached its height. On the 23d, Dunmore commanded the Burgesses to come in person on board the *Fowey*, and receive his assent to the bills which were ready. When this insolent order was made known, the Assembly threw off all reserve, and passed resolutions declaring that his command was "a high breach of their rights and privileges;" that his delays and evasions warned the people to prepare for defence; and that they bore true allegiance to his majesty King George, and would uphold his authority according to the "established laws and principles of the constitution."<sup>a</sup> The correspondence between the Governor and the As-

<sup>a</sup> Skelton Jones, 54; Wirt, 117; Burk, iii. 426, 427.



sembly was now closed, never to be renewed ; and in his absence the remaining bills were assented to by the Council. It will be proper at once to relate the final acts of the *last House of Burgesses*. They adjourned, first to the 12th of October, then to the first Thursday in March, 1776. At that time thirty-two members only appearing, they again adjourned to the 6th of May ; and on that day, although a few members attended, they did no business, and soon dispersed. Such was the end of the Colonial Assembly of Virginia. It had been constituted in a reign of despotism—had served through seasons of gloom and oppression—had led the way in declaring principles of freedom, which sunk deeply into the hearts of America, and had only ceased to act when it was to be succeeded by a child more independent, though not more enlightened and courageous. With the death of the Assembly, the authority of the King passed away for ever in the Old Dominion.

Before their first separation, the Burgesses had agreed to meet in convention at Richmond on the 17th of July ; and accordingly they then assembled and commenced deliberations. The question of peace and war was no longer doubtful, and without delay, means were adopted for arming Virginia. Volunteers began to pour in on all sides ; the dragoons of the tide-water counties, the riflemen of the west, and the young soldiers from the best families between the Blue Ridge and the Bay, were all in motion. The convention was too cumbrous a body to act with promptness, and therefore a Committee

of Safety was appointed, consisting of eleven members,<sup>a</sup> to whom broad powers were given for the public defence.

Their preparations were not premature. Immediately after the close of his correspondence with the House of Burgesses, Lord Dunmore sailed down the bay in the Fowey, and made diligent efforts to collect an armed force to attack Virginia. He made the harbour of Norfolk the place of rendezvous for his fleet. This flourishing seaport then contained about six thousand inhabitants, and was in many respects the most important town in Virginia. Its position gave to it so many commercial advantages that trade from abroad flowed into it spontaneously, and wealth began to accumulate. That there were patriots within its bounds, no one can doubt; but its leading inhabitants were English and Scotch merchants, who loved money more than liberty, who revered Britain too much to serve America, and who would willingly have seen the Revolution strangled in its birth. Dunmore's first measure in Norfolk was the seizure of Holt's printing press, which had been bold in uttering republican sentiments. The insignificant band sent to effect this purpose might easily have been crushed; but the tories were numerous, and the rulers were overawed.<sup>b</sup> Emboldened by this success, the Governor resolved on further violence. He had now under

<sup>a</sup> They were Edmund Pendleton, George Mason, John Page, Richard Bland, Thomas Ludwell Lee, Paul Carrington, Dudley Digges, James

Mercer, Carter Braxton, William Cabell, and John Tabb. Burk, iii. 429, 430; Jones, 59.

<sup>b</sup> See Skelton Jones, 62.

his command, besides the Fowey, the Mercury, of twenty-four guns, the Kingfisher, of sixteen, and the Otter, of fourteen, with two companies of the fourteenth regiment, from the West Indies, and a rabble of negroes and tories, who had resorted to his standard. He fitted out several tenders and lighter vessels, and, hovering around the coasts, plundered the people, stole live stock, and destroyed improvements in a way highly congenial to his taste.

The town of Hampton daily feared an attack. Many at the seat of government thought that true policy would require that the whole lower country bordering on the bay should be wasted and abandoned, so as to afford no support to the enemy.<sup>a</sup> But this scheme, though it rivals the terrible resolution of the Russians at Moscow, was disapproved. The Committee of Safety despatched Colonel Woodford, at the head of one hundred mounted riflemen, to repel the threatened attack.

Hampton was a small seaport in the end of the isthmus between York and James Rivers. Its people were accustomed to sea scenes, and two of its sons had already distinguished themselves by bold captures of vessels belonging to the English fleet.<sup>b</sup> On the 24th of October, the British Captain Squires, with six tenders full of armed men, approached the town. Believing they would meet with feeble opposition, the boats' crews left the

<sup>a</sup> Burk, iii. 432.

of Captain James Barron, U. S. N.

<sup>b</sup> These were two brothers, named Burk, iii. 431; Howe, 251.  
Barron, one of whom was the father

tenders, and under a heavy fire to cover their attack, they pulled towards the shore. But they were received with a shower of rifle bullets. Marksmen, concealed behind fences on the beach, or in the town, poured upon them a fire so precise and deadly, that the boats were hauled hastily around, and with the loss of many of their men, returned to the tenders.

Colonel Woodford and the Culpeper riflemen marched all night through a heavy rain, and at 8 o'clock the next morning they were ready to aid the gallant militia of Hampton and the neighbourhood in repelling the second attack. Several vessels had been sunk immediately before the town, so that the tenders could not easily approach; but during the night Squires succeeded in cutting away the obstacles, and in the morning his fleet was in the harbour and drawn up with broadsides bearing on the town. (Oct. 25.) Instantly a cannonade commenced. Double-headed bullets were fired in rapid succession, and chain-shot were hurled among the houses, and swept the streets exposed to the water. The patriots had no heavy guns to oppose, and the English thought their victory secure. But the riflemen drew close to the river's edge, and concealing themselves behind fences, trees, and shrubs, marked every tender with their fire. They sent their lead with fatal precision. Not a man showed his face over a gunwale, who was not pierced by a ball. Not a sail could be touched, without exposing him who attempted it to certain death. The British were struck with astonishment



and dismay: confusion appeared in their movements, and they endeavoured to draw off from the town and escape into the bay. Some succeeded, though with the loss of several men; but two tenders drifted ashore, and the commander of one of them, after in vain trying to rouse his men to exertion, sprang into the water, and succeeded in swimming safely to the opposite beach. His crew dared not raise their heads from the deck, for fear of meeting a rifle ball. Thus the Americans captured two tenders, and, besides the prisoners, they took six swivels, seven muskets, and a quantity of pistols, small swords, and other weapons.<sup>a</sup>

Such was the first battle of the Revolution that was fought in Virginia. In many respects it was singular in its character. Vessels armed with cannon fired upon an exposed town, and men with no weapons heavier than rifles drove them from their moorings. No one can doubt who were the victors. The British vessels with difficulty escaped. Men were sent to the narrow part of the channel to oppose their egress, and nothing but a false rumour saved them. It was reported that a large body of the enemy were marching into the country. The patriots halted, and the prey escaped.<sup>b</sup>

Hostilities were now fully opened. At Burwell's Ferry a party of Virginia riflemen drove off the Kingfisher, which had been sent up James River to oppose their passage;<sup>c</sup> and an attack made upon

<sup>a</sup> Skelton Jones, 63, 64; Burk, iii.  
434, 435; Howe, 249, 250, copying  
from Burk.

<sup>b</sup> Skelton Jones, 64.

<sup>c</sup> Jones, 65.



Jamestown by an armed boat was gallantly repelled by two sentinels placed upon guard by Captain Green.<sup>a</sup> Dunmore was alarmed at the bold spirit everywhere manifested by the people, and determined in person to strike a blow from which he hoped decisive results. With design to seize some cannon belonging to the Colony, he left Norfolk the 16th of November at the head of two companies of regulars and a disorderly group of slaves and tories, and penetrated into Princess Anne County. Colonel Hutchings resolved, if possible, to defeat him by ambuscade, and raising two hundred militia, led them to the attack. At the first volley Dunmore's heroes were in utter dismay, and crowding together like frightened sheep, they might easily have been routed; but the regulars with great firmness formed a square with the Governor in the centre, and returned the fire. A shameful panic seized the militia; they broke and fled from the ground, leaving one of their number dead, and nine wounded and prisoners to the enemy. Colonel Hutchings himself was among the latter number. He was wounded by the fire, and made no attempt to escape.<sup>b</sup>

Emboldened by this success, Dunmore now declared open war. He published a proclamation, which had been prepared some days before.<sup>c</sup> In

<sup>a</sup> Girardin, 66. L. H. Girardin's narrative begins on the 65th page of the *History of Virginia*, vol. iv.

<sup>b</sup> Burk, iii. 437, 438. Girardin's account is more favourable to the

militia, 66, 67; but see his note, 67.

<sup>c</sup> It was dated November 7th, aboard the ship *William*. See the proclamation in Girardin, 68.

this he speaks with bitterness of the defence made at Hampton and other places, and charges the people of Virginia with commencing hostilities. He commands all to repair to the royal standard, and enrol themselves, under penalty of being declared traitors, and exposed to death and confiscation of lands and chattels. With inhuman zeal, he pronounces all slaves and indentured servants to be free, and urges them to take up arms against their masters. By this course he hoped to strike terror into the hearts of the patriots, and to awe the Colony into submission; but his ungenerous soul had little felt the power of those motives which now impelled the people. Instead of subduing, the proclamation roused them to new exertions. On every side men left their daily pursuits and ran to arms. Companies, mounted and on foot, were constantly reported at Williamsburg, and the great difficulty of the committee was not to obtain men, but weapons and ammunition.<sup>a</sup>

It was at this time that another developement was made, tending yet more to excite all good men against the Governor. We have heretofore mentioned his agent Conolly, as one employed by him in responsible offices and secret schemes. The movements of this man became mysterious. He repaired to Boston, and held an interview with General Gage, the British commander-in-chief, and at the same time, many things proved that he was in correspondence with Dunmore. Vigilant eyes were upon him, and a few days after he parted

<sup>a</sup> Girardin, 80; Burk, iii. 439.

from the Governor at Norfolk, he was arrested about five miles from Hagerstown, in Maryland. On searching him, the captors found a large sum of money, and several papers which developed a gigantic scheme for the ruin of Virginia. It was proposed that all the Indian tribes on the frontiers should be assembled, and by presents, promises, and exhortations, should be urged to take up the hatchet against the whites. Among the papers was a letter from Dunmore himself to a noted Indian chief, whom he addresses as his "brother White Eyes," telling him of the plot, and urging him to communicate it to Cornstalk and other powerful warriors.<sup>a</sup> Thus this infernal plot was discovered and defeated. It is impossible to depict in colours too dark, the infamy of the man, who, not content with rousing slaves to shed the blood of their masters, would have brought the knife and the hatchet upon hundreds of defenceless families in the great valley of the Alleghanies.

The Committee of Safety had now adopted vigorous means for completing the military establishment of Virginia. They had raised three complete regiments, of which the first was commanded by Patrick Henry, and the second by William Woodford: William Christian was Lieutenant-Colonel. Alexander Spotswood was appointed Major, and the heroic Bullet, who had so distinguished himself in the massacre near Fort Duquesne, was made Adjutant-General.<sup>b</sup> It will be

<sup>a</sup> Girardin, 75, and Appendix;    <sup>b</sup> Girardin, 77.  
Jacob, in Kercheval, 180-185.

proper to remark, that Mr. Henry did not long retain his command. Although he was possessed of undoubted courage, and was not deficient in military capacity, yet his talents called him to the council chamber, and we cannot regret that he was soon induced to resign his commission. He was, however, moved to this, by some unpleasant differences with Congress and Colonel Woodford, as to rank, and his resignation, for a time, threatened to produce embittered feeling among the volunteers, but with true patriotism, he quelled the storm, and urged all to united efforts for their country.<sup>a</sup> Woodford was a brave and virtuous officer—cautious without timidity—humane without weakness—decided without obstinacy. Virginia could not have entrusted her little army to a more competent leader.

From his retreat in Norfolk, Dunmore was the moving power of a disgraceful warfare waged upon the property and lives of the people exposed on the bay, or up the lower rivers. He made demonstrations against Suffolk, in the county of Nansemond, but a force of riflemen, commanded by Major Marshall,<sup>b</sup> and Lieutenant Scott, drove him back to his safeholds. A point known as the Great Bridge, had become very important to both parties. It was not more than twelve miles from Norfolk: it crossed a branch of Elizabeth River, and was connected by

<sup>a</sup> See Wirt, 130–134, and 138; commenced, as a soldier, a career Girardin, 108. which he afterwards continued with

<sup>b</sup> This was the great John Marshall, who now in his 21st year so much distinction, as a statesman and a jurist.



a long causeway with the firm land ; deep swamps surrounded it, and the road through these led to Norfolk, and when once gained, opened the way for the American army. On the island, at the extremity of the causeway nearest Norfolk, the English had thrown up a small fort, and on the other side stood several houses, principally used in the extensive trade in turpentine and shingles, carried on through the seaport.

Colonel Woodford, with the second regiment, and a number of minute men, was sent down to attack the enemy, and if possible open the way to Norfolk. He arrived on the 2d December, accompanied by Adjutant Bullet, whose courage and experience were thought all-important at this crisis. From this time until the 9th, nothing decisive took place—the patriots were employed in throwing up a breastwork in front of the causeway leading from the bridge. Frequent skirmishes took place, and in one of these some negroes were taken prisoners, on whom were found a quantity of *gashed balls*. They declared that this was done under the direction of Dunmore, who spared no means that ferocity could suggest, to injure the people so lately under his charge.<sup>a</sup>

The English force consisted of about one hundred regulars, and more than three hundred Tories, convicts, and negro slaves. A stratagem is said to have brought on their attack. Major Marshall's servant deserted and informed the British com-

<sup>a</sup> Burk, iii. 441 ; Girardin, 84.



mander that Woodford had only three hundred *shirt men* with him, and that these were in a wretched state of discipline and preparation. It is not easy to decide whether this scheme was or was not with the sanction of the American officers. The number reported was not far from the truth, and the term "shirt men" was applied by the English to the rifle troops of Virginia, who wore the graceful hunting-shirt, afterwards so well known in the battles of the Revolution. But an attack was resolved on. (December 9.) At the head of a select body, embracing the flower of the regulars, and the best of all the other troops, Captain Fordyce charged across the bridge, and advanced upon the breastwork. He was received with a shower of bullets from rifles, but the outer guard was broken and dispersed in confusion. The breastwork was now immediately in front. Waving his hat gallantly over his head, and cheering on his men, Fordyce rushed forward in the face of a terrible fire, which flashed along the whole American line. A ball pierced his knee; he staggered forward and fell, but instantly springing upon his feet, he brushed his knee slightly with his hand, as though he had fallen by accident, and continued his advance. Bullet pointed him out to his riflemen, and the words of caution had hardly passed his lips, before Fordyce fell dead to the ground, fourteen balls having entered his body.<sup>a</sup> This was the signal for the total rout of the English. Colonel Stevens, with a body of riflemen on the left,

<sup>a</sup> Girardin, 86; Burk, iii. 442; Howe, from Va. Gaz., 397.

threw in a flanking fire, the enemy fled precipitately across the bridge, leaving the second in command mortally wounded, and Lieutenant Battut severely hurt, and a prisoner in the hands of the patriots.

The courage displayed by the Virginians in these scenes, was only equalled by their humanity. Good authority has proved that Dunmore had told his inexperienced troops that they would be scalped if they fell into the power of the enemy, and when one of the patriots ran forward to help a wounded soldier who fell on the causeway, the prisoner in great alarm cried out, "For God's sake, do not murder me!" The man replied by raising him tenderly from the ground, and carrying him out from the dangerous passage. So striking was the incident, that the British commander, Leslie, acknowledged it with deep feeling from the platform of the fort.<sup>a</sup> The brave Fordyce was interred with the honours of war. The cruelty of their own Governor could not make the soldiers of Virginia forget the duty they owed to a generous and fallen enemy.

Although Colonel Woodford was too cautious to attack the British fort, he determined, if possible, to drive the enemy from the island. Colonel Stevens volunteered for the duty, and succeeded in crossing the bridge with one hundred of his finest marksmen. Here he placed his men under cover, and kept up an incessant fire, which soon wrought the desired end. The negroes fled in dismay, and

<sup>a</sup> Virginia Gazette, Howe, 398.

the tories followed them after a feeble resistance. Finding the fort no longer tenable, Major Leslie abandoned it, and with his regulars, made good his retreat to Norfolk. His whole loss, in killed, wounded, and prisoners, amounted to one hundred and two men, and he left behind him two spiked cannon. Not one Virginian was killed, and only one received a wound.<sup>a</sup>

When Lord Dunmore heard of the result at the Great Bridge, he was frantic with rage. He raved like a madman, and swore that he would hang the messenger who brought the news. But his passion soon gave way to fear. The road to Norfolk was now open to the patriots, and Woodford made preparations to approach the town. The triumph of the tories was over. Trembling with alarm, and conscious that they merited nothing but infamy, they dreaded to meet the victors. Boastings and insolence were exchanged for impotent murmurs. Colonel Woodford sent a message to the mayor and town authorities, informing them that he was marching with no intent to make war on the inhabitants, and that he would use no violence unless he was opposed: he therefore desired to know what reception he might expect. To this missive no answer was returned: the chief men had become too much involved in British interests to escape, and it is to be feared that too many of the inhabitants were unfavourable to the cause of freedom. Nothing now could be seen on all sides but men and women flying into the country with such valuables as they could carry. Among these

<sup>a</sup> Girardin, 88.

fugitives, Dunmore vied with the most active in his preparations for flight. While the danger was distant he was brave, but the moment it approached, his cowardly heart gave way. He went hastily aboard a man-of-war in the harbour, and the English fleet at the same time received a wretched train of traitors from Norfolk, who feared to face their patriot countrymen.

Woodford had been joined by Colonel Robert Howe of North Carolina, who brought with him about four hundred and thirty fresh troops. Howe's commission was from Congress, and under the rules of the service he took precedence of the Virginia officer, but the utmost harmony prevailed between them. At 10 o'clock, on the night of the 14th December, the Americans entered Norfolk; a few scattering shots were fired by disaffected inhabitants, but in a short time all was quiet, and the town was fully under patriot control.<sup>a</sup> Warm congratulations were exchanged between the soldiers and those brave citizens who had remained faithful in the hour of trial; and addresses full of gratitude poured in upon the commanders. It might now have been hoped that Dunmore would have retired, and that, as he was unable to hold the place, he would not seek an unmanly revenge, by endeavouring to injure the town. But there was nothing generous in his nature: his disappointment galled him to frenzy, and he sought victims in all Virginians, whether they were friends or foes.

<sup>a</sup> Girardin, 96, 97; Burk, iii. 448.



The whole force of the Americans under Howe and Woodford, amounted to twelve hundred and seventy-five men. Many were raw recruits, but some were experienced riflemen, and all were animated by a common spirit of courage and freedom. To attack the town under these circumstances, was beyond Dunmore's views: he contented himself with idle threats, and clamours for provisions. The utmost vigilance was exerted to prevent supplies from being obtained by the enemy, and not a bushel of salt or of grain entered the British ships, that was not bought with peril, and often with blood. But on the 19th, the frigate *Liverpool*, of twenty-eight guns, commanded by Captain Henry Bellew, appeared in the harbour, together with an armed brig, laden with ammunition and military stores. Encouraged by this reinforcement, Dunmore renewed his marauding attacks upon the towns and plantations on the rivers: food was what he principally sought: he had so long been accustomed to luxury, that he could ill bear the miserable pittance of sea-stores, with which the English were forced to satisfy their hunger. Captain Bellew joined heartily in his efforts, and finding that nothing could be obtained by persuasion, he resolved to try force. He exchanged messages with Colonel Howe, in which he declared that he was unwilling to fire upon the town, but that he would do so unless a supply of fresh provisions should be furnished for his men. To this menace the American replied by firmly refusing all aid for the English in general, although he permitted supplies



to be sent off for the Captain's private table.<sup>a</sup> This course did not allay his irritation, and probably hastened the catastrophe which followed.

(1776.) The first day of the new year, was one of signal misfortune for the most flourishing seaport of Virginia. The frigate *Liverpool*, the ship *Dunmore*, and two sloops of war were moored with their batteries bearing upon the town, and at half past three in the afternoon, they opened a tremendous fire. Heavy balls were hailed upon the houses, and the streets exposed to the ships were swept with incessant broadsides. Under cover of this iron storm, a party of sailors and marines, well armed, were landed in boats, and immediately set fire to the warehouses and other buildings upon the wharves. The great quantity of turpentine and pitch stored in these houses caused them to burn with frightful rapidity. The flames devoured all before them, and the heat was soon so intense that neighbouring buildings on other streets caught fire, and in their turn spread the conflagration. But in the midst of this scene of ruin, the patriots were at their post; a battalion of riflemen drew near the shore, and singling out their men in the party on the wharves, they poured upon them a fire which drove them back to their boats. Again and again the attempt to land was renewed. Marines and sailors gained the shore, but hardly had they touched the wharves, before the fatal rifles were at work, and with severe loss they retreated to the ships. Colonel Stevens, at the head of a

<sup>a</sup> Girardin, 100.

select body of Virginia troops, was in constant motion, and repulsed every attack made during the night, and the three days that followed.<sup>a</sup>

Had the Americans contended only with human foes, they would have triumphed. But the fire raging in the town was a more fearful enemy. The wind blew strongly from the shore, and carried burning shingles to an immense distance into the heart of the city. Heavy volumes of smoke settled in the streets, and clouds of heated ashes were driven in the faces of those who sought to extinguish the flames. The fire of the English ships was not suspended for a moment. The incessant roar of their cannon was heard, and every part of the town became a mark for their balls. No respect was paid either to private property or to edifices intended for religious worship. The time-honoured church of brick, which stands in the midst of the city, yet carries the mark of a heavy bullet, which shattered one of its corners.<sup>b</sup> For three days and nights the fire burned without intermission. Warehouses and stores, private mansions, and public buildings were alike its victims. Nine tenths of the town were reduced to ashes, and property amounting to three hundred thousand pounds sterling was destroyed. The distress attending this calamity can be more readily imagined than described. Out of a population of six

<sup>a</sup> Burk, 450 ; Girardin, 101 ; and see Letter from Howe and Woodford to the Convention, Virginia Gazette, Sup., Jan. 5, 1776.

<sup>b</sup> This building is now known as St. Paul's Church.

thousand persons, more than four thousand were at once deprived of their homes, and driven forth to seek shelter in the counties above.<sup>a</sup>

Amid these scenes of destruction, it is singular that, on the part of the patriots, so few lives should have been lost. One aged woman was killed by a cannon ball in the upper part of the town. Several children and females perished in the streets, either from the shot from the ships, or from the fall of burning houses; but of the troops, not one man was killed, and only seven were wounded.<sup>b</sup> The loss of the enemy is supposed to have been much more severe. With what feelings Lord Dunmore could have contemplated the wanton destruction of the town, to whose people he owed so much gratitude, it would be difficult to divine. Brutal revenge may have been sated, but no really valuable end was obtained. No food was procured; no foes were subdued; no spirit of disaffection was overcome. The Americans had rather gained confidence by their successful resistance; their souls were fired with indignation against an enemy capable of such measures, and their very misfortunes were converted into nutriment for courage and patriotism.<sup>c</sup>

We must now follow Dunmore to the close of his inglorious career in Virginia, although, before he left her shores, events not connected with him

<sup>a</sup> Girardin, 101, 102; Woodford and Howe, in Va. Gazette, Jan. 6.

<sup>b</sup> Woodford and Howe, Va. Gazette; Burk, iii. 451; Girardin, 101.

<sup>c</sup> See a noble letter, signed an "American," in the Virginia Gazette, Jan. 5, 1776; Belsham, vi. 162.

had occurred, which powerfully influenced her destinies. After the burning of Norfolk, he could have had little hope of an amicable settlement of his hostilities against the Colony; yet, in the month of February, we find him entering into correspondence with Richard Corbin (formerly the King's receiver-general), and insidiously urging a return to allegiance to Britain. His letter was laid before the Committee of Safety, and an interview took place between Mr. Corbin and the discarded Governor; but nothing like an approach to submission can be detected in the conduct of the guardians of Virginia.<sup>a</sup>

Dunmore was again reduced to a wretched condition. His fleet consisted not only of the men-of-war, but of more than fifty transports, carrying a crowd of unhappy tories, men and women; a great many negroes, who had been enticed from their masters; and a rabble of convicts and other degraded characters, who had joined his standard in more prosperous times. With them he cruised up and down the bay, landing at one point, burning a house at another; stealing private property from a third. His fleet was scantily supplied with food, and the increasing heats of the season threatened sickness of the most fatal character.

Meanwhile the great drama of the Revolution had fully opened, and to provide for the safety of the South, Congress had appointed Major-General Charles Lee to the command of the southern division of the United Colonies. This well-known

<sup>a</sup> Girardin, 117-119.



officer was an Englishman by birth, and a Virginian by adoption. He was brave to enthusiasm, and excitable to a fault; his temper was generous, but impatient; he knew better how to control others than himself. His brilliant talents and chivalrous bearing had already endeared him to all who knew him, and his eccentricities had not yet become so glaring as to forfeit public confidence. He arrived at Williamsburg on the 29th of March, and took in at a glance the military condition of Virginia. He saw that so long as the fleet of Dunmore continued to hover on the eastern waters, the disaffected of the counties on the bay would meet with aid and countenance, and though their number was not large their example was pernicious. In the counties of Norfolk and Princess Anne, particularly, the tories still assembled in strength, and finding all more gentle measures useless, General Lee warmly supported a stern system, which the Committee of Safety at length adopted in full.

Orders were sent to Colonel Woodford to remove all the inhabitants of these two counties living between the Great Bridge and Kemp's Landing on the one side, and the ocean on the other. They were to be carried into the interior, and, at the same time, all their live stock and other movable property was to be conveyed to a place of safety, and kept for the benefit of the owners.\* At the same time General Lee ordered that if any persons should be discovered in correspondence with the enemy, they should be seized as traitors, their houses

\* Order of Committee, April 10; Girardin, 142, 143.



should be burned, and they should be sent pinioned and handcuffed to Williamsburg, with a written statement of their crimes.<sup>a</sup>

These harsh but necessary commands, were carried into effect by Woodford, with a humanity and skill which reflect on him the highest credit. It was found impossible to execute the purpose in its literal sense, but so many of the people were removed, that few were left to be tampered with by the enemy, and Dunmore found himself in imminent danger of famine, from the cautious measures which had cut off all his streams of supply.

Just in the mouth of the River Piankatank, and within the limits of the county now known as Mathews,<sup>b</sup> lies an island not more than four miles in length and two in breadth, remarkable for its fertility and beauty. Gwynn's Island contains about two thousand acres of land, and at the time of the Revolution it abounded in natural wealth—in cattle, fruits, and vegetables, in good water, and luxuriant verdure.

Dunmore came out from Hampton Roads with his whole fleet, and after manœuvring for a time to divert the attention of his vigilant enemies, he sailed immediately for the island, and on the 24th of May landed his force, and formed an entrenched camp for their defence. He had with him at least five hundred men, including the negroes who had been seduced from their masters. Here he remained more than a month, varying the monotony

<sup>a</sup> General Lee's Instructions, Gardin, 143, 144.

<sup>b</sup> Mathews was formed from Gloucester County.

of his life by occasional robberies committed on the neighbouring plantations. He considered himself secure from attack ; his fleet was anchored around the island, and protected by indentations of the coast from the heavy gales which sometimes sweep from the ocean up Chesapeake Bay. But as the heats of summer gained strength, fevers began to prey upon his men, increased, doubtless, in virulence by their own profligate habits: many died, and were hastily interred in hillocks of sand by the water's side. Dunmore's courage was again ebbing away, and a vigorous attack only was necessary to drive him from his post.

This was soon accomplished. Annoyed by the reflection that this degraded band should be suffered so long to disturb the welfare of Virginia, the Committee of Safety sent General Andrew Lewis to endeavour to dislodge them. This brave officer had already distinguished himself in his bloody fight with the Indians at Point Pleasant, and he eagerly accepted duty, which would array him in battle against a commander whom he knew too well to respect. On the 8th of July, at the head of an efficient force, he reached a point opposite to Gwynn's Island, and immediately threw up two batteries—one mounting two eighteen-pounders, and the other having several lighter guns. The enemy's land forces were on a point of the island nearly opposite to the American batteries, and protected by a breastwork and stockade fort. Their ships lay in the deep waters around. General Lewis himself opened the engagement. He pointed

one of the eighteen-pounders at the Dunmore, which lay in the stream five hundred yards off, and applied the match : the ball passed directly through her hull, doing much damage in its way ; another shot cut her boatswain in twain, and wounded three other men ; and the third, from a nine-pounder in the second battery, beat in a heavy timber in her quarter, and narrowly missed Lord Dunmore, who was aboard. His body was wounded in several places by the splinters, and some of his china was dashed to pieces around him. In terrible fright, his lordship was heard to cry out, “ Good God, that ever I should come to this ! ”<sup>a</sup> He seemed to think his latter end was drawing nigh.

The fire was too hot to be endured. The Dunmore cut her cables and hauled off amid a raking storm of balls ; the Otter, which was next to her, received a shot between wind and water, and slipping her cable, with difficulty made her escape. The fleet was now in the greatest confusion, and had the wind blown on shore, many of them would have been captured ; they escaped only by leaving their anchors and making off in haste, followed by discharges from the batteries, which did them heavy damage. Meanwhile the land forces on the island received due attention : their fire was soon silenced. Several of their tents were stricken down by balls from the lower battery under Captain Denny, and nothing but want of boats prevented the patriots from crossing over at once and attacking the encampment.

<sup>a</sup> Virginia Gazette, July 29, 1776 ; in Girardin, 174 ; and in Howe, 377.

The next morning General Lewis prepared for the assault. Having collected all the boats and small craft in the neighbourhood, he planted two brass cannon near a place known as Lower Windmill Point, and trained them upon two English tenders stationed there to oppose the crossing. The fire was so severe that one of the vessels ran up a small creek, and her crew left her and took to the woods; the other got aground, and being boarded by the Americans, many of her men were taken prisoners. The patriots crossed to the island, and found the enemy's camp deserted; not one was left to resist; the land forces had taken refuge aboard the ships, which were already standing up the bay.

A melancholy scene met the eyes of the victors. The small-pox, and other malignant diseases, had committed fierce ravages among the English while at the island. Five hundred are supposed to have died. One hundred and thirty graves were counted from the encampment to Cherry Point, the northern end of the isle. Corpses in a state of putrefaction were strewn along the shore in half-dug trenches, and with a few shovels-full of earth thrown over them. Among the graves was one, carefully prepared and covered with turf, in which the remains of an English nobleman, Lord Gosport, were supposed to rest. Some unhappy wretches had been burned to death in brush huts in which they had taken refuge; others were found on the shore gasping for life, and bearing the hideous signs of the disease which was destroying them. The hearts of the patriots were moved to pity by these objects



of wo, and had they sought revenge, they would have found enough to sate it in the misery of their enemies. On their own part the loss was slight: one man only was killed. This was Captain Arundel, who was blown to pieces by the bursting of a mortar of his own invention, from firing which he had been in vain dissuaded by more experienced officers.<sup>a</sup>

Driven from his late place of refuge, Dunmore sailed up the Potomac River. The spirits of his people were depressed by defeat and sickness, and it may well be supposed that he was not himself in buoyant hope. Yet his predatory excursions were continued. Above Acquia Creek, in the county of Stafford, he burned a beautiful edifice belonging to Mr. William Brent, and the Stafford militia, although sufficiently numerous to have opposed him, retreated without striking a blow. But in a short time, thirty brave men from Prince William arrived, and by a vigorous charge drove the English aboard their ships.<sup>b</sup> A momentary panic only had seized on the men of Stafford, for no county in Virginia furnished braver hearts for the subsequent years of the Revolution. Harassed on every side, distracted by the mutinies of his own followers, seeing around him hundreds of men sick and dying with the fevers of the season, the wretched Dunmore was a victim of despair and mortification. His hopes of conquering Virginia were gone, and he was himself in imminent danger of being made captive. He sailed with his fleet to Lynhaven

<sup>a</sup> Virginia Gazette; Girardin, 174.

<sup>b</sup> Girardin, 175.



Bay, dismissed some of his ships to St. Augustine, some to the Bermudas, and some to the West Indies. He himself joined the naval force at New York, and towards the close of the year, sailed in the Fowey for England. He never returned to Virginia. Of all her royal governors, the last may be truly said to have been the worst. He had the rapacity of Culpeper, without his polished bearing—the cruel temper of Argal, without his courage—and the revengeful spirit of Berkeley, with none of his high sense of honour. It was meet that in the person of such a man, kingly authority should expire in the “Old Dominion.”

The measures of Dunmore, and other English agents, used to rouse the Indian tribes to hostility against the Colonists, were not without effect. On the borders of the two Carolinas, and of Virginia, the Creeks and Cherokees commenced incursions, and left traces of their course in havoc and bloodshed. A general combination was formed against them, and Colonel Christian, of Virginia, marched at the head of a select body of rangers, and attacked the Cherokees in their fastnesses. They were protected by mountain passes, rugged paths through their forests, by swamps and rivers, and they had carried their cruelty so far as to burn at the stake a white prisoner who had fallen into their hands. But Christian overcame all obstacles, and fell suddenly upon their towns, four of which were reduced to ashes. The Cherokee chief, Oucanastota, sued for peace, which was granted, on condition that the savages should deliver up the prisoners,

cattle, and other prey they had taken, and should also surrender fifteen hostages, who were to be annually exchanged for such others as the State of Virginia might require.<sup>a</sup> Having concluded this important treaty, Colonel Christian and his brave army returned to the east (October).

And now we may consider Virginia as fully involved in the war of the Revolution. Her course was no longer vacillating. She had sought to avoid a position of direct hostility to the King of Great Britain, and had asserted her loyalty even when the sound of arms had been heard, and her sons were preparing for the conflict. But now she took the very front rank in the struggle, which was to establish the independence of America. Blood had already been shed upon her soil. Her armies had marched to give battle to the enemy, and had achieved victory upon several well-fought fields. Her principal town had been desolated, and her exposed places pillaged by the King's forces, under the King's Governor, and she no longer held out even the semblance of submission. But while she was resisting with her soldiers the assaults made from without, her statesmen were working a mighty change within, which was destined to affect her fate through all succeeding generations. Battles may be fought, and victories won, without real benefit to the nation for whom they are gained. Macedonia was cursed by the triumph of her conquering kings, and Rome was never in so much danger of slavery, as when the leaders of her le-

<sup>a</sup> Girardin, 178.

gions were always victorious. It is when success in arms is accompanied by wisdom and virtue in the conduct of her civil interests, that a nation may esteem her prosperity as founded on a rock.

There are two possessions without which no people can have that amount of happiness to which they are entitled by their natural rights: these are a free *civil* constitution, and perfect *religious* liberty. The mind that will review, without prejudice or passion, the past history of the world, will be pained to find how rarely either of these blessings has been enjoyed by any nation, and how much more rarely they have been found united. It may be asserted, without hazard, that until the changes wrought by the American Revolution, no country ever did possess them in union, and hence the powerful effect which this event produced, and is still working among the older governments of earth. Even among the boasted republics of antiquity, freedom was rather nominal than real. The citizen of Rome might to-day riot in the full enjoyment of his supposed franchises, and might to-morrow be of the number shut up to a bloody death under the decree of a Marius or Sylla. The strongest arm made right for the time, and the constitution of the country was the sport of the favourites of fortune. And though in those days religion was but a show, it was not always an idle or bloodless one. Idolatry may be as tyrannous as false Christianity: if Athens willingly received the gods of other nations, and added them to her own thirty thousand, she yet resented every attempt to break the shackles of

her superstition; and had religious freedom been known in Greece, Socrates would never have been condemned to drink the juice of hemlock. To find liberty, in any just sense, among the people of the fifteen centuries succeeding the Christian era, would be a hopeless task. Asia never knew it, and Europe did not learn it until reflected light came to her from America. Villeins cultivated the soil, and even to this day, in some parts of Austria and Russia, they are transferred from father to son like beasts of the field; knights and barons contended for the mastery, and sovereigns often tottered on their thrones, but the freedom then enjoyed was only that gained by the heaviest gauntlet, or the deepest castle-moat. And the purest of religions had been perverted into the most revolting of tyrants, who pronounced decrees as by divine authority, and enforced them with the sword and the fagot. At the time of the American Revolution, the harsher traits of European governments were beginning to disappear, but enough was left to remind men that they were not free. Even in England, although her civil constitution had become the subject of eulogy both at home and abroad, reforms were needed which have not yet been ended, and the unhallowed connexion between Church and State deprived, and does still deprive, man of his highest right—the free exercise of his preferences in religion.

When Virginia was startled into action by the tyranny of the mother country, her eye immediately fell upon these two blessings, which she had never



fully enjoyed, and with intuitive eagerness she seized the time and the means for securing them. Upon these two points her whole subsequent history will turn, and it will not be an immoderate boast to declare that her conduct in gaining them has entitled her to the gratitude of the civilized world. Beyond doubt, her example has affected, not merely each individual state of the American Union, but the Union itself, in its federal character; and once more it shall be written that she was the cradle in which was rocked the infant of human freedom. She contains but sixty-six thousand square miles of land, a small territory, hardly to be discerned on the face of the terrestrial globe; but her *principles* are wide as the world, and powerful as destiny. In order that we may clearly mark each influence which was employed in conducting her to these two great ends, we must retrace, for a time, the course of her fortunes.

Under the rule of a despotic monarch, Virginia had obtained her General Assembly; but she owed this to the democracy of the London Company, and not to the favour of the sovereign.\* And though the Burgesses were elected by the people, their action was completely controlled by the Governor, who held an unlimited veto power. This officer was the creature of the King, was appointed by him, and removed at his pleasure, and few were the cases in which the Governor preferred the interest of his people to the arbitrary will of his sovereign. During the few years of the English Com-

\* See vol. i. 211, 212.



monwealth, Virginia had more internal liberty than at any other part of the colonial period. She elected her own governors; removed them when they were refractory; made her own laws, and levied her own taxes. This was a halcyon time, which was not long to endure.

Not long after Charles the Second gained the throne, the real effect of her dependence on the mother country was made manifest in the Colony, in a form of stern oppression. The Navigation Laws have been already explained, and the course of the Governor drove the people of Virginia into premature rebellion. No relaxation of the policy of England succeeded this unhappy outburst; the grievances of the people continued unredressed until the fatal line was passed, beyond which submission was impossible. Yet, even after the Stamp Act, few of the leading men of the Colony contemplated independence; the prevalent feeling was a desire for redress and reconciliation. It was hard to drive Virginia from her loyalty; but, hard as it was, her mother effected it, and the very moment the thought of independence entered her mind, it expanded into a vigour which swept every obstacle before it.

The resolutions of Patrick Henry, adopted by Virginia in 1765, were the earliest authorized expression of American Independence. They did not, indeed, declare a design to throw off the yoke of England; but they stated principles which inevitably tended to this result. To say that the Colony *would not submit* to a claim advanced by

the Parliament and King, and enforced by laws, was virtually to declare her freedom. Hence the wondrous effect wrought by these resolutions; the enthusiasm with which they were received by the friends of liberty throughout all the Colonies, and the strenuous opposition of Virginia statesmen, who still loved the rule of the mother country. From the time when these resolutions passed, there never was the same feeling towards England which had before prevailed. The charm was dissolved; the mask had been torn away, and men who, one year before, had shuddered with horror at the thought of severing the ties which had so long united the two countries, now contemplated such a result with much greater complacency. Yet the approach to open independence was gradual, and it is not easy to trace the line beyond which both parties passed before reconciliation was impossible. It is certain, that early in the year 1775, no voice in Virginia had openly proclaimed a wish to cast off all control of the mother country. During that year we note, from time to time, in the public prints, expressions of correspondents which betray a growing feeling of desire for a free government.<sup>a</sup> We have already mentioned the remarkable sentiments of the military convention at Fredericksburg, on the 29th April, which breathe a spirit of freedom that could not have been long suppressed.

Virginia will not suffer an unworthy emotion of pride to urge her to deny the merits of a beloved sister state. She will rather rejoice in the event

<sup>a</sup> See note in Girardin, 134; Jefferson's Notes, 125.

which has placed North Carolina upon an honoured eminence, as the leader in the band of Colonies which proclaimed for themselves a free government in America. It is fit that "The Old North State," should be thus honoured, for in the Revolutionary War, few members of the Union contributed more to the common cause, in proportion to their means, or bore with more heroic courage the ravages of an insolent enemy. Beyond rational doubt, the first written Declaration of Independence was made in the County of Mecklenburgh, in North Carolina, on the 20th day of May, 1775. Colonel Thomas Polk called together the people, who, with simple manners and Puritan principles, had brave hearts, and a love of freedom, which rose superior to the shackles of habit. They adopted a declaration pronouncing their country independent of Great Britain, and using terms so nearly similar to those afterwards introduced into the celebrated instrument of July 4, 1776, that some have suspected Mr. Jefferson of having borrowed from the thoughts of the Carolina patriots.\* But surely it is not necessary to detract from the glory of either author of either instrument. The language of liberty has often been the same, though coming from men who had

\* For a very interesting review of almost to madness. His zeal drowns the Mecklenburgh Declaration, in both his prudence and his good temper. He entertains himself with all its phases, see Southern L. Mess. iv. 209, 210, and post, 481-486; see, divers assaults upon Virginia, and also, Foote's Sketches of North Carolina, chapter i.; and J. Seawell winds up one of his chapters with Jones' Memorials of North Carolina, "the fiendish falsehoods of the infidel of Monticello," page 66. 26-33. Mr. Jones loves his state

never communed with each other, and at least three expressions in the Mecklenburgh paper may be found, not merely in Mr. Jefferson's declaration, but in other state papers, prepared during the years 1775 and '76.<sup>a</sup> The idea of independence had gained strength in all minds, and words were not wanting to express it.

In December of 1775, the Virginia Gazette contained a letter from "a soldier," in which may be found clear intimations of a design to assert independence. "Our cruel enemies have forced us to pass the Rubicon; we have begun the noble work, and there is no retreating. The King of England has proclaimed us rebels. The sword is drawn: the scabbard must be thrown away: there is no medium between a glorious defence and the most abject slavery."<sup>b</sup> While such sentiments were openly avowed, it will be apparent that the minds of many were intent upon a complete rupture of the ties which had bound them to Britain. While the whole country was in a ferment of agitation and united in few things, save in the design to oppose even unto death the measures of England, a pamphlet was published which produced a powerful effect. This was the celebrated "Common Sense," of Thomas Paine, in which, with great strength of reasoning and pungency of appeal, the Americans are exhorted to assert their natural rights, and declare themselves a free and independent people. Had Paine never written

<sup>a</sup> See Southern L. Mess., iv. 209,  
210, April, 1838.

<sup>b</sup> Va. Gazette, 30th December;  
Girardin, note, 134.



any thing more objectionable than this work, his name would not now be connected with all that is odious in vice and irreligion. His pamphlet appeared in Virginia, in February, 1776, and gave an additional impetus to the cause of freedom. Few could resist it longer: cherished prejudices gave way: the dominion of Britain became hateful, and the very thought of liberty was so delicious that all were prone to encourage it. On the 19th of April, the Gazette contained a communication which was rather the embodiment of popular sentiment than the appeal of a single writer.<sup>a</sup> It reviewed the late acts of Virginia; her assumption of the law-making power; her war against the Governor, and her military preparations, and then in a tone of warm exhortation urged her to delay no longer the call for independence. This appeal was soon followed by decisive action.

Under these circumstances, the people of Virginia were called upon to elect members to a Convention, which, as they foresaw, was to be the most important in its influence of any that had ever assembled. The election was held during the month of April, and at a time when the public prints, and the speeches of public men, were alike laden with the great theme of independence. The very paper which contained the appeal just mentioned, presented also the names of delegates from

<sup>a</sup> This paper will be found in the Virginia Gazette for April 19, 1776, under the head of "Queries for the Freeholders and People of Virginia." For "Common Sense," see Paine's Polit. Works, i. 19-64, particularly on pages 41, 47, 59.

some of the counties and boroughs of the Colony,<sup>a</sup> and others had not yet been reported. It would be unreasonable to suppose that the people were not fully apprised of the state of their public affairs, or that they did not elect their delegates to take such steps as the crisis demanded.<sup>b</sup> The old government had fallen in ruins; the Governor was driven in disgrace from his palace; the Burgesses had no longer any power, real or nominal; and every convention that had assembled, had acted not under the colonial constitution, but by the paramount authority of the people. In fact, each one of these bodies was revolutionary in its character; the people finding their former government intolerable, threw off its shackles, and chose members of conventions, who made laws and adopted other measures for the safety of the public.<sup>c</sup> And if all prior conventions had been distinct from and paramount to the ordinary legislature, much more must we so regard this body now constituted by the people when they were upon the eve of erecting a new government on the ruins of the old system. Let these facts be borne in mind, as they apply with power to a question soon to be considered.

On Monday the 6th of May, the Convention

<sup>a</sup> See Virginia Gazette, April 19, 1776.

<sup>b</sup> Mr. Jefferson, in support of his well-known opinion as to the Constitution of 1776, says "Independence and the establishment of a new form of government, were not even yet the objects of the people at

large."—Notes on Virginia, 125. But the contrary has been proved by many circumstances; and see Tucker's Blackstone, i. Part 1, Appendix, page 85, in note.

<sup>c</sup> See Tucker's Blackstone, vol. i. Part 1, Appen., 86–88.

assembled at Williamsburg. It contained many brave hearts and bright minds. Some of the counties in the west were represented by members whose strong common sense was an ample substitute for deep culture, but the eastern counties had selected their greatest ornaments of wisdom and patriotism, to meet the demands of the time.<sup>a</sup> Edmund Pendleton was elected President, and in his opening speech reminded them of the critical state of their affairs : of the suspension of all the powers of government, and of their duty to provide for this emergency. Then the members turned with serious eagerness to the questions before them, and in nine days they prepared, approved, and sent forth to the country a paper, which showed with what subject their thoughts were chiefly occupied.

(May 15.) Their declaration recites that they had used all proper efforts to obtain a peaceful redress of their grievances, and to effect reunion and reconciliation with England, on just and liberal terms; that their efforts had produced nothing but increased insult; that by a late Act of Parliament the Colonies had been declared to be in rebellion, and out of the protection of the British Crown;<sup>b</sup> that their property had been confiscated; their people forced to join in the murder of their own friends and relatives; and that the King's Governor was even then waging an inhuman warfare on their coasts. Therefore, making a solemn appeal to the

<sup>a</sup> Many of the names will be found in the Va. Gazette for April 19, 1776.      <sup>b</sup> This act was remarkable; see Girardin, 139, in note.

Searcher of hearts for their sincerity, they resolve that their representatives in Congress be instructed to propose to that body to declare the United Colonies *free and independent States*, and to give their assent to any measures for forming a Confederation of the Colonies for the defence and welfare of the whole.<sup>a</sup>

Their next resolution was even more important. By a unanimous vote they provided that a committee should be appointed to prepare a declaration of rights, and "Such a plan of government as will be most likely to maintain peace and order in this Colony, and secure substantial and equal liberty to the people." Thus the Convention entered upon the work, chiefly for which they believed themselves to have been appointed, and if any proof had been needed that the people sanctioned their course, it might have been found in the enthusiasm with which the resolutions were received. Every where through the state joy manifested itself in open festivities. In Williamsburg, military parades, the firing of artillery, and illuminated houses, betokened a national triumph. The "Flag of America," floated over the Capitol, and when it was first unfolded, it was received with shouts by a crowd of citizens drawn together by the interest of the occasion.<sup>b</sup> From the sea-coast to the extreme west, Virginia seemed moved by a feeling of gratitude for the present, and hope for the future.

Twenty-eight members formed the important

<sup>a</sup> Virginia Gazette, May 17, 1776; Girardin, 140.

<sup>b</sup> Girardin, 140; Wirt's Henry, 143.



committee raised under the resolution of the 15th May. We find in this body the ablest men in the Colony selected, and charged with a delicate duty, upon which depended the happiness of Virginia for generations to come.<sup>a</sup> On the 12th of June the "Bill of Rights" was reported to the Convention, and after a brief debate, was unanimously adopted. This well-known declaration still adorns the statute-book of our state, and has the force of the highest law.<sup>b</sup> In simple and perspicuous language, it announces principles which, if steadily acted upon, will secure rational liberty to any country. The natural rights of man are first declared: all power is said to be vested in the people, and magistrates and rulers are merely their responsible trustees. Hereditary emoluments and privileges are condemned; the several branches of government are distinguished; and it is said that law-makers and law-enforcers should descend, from time to time, among the common mass of society, that they may feel their burdens, and sympathize in their calamities. Trial by jury, in criminal cases, is guaranteed; excessive bail cannot be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted; the freedom of the press is guarded from restraint; standing armies in time of peace are declared dangerous, and the militia system is commended for public defence; uniform govern-

<sup>a</sup> The names are in Wirt's P. Henry, 143, 144.

<sup>b</sup> Revised Code, i. 31, 32. In the State Library at Richmond, may be

seen the original draft of the Bill of Rights, as it came from the pen of George Mason. The last clause was slightly altered before it was adopted.

ment is provided, and it is said that no government separate from and independent of that of Virginia, ought to be established within her limits.<sup>a</sup> The final clause declares that religion can be directed only by reason and conviction, not by force or violence, and, therefore, all men are entitled to its free exercise, according to the dictates of conscience.

After viewing this bold expression of free principles, we are prepared for the system of government that followed. Men, whose minds had opened to take in the teachings of the "Bill of Rights," would not hesitate to sever the last tie which bound them to England, and to establish independent rule. The CONSTITUTION intended for Virginia had been drawn by George Mason, a member of the committee, famed for his sound learning, his expanded mental powers, his great strength in argument. He was not a graceful orator, but he impressed his hearers by his earnestness, and often entertained them by his keen sarcasm.<sup>b</sup> Mr. Jefferson was in Congress, but, looking with interest upon the progress of his native state, he sent a draught of a form of government, prepared by himself, which he thought suited to the wants of Virginia. Mr. Wythe received this draught after most of the features of George Mason's plan had been approved; but Mr. Jefferson's preamble did so forcibly commend itself by its review of the grievances of Ame-

<sup>a</sup> This judicious clause was doubtless intended to exclude, for ever, the "imperium in imperio," the insinu-

ating dominion of the Popish church. Cl. 14, R. C. i. 32.

<sup>b</sup> See Tucker's Jefferson, i. 91, in note.

rica, that it was adopted, and prefixed to the plan finally received.<sup>a</sup> This preamble is nearly similar in its enumeration of wrongs to that found in the Declaration of Independence, and it would be difficult to read the two without being convinced that they were from the same pen.

On the 29th day of June, the New Constitution was submitted to a final vote, and was unanimously adopted by the Convention. Under this instrument Virginia was governed for more than half a century, and to detail with minuteness all its provisions, would be an unnecessary task.<sup>b</sup> The several branches of government are first declared to be separate and distinct, and then each is constituted. The Legislature was composed of two parts: the House of Delegates, consisting of two members from each county, and one representative for each city or borough; and the Senate, containing twenty-four members, sent from the same number of districts over the state. Rotation was provided for the senators, by dividing them into four classes, so that six members must be displaced at the end of each year. The members of both Houses were required to be freeholders, and they were to be elected by voters qualified according to the laws then in existence on this subject. This law of suffrage, as we have heretofore seen, had been often changed, according to the spirit of the age;<sup>c</sup> but it was now regarded as fixed, and the right was con-

<sup>a</sup> Girardin, 150, 151; Wirt's P. Henry, 144; Tucker's Jefferson, i. 90, 91.

<sup>b</sup> It is in the Revised Code, i. 34-38.

<sup>c</sup> Vol. i. 330, 346.

fined to men owning a freehold estate, in one hundred acres of unimproved, or twenty-five acres of improved land, or in a house and lot in some town.<sup>a</sup> The concurrence of both Houses was necessary to the passage of a law; all bills originated in the House of Delegates, but might be altered by the Senate with the assent of the House. But money bills must in no case be altered by the Senate, but always either rejected or approved.

A Governor was to be chosen annually, and was not to be eligible more than three years successively, nor, after going out of office, was he to be chosen again until four years should have expired. He had no voice in making laws, nor was he to exercise any power or prerogative by virtue of any statute or ordinance of England. He was to be aided in his duties by a Privy Council of eight members, to be chosen by the Assembly, and who were, from their own number, to choose a President, who, in the absence of the Governor, was to act as Lieutenant-Governor. The Governor and Councillors were liable to impeachment by the House of Delegates, for offences against the state, and in such case they were to be prosecuted by the Attorney-General, and tried by the General Court.

Judges of the Supreme Court of Appeals, and of

<sup>a</sup> Jefferson's Notes, 121; Girardin, 151. See the various changes in the law of suffrage, detailed in note to 1 R. C. 38, 39. By an act of Assembly, passed in 1769, the quantity of unimproved land required, was reduced from 100 to 50 acres,

but it seems this act never received the royal sanction. In 1785, by *Act of the Legislature*, this reduction was fully confirmed. Unless we regard the law of '69 as valid, the Legislature invaded the Constitution.



the General Court were to be elected by joint ballot of both Houses of the Assembly. They were to continue in office during good behaviour, and were to have fixed and adequate salaries, and they, together with other men holding lucrative offices, and all ministers of the Gospel, were to be incapable of being elected members of the Legislature. Justices of the Peace for the County Courts, were to be appointed by the Governor, with the advice of the Privy Council.<sup>a</sup>

With design to close for ever a source of dangerous dispute, this constitution generously confirmed to the Colonies of Maryland, Pennsylvania, North and South Carolina, the territories claimed by them under their respective charters, but with these exceptions, the claim of Virginia was fully asserted to all the lands held and defined under the Charter of King James, in 1609,<sup>b</sup> and the Peace of Paris, in 1763. And it was declared that no purchases of land from *Indians* should be valid, unless made for the public, and by authority of the General Assembly.

And finally, in order to set the machinery of the new government in motion, it was provided, that the Convention should immediately choose a Governor and Privy Council, and such other officers as might be necessary. Without delay the votes were taken, and we are not surprised to find Patrick Henry made the first *free* Governor of Virginia. Edmund Randolph was elected Attorney-

<sup>a</sup> Art. 14 and 15.

<sup>b</sup> See vol. i. 160-163, with authorities.

General ; eight Councillors of State, five Commissioners of Admiralty, and two Commissioners for Accounts, were duly chosen.<sup>a</sup>

Thus was the Old Dominion snatched by her own sons from the grasp of Britain, and erected into a free and independent state. She has the honour of being the first of the American Colonies that totally discarded the rule of the mother country ; for though South Carolina and New Hampshire had adopted constitutions, they were expressly declared to be temporary, and intended only to endure until the difficulties with Britain were settled.<sup>b</sup> How different from this temporizing policy was the blow which at once severed the chains of English dominion, and threw them from the arms of her dependant to be felt no more !

This Constitution had been prepared with some haste, and it is not singular that it should have had defects and vices. Our surprise should be that it should have accomplished its purposes so well, rather than that it should have exhibited imperfection. And though during its continuance, many voices were raised against it, and many fingers pointed to its deformities, yet it is believed that its greatest evils existed in theory rather than in practice. These evils may be briefly declared : although the Constitution pronounced the several branches of government distinct, yet under its provisions it seems evident, that both the Executive and the Judiciary were dependent on the Legisla-

<sup>a</sup> The names are in Girardin, 152 ;  
Wirt, 147.

<sup>b</sup> Girardin, 150 ; Tucker's Jeffer-  
son, i. 91.

ture. For to the Assembly belonged the power, not merely of electing Governor, Council, and Judges, but of providing for their subsistence while in office, and under such circumstances it was not probable, that any act of legislation, however unconstitutional, would be resisted by the Executive, or declared void by the Courts.<sup>a</sup> Next, it will be perceived, that each House was left to fix its own quorum, or in other words, to decide how few of its members might bind the whole State, by making law. The danger of this must be obvious, for if the law-making power might rest with a small number, to be decided on by themselves, the temptation to diminish the number would be strong. From forty, the number might be reduced to four; from four to one, and thus despotism would have been established.<sup>b</sup> But the feature of the Constitution to which most censure has been applied, was the narrow right of suffrage. To require that all voters should be freeholders, excluded a number of men full of intelligence and patriotism, and liable to be called on to fight the battles of their country in time of war.<sup>c</sup> This restriction was a source of constant uneasiness until the new Constitution was adopted in 1830; but whether the right of suffrage in Virginia, as it now exists, be preferable to the former system, is matter of extreme doubt to reflecting minds.

<sup>a</sup> See Jefferson's notes, 124, and Tucker's Blackstone, i., Part i., Appendix, 81, 82.

<sup>b</sup> Jefferson's Notes, 130.

<sup>c</sup> On this point Mr. Jefferson and Judge Tucker do not perfectly agree. See Notes, 122, 123, and Tucker's Blackstone, i., Part i., Appendix.

Another objection, afterwards strongly urged, arose rather from the circumstances under which the Constitution was formed, than from its intrinsic character. It was contended that this instrument was not paramount to the authority of the Legislature, and that it might at any time be changed by an act of Assembly.<sup>a</sup> Those who held this opinion, supported it by arguing that the Convention which formed the plan of government, had not been regularly empowered so to do by the people—that this body could not bind subsequent Legislatures—that all it had done, was to provide a suitable scheme for the emergency under which the State was then placed, and that the people had never in solemn form ratified and adopted the Constitution. But on the other hand it was urged, that the attention of the people had been particularly and earnestly called to the circumstances under which members of the Convention were chosen—that the old government had fallen in ruins—that a new government was indispensable—that the Convention was in its very nature, different from, and paramount to, an ordinary legislative Assembly—that its action in recommending independence, and in providing a committee to frame a constitution, had been received with enthusiasm by the people—that six weeks passed between the appointment of this committee and its final report, and yet not

<sup>a</sup> Mr. Jefferson was foremost among those who held this ground. See his Notes, 125–129. The other side of the question is argued, and, I think, fully proved, by Judge Tucker, Com. on Blackstone, i., Part i., Appendix, 83–95.



one voice of dissent was heard from the country, and that the Legislature being itself the creature of the Constitution, was subordinate to it, and was bound by its requirements.

The power of these last-noted arguments was recognised by Virginia. Her Constitution remained in force until it was regularly remodelled by a convention chosen for the purpose by the people, and her General Court, by a sound judicial decision, declared that this instrument was supreme, and that an act of Assembly running counter to its demands, was void and of no effect.<sup>a</sup>

And whatever may have been the defects of her form of government, one of the grand objects for which it was intended was accomplished. Virginia was free from all foreign control. The dominion of Great Britain was totally destroyed. No royal governors were hereafter to be sent to obey a selfish monarch, or to reflect the views of an unscrupulous ministry, or to pillage on their own account, the people of their charge. No veto power was to be exercised by a distant king. No laws of navigation were to fetter her commerce and force it by unnatural means into the lap of her mother. No taxes were to be imposed to swell the revenues of an establishment three thousand miles from her shores. And the personal rights of her people were secured. England had often claimed the power to seize her Colonists and transport them for trial to her own soil, but the "Bill of Rights"

<sup>a</sup> *Kamper vs. Hawkins*, Nov. 16, Wilson's opinion in that case. 1793; 1 Virg. Cases, 20. See Judge

of Virginia, at once placed each one of her citizens upon a firm basis, and threw around him the safeguards of law.

Civil freedom was rendered absolutely secure in the "Old Dominion." But there remained another possession necessary to her happiness which she had not yet obtained; this was Religious Liberty. Her declaration of rights did indeed announce principles on this subject, which, if expanded, would have produced all she could desire, but the force of positive law was necessary to cut up by the roots the system which had grown in such strength on her soil. The church establishment, with its legal incidents, had so woven itself into society, that it was difficult at once to destroy it. The rights of conscience were yet invaded, and men were still liable to injury, who did not conform to the teachings of one favoured sect. We shall see with pleasure these evils removed, and all men placed upon equal ground in their religious relations. But in entering on this subject, it will be necessary to review the progress of religion in Virginia, and to trace the steps along which she passed in effecting this great object. If well ascertained facts, and legitimate inferences may be trusted, it will be made apparent, that for perfect freedom in the exercise of the rights of conscience, the people of Virginia, and of America, are indebted neither to Thomas Jefferson, nor to any other secular reformer, but to men in whose hearts burned the fire of love to the Redeemer of mankind.

### CHAPTER III.

Religion—Man naturally religious—Christianity the only true religion—Its intrinsic evidences—Union of church and state—Its evils—Reformation—Church of England established—Bishops—Church established in Virginia—First ministers—Church under martial law—Establishment of parishes and glebes—Bigotry of Sir William Berkeley—Archbishop Laud—Stephen Reek—Intolerance—Its effects—Church in time of Governor Spotswood—Parishes—Progress of the Established Church—Her apparent prosperity—Real condition—Evils of the Establishment in Virginia—Rights of conscience infringed—Injustice to Dissenters—Intolerance—Cruelty—Wicked clergy—Irrreligious people—Conduct of the Parsons—Rise and progress of Dissenters—Huguenots from France—Congregationalists from New England—Regular Baptists—George Whitefield visits Virginia—Effect of his preaching in America—Separate Baptists—Their rapid progress in Virginia—Their zeal—They are opposed by the Episcopal clergy—Persecution—Patriotism of the Baptists—Presbyterians in the Valley—Stone Church of Augusta—John Craig—Origin of Presbyterianism in Eastern Virginia—John Organ—Samuel Morris—Luther and Bunyan—Fines—William Robinson arrives—Effect of his preaching—Samuel Davies—His character and eloquence—His great success—Hampden Sydney and Liberty Hall—Methodists in Virginia—They co-operate with the Establishment—Legislature of 1776—Struggle for religious freedom—Memorials—Mr. Jefferson—Severe conflict—Bill in favour of Dissenters—Partial establishment of Religious Liberty.

RELIGION is natural to man. Were he now perfectly pure and upright, it would be his most eagerly sought privilege to look to the Great First Cause, and with warm love to acknowledge dependence. Even his present depravity has not shut his mind entirely to the claims of Deity.

There is a ceaseless struggle between the intellect and the heart, the first admitting the existence of a God and ascribing to him all conceivable perfections, the last abhorring his holiness, and turning away from the light so unwelcome to its own darkened impulses. Atheism is the fault not of the head, but of the heart ;<sup>a</sup> and it has seldom been avowed, and never fully believed. Man has not been able to resist the convictions of his own judgment, strengthened by the voice of conscience, the mystic witness for the truth, who lives in his bosom. And therefore throughout all ages, however dark, and among all nations however savage, the belief in the existence of a God has been found to prevail, and to keep alive the prominent motives of religion. But on this subject the sophistries of depraved affections have never been silent. They have been constantly pleading against the truth, and though they have not availed entirely to cover it, yet they have obscured its lustre, and degraded its majesty. Hence it is that no nation, however enlightened, has been able by its own wisdom to provide a religion which would either restrain from vice or guide to virtue.

Had Christianity been of human invention, it would have borne the marks distinguishing all religious systems of man. The same lowering of the Divine character ; the same arguments from human frailty ; the same compromise of the claims of reason and appetite would have been found, which attend the most refined theories of heathen

<sup>a</sup> "The fool hath said *in his heart* there is no God."—Ps. xiv. i.



philosophers. The religion of Christ stands alone in its holiness, and as it is the only true religion, so does it carry in its own teachings the infallible evidences of its truth. It has indeed its *external* demonstrations; miracles proved by testimony above the possibility of falsehood, or of undesigned error, and prophecy which gathers power with the unfolding of each successive page in history; but these are evidences which can only be appreciated by the learned, and which may convince the intellect without moving the heart. The Author of Christianity designed that it should carry with it power to convince by its intrinsic authority. The man who will apply his mind to its teachings, will believe as certainly as the man who will open his eyes in the sun's rays will see the light around him. It is because it provides an adequate remedy for every ill, that the recipient of its benefits knows it is from the Author of good. Pardon for sin; purity for corruption; comfort for sorrow; unerring precepts for doubt in duty; a life of usefulness; a death of peace, and an eternity of happiness: these are gifts offered by the religion of Christ, in a form which no man resists who desires to know the truth. But to accomplish its object, it must be pure as when it was first taught by its inspired originators. Mixed with human devices, it loses its force for good, and becomes the more dangerous because of its exalted claims.

Among the unhallowed inventions which have been applied to this system, none has produced so unhappy results as its union with civil government.

Christianity, if truly possessed, will make a man a good citizen, but the law of the land can never make a man become a Christian. It was a sad day for religion when the Emperor Constantine adopted the church as his ward, and began to enforce her lessons by the arm of civil authority. The fires of persecution were better than the splendours of a seeming prosperity, which deadened her soul, and threatened to destroy it. From this time we trace the decline of virtue and the growth of corruption; but power was too sweet to be rejected; and in the old world Christianity has not yet thrown off the shackles which have so long confined her. The church is linked to the state, and, like the dead body chained to the living victim, it gains no vitality for itself, and gradually destroys its hapless companion.

At the time when the settlement of Virginia commenced, England had laid, broad and deep, the foundations of her Episcopal Church establishment. The dominion of Rome had been rejected, Popery was discarded, and English reformers had striven to give to their country a system of religious rule which would secure her welfare. But their reformation fell below the demands of liberty. We may not be surprised at this when we remember how long the human mind had been moulded by habit, and how far the boldest reformers of Europe then sank beneath the principles of true religious freedom. Two remnants of a corrupt age were unhappily retained in remodelling the ecclesiastical system of England.

These were, *first*, the principle of church establishment, the King himself became the head of Christ's kingdom on earth; clergymen, *as such*, sat among the peers of the land, and voted for her laws; and men, whatever might be their opinions, were compelled to pay tithes to support their spiritual teachers. *Secondly*, an order of clergy superior to the rectors or pastors, who overlook particular congregations. This superior order has long been distinguished by the title of bishops, but they are not the bishops designated and appointed by the New Testament;<sup>a</sup> they are the successors of the Apostles of the primitive church. It is true the Apostles were all inspired men; were all distinguished by having seen Christ in bodily form, and were so exalted in their duties and character, that, to a common understanding, it would seem impossible that they should have successors; but this difficulty has been removed in England and in Rome. The bishops of the Episcopal Church bear the same relation to the Apostles that the Pope does to Peter, and few who acknowledge the exclusive claims of the first will be long disposed to deny those of the other. History, whose province it is to search for the truth, discovers with surprise that there was a time when the claims of each were equally unknown; that in

<sup>a</sup> This is distinctly admitted by ture. Bishop Ravenscroft in Evan. high Episcopal authority. See Dr. and Lit. Mag., ix. 563, 590, 591.—Stillingfleet's Irenicum, edit. London, 1662, passim, but particularly on pages 236, 237.—Bishop Ondonk's Episcopacy Tested by Scrip- ture. Bishop Croft in Miller's Ch. Ministry, edit. 1830, 168, 169. See Dr. Miller, from page 157 to 182.

the first and purest ages of Christianity, Pope and Prelate had no existence; that *bishops* were then what the New Testament requires them to be,—overseers of a single flock,—humbly ministering the bread of life to a single congregation, and uniting together when the interests of the Church required it; and that centuries of darkness and vice were necessary to make men believe that the Apostles needed successors, and that the Pope held the keys of St. Peter.<sup>a</sup>

But definite form, though important for the perfection, is not essential to the being of a church. Her diocesan bishops might not have injured the Church of England on her own soil and ruined her in Virginia had no other causes operated to her detriment. The unholy link which bound her to the state was the iron that entered her soul and continued to corrode until life was destroyed.

The first ship which conveyed settlers to the banks of the Powhatan, brought a minister of the Gospel to promulgate Christianity among the heathen. This was the Rev. Robert Hunt, who, in many things, proved himself to be possessed of the spirit of his divine Master.<sup>b</sup> King James, in his articles of instruction, required that the Church of the mother country should be established for her Colony, and nominally, at least, the settlers claimed

<sup>a</sup> Acts xx., compare verses 17, 28, Comment. edit. Paris, 1706, vol. iv. in orig.; Clemens Alexandrin., edit. 414; and see John Anderson on Ch. Paris, 1641; Pædagog. lib. i. 99, Govern., edit. Glasgow, 1714, pages lib. iii. 248; Papias in Eusebius, 159–185. Eccl. Hist. edit. Amsterd. 1695, tom. <sup>b</sup> Hawks, 17, 18. See vol. i. 89. i. lib. iii. cap. 39, page 89; Hieronym.



the character of Christians. How far they conformed to the precepts of their creed, may be inferred from the review of their course already presented, their folly and riot, sedition and debauchery. Yet, for the crimes and wretchedness of the early Colonists, we may not blame their preachers. We have reason to believe that the ministers did their duty, and that, as they had braved a life of self-denial for the sacred cause of their adoption, so did they afterwards persevere in efforts for its progress.

Such men as Hunt and Thorpe would now be welcome accessions to the ecclesiastical bodies of the United States.

Among the first buildings commenced at Jamestown was a church, and though its structure was rude, a sanctity seems to have surrounded it, perhaps more imposing, because of the wild turbulence which it sought to check in its worshippers. It was destroyed by a fire, which, at the same time, burned up the books and clothing of Mr. Hunt, and left him even more destitute than his companions in trial. The church, however, soon rose from its ashes; it survived the miserable scenes of the "starving time," and, when Lord Delaware arrived in 1610, he assembled the people in the sacred edifice, and Mr. Bucke, the chaplain of the Somer Islands, "made a zealous and sorrowful prayer, finding all things so contrary to their expectations, so full of misery and misgovernment."<sup>a</sup>

<sup>a</sup> Purchas, iv. book ix. in Hawks, was brought out as chaplain by Lord 22, 23. Dr. Hawks' account would Delaware, but this was not the case, give the impression that Mr. Bucke See vol. i. 167.

Except the instructions of the King, the first Colonists had been left without positive written law, and in the times of trouble they encountered, it would have been impossible to do more than leave them to their own wishes as to religious worship. But when Sir Thomas Dale assumed the Government, in 1611, he introduced the stringent laws provided by the Treasurer, and on no subject was this system more arbitrary than in its government of the Church. It commanded that military and civil officers should take care that "Almightie God be duly and daily served;" it required that blasphemy against the Trinity should be punished with death; that cursing and swearing, or the irreverent use of God's name, should be punished by a bodkin thrust through the tongue, for the second offence, and by death for the third: that any one who behaved improperly to a preacher, should be openly whipped three times, and publicly ask forgiveness. The tolling of the bell was to be the signal for all men and women to repair to church; and stripes, the galleys, and finally death itself, visited its neglect. Men were required to give account of their faith and religion, and to submit to catechising by their minister, and if they refused, daily whipping was to be inflicted until they gave signs of repentance.<sup>a</sup>

These were times when religion was to be taught with the whip, when the heart was to be affected by the punishment of the body, and when prayer

<sup>a</sup> These are the "laws divine, martial, and moral," once in force in Virginia. They have been collected and published by William Strachey, London, 1612; Hawks, 25, 27.

was the only means of escaping the gibbet. This code was too cruel to be rigidly enforced, yet we have reason to believe it was not entirely a dead letter. When Argal became Governor, he took special delight in reviving it, and many Colonists learned in sadness that the Church was the occasion of stripes and slavery, rather than of freedom and happiness.<sup>a</sup>

Though the martial code soon fell into disuse and was repealed, yet the laws of the Colony never recognised the rights of conscience. The first acts of the General Assembly which are now recorded in our statute book, gave permanent establishment to the Episcopal Church, by erecting bounds corresponding with parishes, and laying a tax on the people for the support of their ministers. Each male over sixteen years of age were to be liable for ten pounds of tobacco and one bushel of corn, and each minister was to receive fifteen hundred pounds of tobacco and sixteen bushels of corn.<sup>b</sup> It is thought that at this time there were but five clergymen in Virginia, Messrs. Whittaker, Bargrave, Wickham, Mease, and Stockham, yet the people found it difficult to yield to them the required support, and it was ordered that six tenants should be placed on every glebe in order to its cultivation. The Bishop of London undertook to provide for the spiritual wants of the settlement, and without any express authority, his jurisdiction as their diocesan seems to have been thenceforth admitted by the churches of Virginia.<sup>c</sup>

<sup>a</sup> Vol. i. 206, 207.

<sup>b</sup> Stith, 173 ; Hawks, 35.

<sup>c</sup> Hawks, 36.

As the settlements advanced up the rivers and embraced belts of fertile land running back from the Bay, the number of parishes gradually increased. We may suppose that outward regularity appeared in the progress of the Church ; that on the Sabbath the preacher was at his stand, clothed with a surplice, and armed with an English prayer-book, and that the people complied with the letter of the law, and attended worship rather than pay fines.<sup>a</sup> We find no mitigation in the system which required conformity to the teachings of the establishment. Papists and Puritans were alike proscribed, and Quakers were visited with open persecution. During the reign of Charles the First, the principles of Archbishop Laud were openly approved by the rulers of Virginia, and his example was proposed as worthy of all acceptance. From an individual case we may form some idea of the intense bigotry of soul which distinguished Sir William Berkeley. In 1642, Stephen Reek was brought before the General Court on grave charges. Indignant at the insolence of the Archbishop, and the favour with which Charles regarded him, Reek had been heard to say that "his Majesty was at confession with my Lord of Canterbury." For this, he was tried, condemned, and punished. He was set in a pillory for two hours, with a label on his back on which his offence was described ; he was fined fifty pounds and imprisoned during the pleasure of the Governor.<sup>b</sup>

<sup>a</sup> See Rule 2d, Sir Francis Wyatt's thirty-five articles, Hawks, 44.

<sup>b</sup> Henning, i. 552 ; Hawks, 51 ; Baird's Religion in America, 98.



It may be unjust to blame the Episcopal Church for all the tyranny which the law-makers of Virginia inflicted in her name, but it is natural that men should have revolted at a rule which was manifested in so many odious forms. We have no reason to believe that any one was put to death either for religious opinions or for witchcraft,<sup>a</sup> but cases of individual wrong were so numerous as to excite indignation even among those who had been friendly to the Church. Immediately after the punishment of Reek, we find a solemn application sent from Virginia to Massachusetts, to implore that ministers of the Gospel might be sent, that the people "might be privileged with the preaching and ordinances of Jesus Christ." This message was sent, not from Puritans, or Quakers, or Dissenters of any kind, but from men who had grown up under the eyes of the Establishment, and who yet saw enough to make them hate her oppression.<sup>b</sup> Under this invitation three Congregational preachers came to Virginia, but the Governor was prepared to salute them with a law forbidding any man to preach in the Colony, who did not bring a certificate of conformity from some Bishop in England, and authorizing his Excellency to silence all others, and if necessary to compel them to decamp.<sup>c</sup> The private people kindly entertained the stran-

<sup>a</sup> In 1705-06, Grace Sherwood was tried for witchcraft in the county of Princess Anne, and convicted, but the punishment was *ducking*, not death. See the Record in Howe's Hist Collec. 436-438.

<sup>b</sup> Compare Grahame, i. 270, 271, with Hawks, 51, 52; and see Baird Relig. in Am. 98.

<sup>c</sup> Hening, i. 277, in Hawks, 53.

gers, but finding that the arm of the law would soon be upon them, they returned to the north.<sup>a</sup>

During the administration of Governor Spotswood, the Church attained a permanency of outward position which it had not before enjoyed. The settlements in the Colony had then covered the eastern lands running nearly to the first range of mountains; each neck of country between the great rivers was well peopled, and it is believed that nearly one hundred thousand souls were to be found in Virginia. Twenty-nine counties composed the state, and these were subdivided into fifty-five parishes. The bounds of the parishes did not, however, correspond with those of the counties, and were not often laid out with reference to them. In the northern neck, between the Potomac and Rappahannoc Rivers, were eleven parishes; between the Rappahannoc and York there were thirteen; between the York and James, fifteen parishes complete, and the part of Bristol lying in Henrico County, north of the river; and between the James and the Carolina boundary, thirteen, together with the remainder of Bristol. On the eastern shore there were two parishes, which bore the names of Hungers and Accomac.<sup>b</sup> These church divisions were unequal in size, some being more than sixty miles long, while others were not one-fourth so large, but their capa-

<sup>a</sup> Baird, 98; Grahame, i. 271; Hawks, 53, 54. mits a slight error in reckoning the number of parishes. He states it at

<sup>b</sup> Beverley, Present State of Virginia. Dr. Hawks, I think, com-  
fifty-four, 84, 85.

city was estimated rather by the number of tithables they embraced, than by the acres of land over which they were spread.

From this time until the opening of the Revolution, the exterior advance of the Church was nearly in proportion to the progress of the Colony. As the number of inhabitants increased, so did the number of churches and parishes. In 1771, there were in Virginia more than one hundred churches, and nearly that number of ministers.<sup>a</sup> It was at this time that a serious attempt was made to procure from the British monarch an *American Episcopate*. The Churchmen of New York, New Jersey, and Connecticut, had long desired it, and Professor Camm, of William and Mary College, was known to be its ardent advocate. But it is believed that a majority of the clergy of Virginia were opposed to it, and it is certain that the Convention assembled to consider the question, consisted of but twelve ministers, that a favourable vote was obtained with much difficulty, and that a solemn protest was entered against the scheme by Rev. Messrs. Henly and Gwatkin, whose action drew a vote of thanks from the General Assembly.<sup>b</sup> It is strange that such a proposition should have been made just at the time when the influence of the mother country became most oppressive, and when acknowledgment of dependence upon her was growing odious to every patriot; but

<sup>a</sup> Hawks, 126.

10, 1771; Burk, iii. 364-367, with

<sup>b</sup> See *Thoughts on an American Episcopate*, Virginia Gazette, Oct. documents; Hawks, 126-131.

Episcopacy was so linked with England, that it seemed to draw its life only from her favour.

There had long been, and was still, an appearance of prosperity thrown like a veil over the Church in Virginia, which might have deceived a casual observer. Nearly every parish contained a glebe, generally consisting of two hundred acres of land, for the support of the rector; each glebe had a church or chapel, and commonly a parsonage, where the incumbent should dwell. The stranger who would pass through the Colony without pausing to remark closely upon her features, would be charmed with the prospect of her religious character. After a ride through thick forests or uninviting plains of tobacco, he would see before him a modest church, contrasting in snowy whiteness with the green foliage around, or overrun with moss and creeping vines. His eye would be refreshed by the cultivated fields of the glebe, and the humble dwelling of the pastor would bring warmly upon his heart, hopes of piety and domestic bliss.<sup>a</sup> And it is not to be denied, that the liturgy of the Church of England contains many wholesome exhortations, many pertinent prayers, many scriptural remonstrances, which ought to improve her worshippers, and that the practice of regularly reading this liturgy, which was required by law, may have spread among the people knowledge which ought to have guided them to virtue. But with this seeming life there was actual death, and not death merely, but all the ghastly consequences

<sup>a</sup> See Dr. Hawks' Remarks, 87.



of death,—the bones of the whited sepulchre—the corruption beneath the gilded tomb—the worms which prey upon the corpse when the soul is gone.

Let the evils attendant upon the Church establishment of Virginia be fairly stated. First, it deprived men of the free exercise of the rights of conscience. It is vain to say that men may think as they please, when they are compelled by law to attend on the ministrations of one religious sect, or to endure fines for non-compliance. The privileges of citizenship itself were denied to Dissenters,<sup>a</sup> and the person who chose to depart from the requirements of the established religion, was met by innumerable vexations which would goad almost to madness a soul sensitive to freedom. It was with delay and reluctance that the Courts of Virginia construed the “toleration laws” of England to have any operation in the Colony, and when they were admitted, their efficacy was confined within the narrowest limits possible.<sup>b</sup>

Secondly, it compelled every man, whatever might be his opinions or his scruples, to contribute to support the Episcopal ministers. He might be a Quaker, or a Baptist, or an Independent, but his fate was the same. After *induction* by the Governor, the rector had a freehold claim upon his glebe, and a right to demand at law the stipend granted to him by enactments of the Assembly. It is true, that the regular process of induction was

<sup>a</sup> Baird's Religion in America, 96. address must, I think, have been

<sup>b</sup> See Virginia Gazette, Feb. 20, written by a lawyer of the Established Church.  
1772. Address to Anabaptists. This

not always performed: often the minister was only *received* by the vestry of the parish, and was considered as only having title to his rents and profits from year to year; but even in such cases the tithes were to be paid by all liable to them, and he might sue trespasses on the glebe lands. And by a law passed in 1748, it was enacted, that even where a minister was only *received* without induction, he should have a right to all the spiritual and temporal benefits of his place, and might maintain an action against any who attempted to disturb him.<sup>a</sup> This act, in great measure, removed the distinction between the two modes of possessing a benefice, and armed the rectors with legal authority to collect their dues. The effect was obvious: on no subject are men less willing to be forced than in religion, and many who would voluntarily contribute to its support, feel it to be tyrannous, that they shall be compelled to pay teachers with whose ministry they would willingly dispense.

Thirdly, it produced many overt and shameful acts of intolerance. We have already noted some of the laws requiring conformity, and have seen that they were not inoperative. If Virginia never was stained with the blood of Dissenters, it was due to peculiar circumstances, rather than to the mildness of her code, or the tolerant spirit of her churchmen. Stripes, fines, and imprisonment, were often inflicted; individual examples have been heretofore mentioned, and more oppression will be seen as we pass through the history of other denomina-

<sup>a</sup> Hawks, 115; Hening, vi. 90.

tions. It is vain to say that the Church was not responsible for these cruelties. The establishment unquestionably was, for without it there could have been no such thing as dissent, and therefore no laws against it. These oppressive acts affected strongly, though silently, the whole body of the people, and contributed, with other causes, to reconcile nearly all men to the heavy strokes which finally levelled the Established Church with the ground.

Fourthly, it introduced into Virginia a body of ministers without piety, and by necessary reaction, the people were as graceless as their pastors. We will do full justice to the good men who from time to time adorned the Episcopal Church in the Colony. Such men as Hunt and Thorpe, Whittaker, Jarratt, and Morgan, need no apologists, for their conduct was above suspicion. Even Mr. Blair, the commissary, has left behind him evidences of personal religion which may lead us to deal gently with his clerical aspirings, and his exclusive admiration of his Church. Had he not loved purity, he would not have chosen Christ's Sermon on the Mount as a subject for a series of discourses, and had not his thoughts been worthy of their subject, they would not have drawn praise from the conscientious Doddridge.<sup>a</sup> But it is a

<sup>a</sup> See Dr. Hawks, 75. While Mr. Blair was soliciting the charter of William and Mary College, in London, a characteristic incident occurred. Seymour, the Attorney-General, opposed the grant of two thousand pounds because the nation was at war, and needed all its resources. Mr. Blair urged the necessity for the grant, and ventured to remind the attorney that the college was to train young men for the

point beyond denial, that the great body of the Episcopal preachers in Virginia were men whose lives were any thing but illustrations of the Gospel. It could not have been otherwise under the system which brought them from the mother country. Men of high character and consecrated learning had little inducement to leave England and come to the Province; and accordingly, those who offered themselves to the Bishop of London, were generally unfit for preferment at home. Cases are not wanting, in which candidates who had been solemnly rejected in Britain, were afterwards sent with full certificates to the Colony.<sup>a</sup> The result of this system was soon apparent.

The clergymen contented themselves with a sleepy performance of their duties on the Sabbath, and on other days pleased the flesh with much worldly entertainment. To read the service became mechanical, and the hearers grew weekly in apathetic indifference. Virginia has always abounded in temptations to doubtful pleasure, and her churchmen of the colonial period did much to cultivate this taste. Her Episcopal divines frequented the race-field and the ball-room. They baptized children amid scenes of hilarity, where wine flowed in streams, and the dance enabled them to display their clerical grace.<sup>b</sup> Many of them betted freely at cards, and rattled dice in a

ministry, and that the people of Virginia had *souls*. *Souls!* said Seymour, *damn your souls! make tobacco*.—Grahame, i. 136, in note.

<sup>a</sup> See Bishop Meade's Address to Convention, May 22, 1845, page 5.

<sup>b</sup> Bishop Meade's Address, 1845, page 8.



way which would have put Governor Fauquier to shame. One clergyman was known for a long time to be president of a jockey-club,<sup>a</sup> and doubtless his services in this capacity were adjudged more important than in the pulpit. One reverend gentleman laid aside his spiritual armour, and having taken carnal weapons, fought a duel within sight of the very church where his own voice had often been heard praying to be delivered "from battle, murder, and sudden death."

The effect of such a ministry upon the people may be readily conceived. An utter want of the spirit of piety, and a hatred of the truth, can be detected in many of the manifestations of this period. If a minister ever rose above the *dead level* of his peers, and preached against popular vices, vestry and people both fell upon him, and ceased not to annoy him, until he was driven from his place.<sup>b</sup> So glaring was the wickedness of the clergy, that the General Assembly, at an early period found it necessary to enact that "ministers shall not give themselves to excess in drinking or riot, spending their time idly by day or night."<sup>c</sup> Even Sir William Berkeley complained that, as of all other commodities, so of ministers, *the worst* only were sent to the Province;<sup>d</sup> and as late as 1751, the Bishop of London, in a letter to Dr. Doddridge, speaks of the clergymen of Virginia as "willing to go abroad to retrieve either lost for-

<sup>a</sup> Bishop Meade's Address, page 8.

<sup>c</sup> Hening in Baird, page 98.

<sup>b</sup> Hawks, 91; Bishop Meade's Address, page 4.

<sup>d</sup> Letter of Berkeley in Baird, note, page 98.

tunes or lost character.”<sup>a</sup> The commissary had no power to depose; distance from the diocesan in England prevented discipline, and cases of enormous delinquency occurred among the clergy of the Province which were never visited with punishment.<sup>b</sup> Thirty years ago, eye-witnesses were alive who had seen ministers of the Church enter the pulpit in a state of intoxication, so disabling, that their tongues refused to pronounce the oft-repeated words of the liturgy.

Thus the religious establishment of Virginia was weakened by its own inherent vices. It had the sanction of law, the support of learning, and the countenance of men in high places. Nevertheless it tottered to its fall, and even had it not been attacked by other sects, it would at last have been crushed in the general struggle between tyranny and freedom, of which America was the scene.

The earliest traces of Dissenters in Virginia are found in the year 1619. A small band of Puritans then inhabited her soil,<sup>c</sup> but they soon disappeared under the sinister influences bearing upon them. After the Quakers were introduced, they were for a time active and numerous, but their efforts were gradually relaxed, and their numbers rather dwindled than increased. In 1690, King William sent a large body of French Protestants to Virginia. During the persecutions which were at last consummated by the revocation of the Edict of Nantz,

<sup>a</sup> Princeton Review for April 1840, cited by Baird, *Rel. in Am.* 98.

<sup>b</sup> Bishop Meade's Address, 4; Hawks, 95; Baird, 98.

<sup>c</sup> Hawks, 35, 93, 94.

in 1685, under Louis XIV.; it has been estimated that two hundred thousand Huguenots suffered martyrdom, and seven hundred thousand were driven from the kingdom. But the cruelty of France furnished citizens for America. Besides those who came in 1690, nine years afterwards another body of six hundred, under Philippe De Richebourg, came to Virginia, and were assigned lands on the south side of James River, about twenty miles above the present site of Richmond. They were rigid Calvinists in doctrine, but their misfortunes and industry alike commended them to the favour of the government. They spoke no language except their own, and could have appreciated no religious services except from their own pastors. The Assembly passed laws for their encouragement; gradually they became assimilated to the people around, and lost their national peculiarities:<sup>a</sup> yet their influence is still felt. While the names of Lacy, and Fontaine, and Maury, shall be found in her borders, Virginia will be reminded of the Huguenots of France.

When the Congregational preachers from New England visited the southern Colony in 1642, it was thought by them that many people could be found favourable to the independent mode of religious worship; and six years after, the number of such was stated at one thousand, by a Congregational divine who had been driven from Virginia by her intolerant laws.<sup>b</sup> This was a mere con-

<sup>a</sup> Hodge's Pres. Church, i. 15, 16,  
51; Hawks, 78, 79.

<sup>b</sup> Savage's Winthrop, ii. 334; in  
Hawks, 57.

jecture, and we have reason to believe it was exaggerated. It is certain that early in the administration of Spotswood, dissent was almost unknown. Four churches not connected with the establishment were all that could be found in the whole Colony, east of the Blue Ridge, and the strong denomination soon to be spoken of had not yet commenced its career in the beautiful valley of Virginia.

About the year 1714, a small number of Baptists from England settled in the southeastern part of the Colony, and nearly thirty years afterwards, another body came from Maryland, and occupied one of the northern counties, then thinly inhabited.<sup>a</sup> These were the *regular* Baptists, and though they were not without zeal, they were speedily eclipsed by more enthusiastic brethren.

In 1739, a prodigy of religious energy and eloquence appeared in America. George Whitefield crossed the Atlantic, and lighted in the New World the flame which had been kindled by the fire of his heart among his countrymen in Britain. To use the thought of one who had appreciated his labours, he was the angel of the Apocalypse flying through the land, having with him the everlasting gospel to preach to all people.<sup>b</sup> Wherever he came, he roused men who had long slumbered in apathy. His influence was not confined by colony, or state, or sect, or party. He sought for souls with a singleness of purpose, which excluded minor dis-

<sup>a</sup> Semple's Virginia Baptists, chap. i.      <sup>b</sup> Dr. Baird, Rel. in Am. 101.



tinctions. Independents and Presbyterians, Baptists and Churchmen, alike glowed beneath his words. When he came to Virginia in 1740, no opposition was made to his preaching, as he was an ordained minister of the Church of England,<sup>a</sup> but though some who loved the Establishment heard him gladly, there were others who regarded him as an enthusiast, and would afterwards willingly have closed his mouth.<sup>b</sup>

Whitefield's appearance was a new era in the religious history of America. Even before he came, deeper interest had been felt by some northern congregations as to the personal effects which Christianity ought to produce, but his breath kindled this feeble spark into a brilliant flame. The doctrine of the "new birth," preached with power and earnestness by the reformers of the eighteenth century, was so novel to those who had been slumbering beneath the establishments of Congregationalism and Episcopacy, that its advocates were called "New Lights."<sup>c</sup> This title was not applied to any particular sect, but to all, of every denomination, who followed the disciples of Whitefield. Extensive divisions occurred among the prevailing denominations, and a large number of Baptists at the north, inspired by the zeal of the times, left their brethren, and were afterwards known as *Separate Baptists*.<sup>d</sup> Between the years 1744 and '55 many

<sup>a</sup> Hawks, 100.

<sup>c</sup> Encyc. Rel. Knowledge, art.

<sup>b</sup> Gillies' Whitefield, 106, referred to in letter to the author from the Rev. G. W. McPhail of Fredericksburg, Va., dated Nov. 17, 1846.

<sup>c</sup> Encyc. Rel. Knowledge, art. Presbyterianism, written by Dr. Miller, of Princeton; Semple's Va. Baptists, chap. i.

<sup>d</sup> Semple's Va. Baptists, chap. i.

of these passed through Virginia, and taking their places on her borders, in North Carolina, commenced preaching to such congregations as they could gather. In a short time their success was great. From twelve or fourteen, their communicants swelled to more than six hundred. They began to extend their labours into Virginia. In August, 1760, the first Baptist Church of this order was planted on the soil of the Old Dominion;<sup>a</sup> but soon the number was greatly increased.

Samuel Harriss was one of the strongest supports of the early Baptists in the Colony. He was born in Hanover, but was a resident of Pittsylvania, and had filled many dignified stations. He had been Sheriff and Colonel of militia, Justice of the Peace, and Burgess for his county; but, laying aside temporal honours, he was baptized by immersion, and became a preacher.<sup>b</sup> Meanwhile, zealous exertions in the same cause were made by others, and their progress grew with their efforts. The counties of the North Carolina border were visited, and Goochland, Louisa, Fluvanna, Orange, and Spotsylvania, witnessed the rise of large Baptist churches. If we may trust to tradition, an influence approaching the supernatural urged on the work, and directed certain preachers to particular parts of Virginia, in which they were specially called to labour. James Read lived in North Carolina, sixty miles from the border. His own account states that powerful impulses moved his heart to preach in the neighbour-

<sup>a</sup> Semple's Virginia Baptists, page 5.

<sup>b</sup> Rev. J. B. Taylor's Lives of Va. Bap. Preachers, 29.

ing Colony ; dreams often pictured to him immense congregations there hanging upon his words, and in his sleep he was sometimes heard by his family to cry out “ O Virginia, Virginia, Virginia ! ” At this juncture he was visited by Samuel Harriss and three others, urging him to come to Orange County, and preach the Gospel. Faith, whether misguided or otherwise, found in this message a resemblance to the call of Peter from Joppa to Cesarea ;<sup>\*</sup> he obeyed the summons, and although uneducated, his zeal seems to have supplied the want both of learning and prudence.

Whatever view we may take of the above case, and of similar accounts from others, it is certain that the Baptists increased rapidly in numbers and power in the Province. Fervent declamation distinguished them ; the prominent motives of the Gospel were presented in language made strong by its earnestness ; the joys of heaven and the torments of hell were opened to the eyes of the hearers, and men were urged to immediate repentance, faith, and baptism. The practice of immersion forcibly addressed the senses, and gave something more substantial upon which to dwell than the simple rite of other churches. The people heard the Baptists gladly ; day after day added fresh accessions, and it was apparent that they could no longer be without weight in the counsels of the Colony.

<sup>\*</sup> Acts, chap. x. See the account irregular. Taylor's *Lives of Va. in Semple*, page 9. Mr. Read's *Bap. Preachers*, 24, 25. course was afterwards somewhat

Their beginnings may have been seen with indifference by Churchmen, but, as they grew, this apathy was disturbed, and at length was converted into stern opposition. At first it was hoped they might be conquered by the weapons of argument; the rectors of parishes began to preach against them, and Episcopal disputants sometimes attended their meetings and opened controversy. They argued that the new sect were followers of the Anabaptists of Germany, whose horrible excesses in Munster, and other places, had made their name odious throughout Christendom.<sup>a</sup> They urged that the Baptists were novel, both in their doctrines and their origin; they were rude and unlearned, and so incapable of understanding church order; that they operated only on the lower classes of society; that they disturbed the peace of the Establishment which had so long existed; and that they were wolves in sheep's clothing, coming in humble garb for purposes of violence. But the Baptists were ready to render a reason for their course. They utterly disclaimed connexion with the Anabaptists, whom they resembled in nothing save in the mode of administering baptism; they declared that their doctrines were not novel, but were found in the Word of God; they admitted that they were unlearned, but urged that so were the early disciples of Christ, who received from him authority to preach; they gloried in proclaiming the Gospel to the ignorant and the poor; and declared that if they disturbed the calm of the Establishment, it was a deathlike

<sup>a</sup> For an account of these fanatics, 303; Mosheim's *Eccl. Hist.*, iii. 58, see Robertson's *Charles V.*, ii. 295-140, McLaine's *Trans.*



lethargy, which ought to be broken ; and, finally, they asked, why, if they were really wolves in disguise, were they so grievously hunted and trodden down by the *true sheep* of the fold ?<sup>a</sup>

Finding that argument availed them little, the friends of Episcopacy drew the sword of persecution. It is believed that at this period no express statute of Virginia authorized the imprisonment of any man for preaching without being ordained, or being licensed according to the Act of Toleration ; but pretexts have never been wanting for religious cruelty. In June, 1768, John Waller, Lewis Craig, and James Childs, all zealous Baptists, were seized by the sheriff in the county of Spottsylvania, and carried before three magistrates, who stood ready in the yard of the meeting-house. The victims were bound over to appear at court two days afterwards, and when they appeared accordingly, they were told they should be released if they would promise to preach no more in the county for a year and a day. This they positively refused to do, and they were immediately ordered to jail. As they passed through the streets of Fredericksburg, they sang in solemn concert the hymn beginning "Broad is the road that leads to death." The people listened in awe, and sympathy began to move many hearts, in view of persecution.<sup>b</sup>

<sup>a</sup> Semple's Virg. Baptists, 20, 21. "May it please your worships, these

<sup>b</sup> Ibid. page 15. The true offence of these men was disclosed by a certain lawyer of the court, who "vehemently accused them." He said, "men are great disturbers of the peace ; they cannot meet a man upon the road, but they must *ram a text of Scripture down his throat.*"

While they were in jail, they preached to the people through the gratings of the windows and doors. The effect of such scenes may be imagined. The mob might deride, but there were sensitive spirits upon whom the very semblance of oppression would have its effect, and the new denomination gained daily in numbers. Craig was kept in jail four weeks, and his companions for forty-three days, and when they were discharged, no concessions were made on either side.

A well-supported tradition has told us that when these three Baptists were brought to trial in Fredericksburg, the Prosecuting Attorney had drawn up an indictment against them "for preaching the Gospel contrary to law." Patrick Henry had heard of the case, and rode fifty miles to hear more. He kept his seat while the indictment was read, and while the prosecutor opened the cause, then rising, he solemnly addressed the court: "May it please your worships, what did I hear read? Did I hear it distinctly, or was it a mistake of my own? Did I hear an expression that these men, whom your worships are about to try for misdemeanour, are charged with—*preaching the Gospel of the Son of God?*" The tone, the manner, the subject, sent an indescribable thrill to every heart. Then continuing, the orator carried home his appeal with such power that the Prosecuting Attorney turned pale with agitation, and the court was hardly restrained from directing the sheriff at once to discharge the prisoners.<sup>a</sup> Yet even Patrick Henry

<sup>a</sup> Oregon Spectator, Sept. 3, 1846, from the Baptist Register.

was not strong enough to arrest the tyranny caused by an Established Church.

Similar persecutions were again and again exhibited. In 1770, William Webber and Joseph Anthony were seized and imprisoned in Chesterfield County. They invited hearers to the outer walls of the jail, and in the language of the reverend gentleman who has described them, "they did much execution by preaching through the grates."<sup>a</sup> In Middlesex and Caroline Counties, many Baptist ministers were arrested and confined. They were lodged in jails swarming with vermin, and were treated like criminals; yet their spirits were buoyant, and persecution did nothing but increase the zeal and number of the sect. Insult was often offered to their ministers during service, and frequently mounted men would ride into the water while they were administering immersion, and attempt to turn the ceremony into a farce.<sup>b</sup> There were few in the Established Church who did not oppose them. In 1772, a letter appeared in the Virginia Gazette, addressed to the Anabaptists imprisoned in Caroline.<sup>c</sup> The writer justifies their imprisonment, on the basis, not of any statute, but of the English common-law. He charges them with teaching heresy and hateful doctrines, and with disturbing the peace of religion. He admits that the English Act of Toleration applies to the Colony, but denies that the Baptists are entitled to its benefit.

<sup>a</sup> Semple, 17.

<sup>b</sup> Ibid. 19.

<sup>c</sup> See this address, Virginia Gazette, Feb. 20, 1772.

Religious tyranny produced its accustomed effect: the Baptists increased on every side. If one preacher was imprisoned, ten arose to take his place; if one congregation was dispersed, a larger assembled on the next opportunity. Twenty years before the Revolution, few of this sect could have been found in the Colony, and yet, in 1774, the *Separates* alone, had thirty churches south of James River, and twenty-four on its north;<sup>a</sup> and the *Regulars*, though not so numerous, had grown with rapidity. The influence of the denomination was strong among the common people, and was beginning to be felt in high places. In two points they were distinguished. First, in their love of freedom. No class of the people of America were more devoted advocates of the principles of the Revolution; none were more willing to give their money and goods to their country; none more prompt to march to the field of battle, and none more heroic in actual combat, than the Baptists of Virginia. Secondly, in their hatred of the Church establishment. They hated not its ministers, but its principles. They had seen its operation and had felt its practical influence. Common sense pointed out its deformities, and clamoured against its injustice. To a man they were united in the resolve never to relax their efforts until it was utterly destroyed.<sup>b</sup>

While one body of Dissenters thus advanced to undermine the temple of the Established Church, another arose, and laying a hand guided by learning, and nerved by devotion, upon the pillars of the

<sup>a</sup> Semple, 25.

<sup>b</sup> Hawks, 121-152.



temple, shook them to their very foundations. Early in the eighteenth century, a single Presbyterian congregation was all that could be found in Virginia. It had been planted by Francis Makennie, on the eastern shore, and maintained a feeble existence, notwithstanding the ungenial air surrounding it.<sup>a</sup> But, west of the Blue Ridge, the influence of the followers of Calvin and Knox became greater every year. Pennsylvania had received a large number of settlers from the north of Ireland. These were not the Irish, but were, in general, purely Scotch, who had filled up the inviting province of Ulster, after it had been emptied of its half-barbarous native inhabitants.<sup>b</sup> The Scotch-Irish were a strong and active race, hardy in body, vigorous in mind. They were deeply imbued with religious feeling, and were almost without exception attached to the doctrines which are taught in the Westminster Confession of Faith. From Pennsylvania they passed into the beautiful valley of Virginia, and settled in many places running nearly from the head waters of the Potomac to the southern branch of the James, as it cuts the mountains near the Natural Bridge. The northern part of this region, now composing the counties of Frederick, Shenandoah, and Rockingham, was indeed chiefly occupied by German settlers, but the Scotch were spread through the fertile lands of Rockbridge and West Augusta.

As early as 1719, a Presbyterian congregation

<sup>a</sup> Davidson's Pres. Ch. in Ky. 18. Ulster, under James I.; Davidson's

<sup>b</sup> This was after the conquest of Pres. Ch. in Kentucky, 14.

had been gathered near the site of the present town of Martinsburg. It is said that here the Gospel was first publicly preached west of the Blue Ridge.<sup>a</sup> The people earnestly asked for a preacher, and the Synod of Philadelphia having sent to them the Rev. Daniel Magill, he organized the congregations of Falling Water and Tuscarora, and the next year reported them to the Synod.<sup>b</sup> After this, other churches were opened, and ministers were tempted from the northern settlement to preach in the Valley. The Stone Church of Augusta is among the oldest in Virginia. It is built of materials so firm that it has resisted the hand of time, and promises to endure for centuries to come. After the defeat of Braddock it became a fortress of defence against the Indians; a deep trench surrounded it, and redoubts guarded its approaches; its pastor exhorted to courage, and its people came to worship armed with rifles, and posting sentinels to give the alarm.<sup>c</sup> The church at Tinkling Spring is not far from that of Augusta, and is little inferior to it in antiquity.<sup>d</sup> These churches were united, and were under the pastoral care of Rev. John Craig, from 1739 to 1764. He was from the north of Ireland, and was a just specimen of his class. Diligent in study, persevering in labour, firm even to obstinacy, a rigid Calvinist in doctrine, and withal a pious and devoted minister, he received his churches

<sup>a</sup> Kercheval, 83; Davidson, 17—  
22, note on last page.

<sup>b</sup> Davidson, 22.

<sup>c</sup> Davidson, 25.

<sup>d</sup> These time-honoured churches  
have both been visited by the au-  
thor, under circumstances of pecu-  
liar interest.

feeble in numbers and influence, and left them strong, united, and possessed of much temporal wealth. Thus the Presbyterians of the Valley grew. In 1738 Governor Gooch gave them his express written permit to preach and worship, provided they complied with the terms of the English Act of Toleration.<sup>a</sup> They were not pressed down by immediate contact with the Establishment. A season of unwonted interest for religion was enjoyed by them,<sup>b</sup> and, before the Revolution, it is believed they had at least twelve ministers, and a much larger number of churches scattered through the region between the Alleghanies and the Blue Ridge.<sup>c</sup>

Meanwhile, in eastern Virginia, a series of singular events had conducted Presbyterianism from obscurity to power. There was little intercourse between the Valley and the east; they were under the same political rule, but the manners and habits of the people were as different as their origin. In the year 1730, in the northern neck between the Potomac and Rappahannoc Rivers there lived one John Organ, a pious schoolmaster from Scotland. He found nothing congenial to his taste in the stagnant services of the Establishment, and gradually withdrawing from the church, he collected around him a few neighbours, to whom he read books of devotion. Their numbers gradually increased so much, that they sought a regular preacher. The Synod of Philadelphia, to whom they applied,

<sup>a</sup> See Gooch's Letters to Synod of Philada., Nov. 4, 1738, in Davidson, 18.

<sup>b</sup> Letters of Saml. Davies to Dr. Bellamy, in Campbell, Appen. 304.

<sup>c</sup> See Davidson, 36, 37.

sent to them a minister named Anderson, who organized a church that was alive early in the present century.<sup>a</sup> In the county of Hanover, about the same time, lived Samuel Morris, a planter possessed of wealth and influence. It is remarkable that his mind was directed to religion not by the accustomed agency of preaching, but by *reading* the works of men who had made the Scriptures their particular study. An old copy of "Luther on the Epistle to the Galatians" fell into his hands. He read, pondered, felt. This short epistle furnished to the great Reformer all the weapons he needed, to cut Popery to the heart. Justification by faith alone, and a holy life to prove that faith, are its prominent doctrines. Morris believed, and hastened to impart to others the means of his own happiness.<sup>b</sup>

His friends were assembled, and he began to read to them the much-prized volume; they heard again and again with interest and pleasure. Gradually their numbers swelled; other books were introduced; the thoughts of old John Bunyan became familiar, and in 1743, a copy of Whitefield's sermons fell into their possession. Mr. Morris caused to be erected a "reading-house" for the accommodation of the hearers, and this was filled to overflowing on every Sabbath. He never attempted to preach, or to exhort, or to introduce prayer, or any regular worship; he did nothing

<sup>a</sup> Miller's Life of Dr. Rodgers, 29, Pres. Church, part ii. 43; Hawks, 30. 102; Evan. and Lit. Magazine, ii.

<sup>b</sup> Miller's Rodgers, 32; Hodge's 115.



but read;<sup>a</sup> yet the word of God, explained by consecrated minds, kindled in the hearers a flame of which they had known nothing theretofore. The interest thus excited became so general that the friends of the church felt alarm. Morris and his principal adherents were summoned before the Court of Magistrates to answer for the crime of absenting themselves from the regular services. They were asked to what denomination they belonged. Here was a difficulty: they were any thing but Churchmen; they were not Quakers; they were not Baptists; they knew nothing of Presbyterians. Suddenly a bright thought flashed upon them. Knowing that Luther was a great reformer, and remembering their obligations to him, they declared that they were *Lutherans*. The magistrates were puzzled; they could find no laws against such a sect, and the men were accordingly dismissed without punishment. But persecution was not thus easily satisfied; finding that their meetings were continued, informers again brought them before the court; fines were inflicted and greater rigour threatened. Mr. Morris himself paid more than twenty fines under the systematic opposition to which he was exposed.<sup>b</sup>

Still their march was onward. In 1743, a member of one of the Augusta congregations crossed the Blue Ridge to barter his grain for iron and salt. Meeting with some of Morris's hearers,

<sup>a</sup> Hodge, ii. 43, 44; Miller's Rodgers, 34.

<sup>b</sup> Miller's Rodgers, 36, 37, in note; Morris' account in Campbell, Appen.

he conversed with them, and was astonished to find that their views of religion coincided with his own. He advised them to send to the Valley, and invite a minister whom he had left there, to come and preach to them.<sup>a</sup> This was the Rev. William Robinson, an evangelist ordained by the Presbytery of New Brunswick, and a man to whom the Presbyterians of Virginia owe a heavy debt of love. Embarrassments caused by youthful indiscretion had driven him from England, but soon after coming to America, he professed himself a Christian, and devoting his life to the ministry, he carried into his sacred duties the ardour which had distinguished him in the pursuit of vicious pleasure.<sup>b</sup> He obeyed the call of Mr. Morris, and coming to Hanover, preached his first sermon on the 6th of July. The people attended in crowds, and recognising from his lips the same doctrines which they had long heard from the books read by Morris, they received him with open arms. Deep seriousness prevailed at their meetings, and gradually an interest was awakened such as men feel when they begin to compare sin with holiness, and time with eternity.<sup>c</sup> The lives of many were changed, regular congregations were formed, proper modes of worship were introduced; the people took the name of Presbyterians, and formed a connexion with the Presbytery of New Brunswick, whose

<sup>a</sup> Davidson's Pres. Ch. in Kentucky, 31, 32.—Dr. Davidson's account here conflicts slightly with that in Evan. and Lit. Mag. ii. 115.

<sup>b</sup> See note in Miller's Rodgers, 37-39.

<sup>c</sup> Morris's account in Appen. to Campbell; Miller, 40, 41.

ministers were then a part of the Synod of New York.<sup>a</sup>

Mr. Robinson was soon followed by other clergymen of the same creed. John Blair was his immediate successor, and under his labours the churches were increased. In 1744, Rev. Mr. Roan was sent by the Presbytery of Newcastle. He was a zealous man, but somewhat indiscreet. He spake openly against the vices of the Episcopal clergy, and by his boldness so provoked his enemies, that an indictment was made out against him by a grand jury, on a false charge of blasphemy made by some man after the accused left the Colony.<sup>b</sup> (1745.) It was at this time that the attention of the Governor was called to the progress of dissent in Virginia, and Gooch delivered to the Grand Jurors of the General Court the memorable charge, which has gone farther to convict him of intolerance than any other act of his life. The deep interest exhibited by the people; the distress occasioned by conviction for sin, and the exciting appeals founded by the preachers on the doctrines they proclaimed, altogether constituted a "New Light" which the Governor could in no sense understand, and hence his desire to quench it by applying the law.<sup>c</sup>

<sup>a</sup> Miller, 41-45; Hodge, ii. 279, 284, 285.—Compare with account in Evan. and Lit. Mag., ii. 349-351.

<sup>b</sup> Samuel Davies' Letters to Dr. Bellamy, Campbell, Appendix; Davidson's Ch. in Ky., 33, and in note; Hodge, ii. 45.

<sup>c</sup> It is proper that the author shall

William Gooch was not naturally either a bigot or a persecutor; when, during this year, the Synod of New York sent to him Rev. Messrs. William Tennent and Samuel Finley, to represent the interests of their church in Virginia, he received them kindly, and permitted them to preach. He could not refuse his homage to genius, learning, and piety united. Had his council been as liberal as himself, it is not probable that Dissenters would have felt oppression in "the Ancient Colony."<sup>a</sup>

Just at the time when the infant churches which Morris and Robinson had planted, most needed a minister at once zealous and learned, their wants were supplied. It is not extravagant to say that Samuel Davies was in many respects the greatest preacher that America has ever known. He was born in Newcastle, Delaware, Nov. 3, 1724. His mother devoted him in infancy to the sacred cause in which he was to be so distinguished, and gave him a name that indicated her design.<sup>b</sup> From the age of fifteen he was a professed Christian, and sought the duties of the ministry with hallowed

hearers of Morris, and the followers of Robinson, Blair, and Roan; and that, if some of them were imprudent and enthusiastic, they were yet as a body sound in doctrine, and consistent in practice. This correction will apply, with proper modifications, to the other sects named, as well as to the Presbyterians. That the reader may examine the several parts of the discussion by which this error was made to appear, he

will refer to the Watchman and Observer, Richmond, Nov. 19, 1846, letter of the author to Ed. W. and O., Dec. 10, 1846, and Ed.'s reply in same; letter of Rev. Dr. A. Alexander to Ed. W. and O., March 18, 1847, and Bib. Repertory and Pr. Review, for April, 1847, pp. 233, 234.

<sup>a</sup> See Miller's *Rodgers*, 47-49; *Hodge*, ii. 45; *Davidson*, 18, 33.

<sup>b</sup> Compare Miller, 18, in note, with *Encyc. Rel. Know. art. Davies*.



ardour. He was licensed by the Presbytery of Newcastle in 1745, and ordained two years after. He came to Virginia in 1747, and finding that the laws then in force, rendered certain steps necessary before a Dissenter could preach with safety, he complied with all the terms of the Act of Toleration. He took the usual oath of fidelity to the government, and subscribed to the thirty-nine articles of the Church of England, with four exceptions, expressly made. These were the articles concerning the "traditions of the church," "the authority of the homilies," "the consecration of bishops and ministers," and "the power of the church to decree rights and ceremonies, and to decide controversies of faith."<sup>a</sup> He then obtained licenses for four churches,—three in Hanover, and one in Henrico, and early in the spring of 1748, he entered with his whole heart upon his career as an evangelist.

His bodily health was delicate, but the strength of his soul carried him over every obstacle. Though yet young, he had acquired a store of systematized knowledge, which fitted him to combat error in whatever shape it might come. His personal appearance was mild and benevolent, yet august and imposing.<sup>b</sup> But it was in the pulpit that his true power was seen and felt. His heart glowed under the fervent majesty of truth, and his lips seemed to be touched as with a live coal from the altar of God. Having studied the volume of revealed religion in all its length and breadth, his zeal never

<sup>a</sup> Hawks, 108.

<sup>b</sup> Encyc. Rel. art. Davies.

approached fanaticism, yet he wielded the "sword of the spirit" with an effect that has seldom been equalled. Under his words the objects of faith drew near to the listener; heaven opened, and celestial melody was wafted from its portals; the world of despair was unlocked, and shown to the impenitent. He applied the divine law with such pungency that he pierced the conscience as with a thousand barbed arrows, yet no spiritual physician was ever more ready than he to soothe the wounded soul with atoning blood, and to lead the stricken penitent to the bleeding victim of Calvary. Few who ever heard him preach could entirely resist his influence; it is well known that he was the means of kindling the hidden fire of eloquence in other bosoms. Patrick Henry has declared that by hearing him he was himself first taught what an orator should be,<sup>a</sup> and James Waddel, the "blind preacher," is said to have caught from Davies the inspiration which afterwards made him almost his equal in sacred pathos.<sup>b</sup>

When Mr. Davies returned to Virginia in 1748, he was accompanied by John Rodgers, a young minister whose aid he wished for in his new field. As they rode in the night-time through one of the thick forests of the river counties, a terrible storm overtook them. Incessant lightnings flashed around them, and bursts of thunder seemed to rend the heavens; rain poured down in such floods that they were unable to ride in safety, and alighting by the roadside, they waited until the fury of the

<sup>a</sup> See Howe's *Histor. Collee.* 294.

<sup>b</sup> Davidson's *Pres. Ch. in Ky.*, 27.

storm should be over.<sup>a</sup> Davies had a heart too resolute to feel any thing but reverence in such a scene, and his young companion, who had, before, been remarkably timid under displays of lightning, is said from this time forth to have lost all his fear, and to have emulated the boldness of his friend. The storms of the natural world were not the only difficulties which Rodgers encountered in Virginia.

When Davies and his comrade presented themselves before Governor Gooch, he received them politely and introduced them to the General Court, which now claimed the exclusive right of granting licenses to Dissenters. Jealousy had crept into this tribunal, in view of the rapid progress of the new denomination. In vain did the Governor exert himself to procure a liberal judgment. They positively refused to permit Mr. Rodgers to preach, and even expressed regret that they had licensed Mr. Davies. A minister of the Established Church complained to Gooch that Rodgers had preached in Virginia since his arrival, and advised severe measures, but the good Governor rebuked him in most cutting terms, and declared that he deserved to be stripped of his office for his intolerance.<sup>b</sup> Yet the court was inexorable. With saddened feelings Mr. Rodgers was compelled to return to the north, and Davies was left alone to speak for his church in Eastern Virginia.

If the rulers of the land looked on him with little favour, the people more than compensated by their

<sup>a</sup> Miller's Rodgers, 26, 27.

Rev. Dr. A. Alexander to Editor

<sup>b</sup> Note in Miller, 50-52; Letter of W. and O., March 18, 1847.

love. In less than a year three more churches were added to his number, and the counties of Caroline, Louisa, and Goochland, witnessed his labours.<sup>a</sup> Three hundred communicants were under his care; his places for preaching were sometimes forty miles apart, and, in traversing this wild tract of country, he was brought in contact with all classes, and nearly all learned to respect and love him. As his work advanced, the opposition of Churchmen increased; the question was raised whether the English Act of Toleration had any force in the Colony, and Mr. Davies was permitted to argue the point before the General Court, in answer to Peyton Randolph, the Attorney-General. The divine, for a season assumed the lawyer, and is said to have sustained himself with remarkable power.<sup>b</sup> The Attorney-General delivered a speech distinguished in legal learning, and when the young preacher rose to reply, many in the assembly exchanged smiles of derision. But, as he opened his subject, the hearers were astonished at his skill, and before he concluded, lawyers present were heard to whisper, "The Attorney-General has met his match to-day."<sup>c</sup> There can be no doubt that Mr. Davies was right, for an Act of Assembly passed in 1705, had expressly taken notice of, and, by necessary implication, had given effect to the Act 1 William and Mary, ch. 18, which was the existing law of toleration in Great Britain.<sup>d</sup> When

<sup>a</sup> Encyc. Rel. art. Davies; Hawks, 108, 109.

<sup>c</sup> Evan. and Lit. Magazine, ii. 118; Memoir of Davies.

<sup>b</sup> See Hawks, 109; Miller's Rodgers, 54, 55.

<sup>d</sup> Address to Anabaptists, Virg. Gazette, Feb. 20. 1772.



Davies visited England in 1753, to ask subscriptions to Princeton College, he obtained from the Attorney-General, Sir Dudley Rider, an opinion confirming his argument, and thus the question was settled for ever in favour of the Dissenters.

This great man was as patriotic as he was pious and eloquent. After the defeat of Braddock, volunteers were needed to drive back the Indians on the frontier. Mr. Davies delivered two soul-stirring addresses to the people in Hanover. In the first he spake of George Washington, and uttered a memorable prophecy of his future greatness, which was fulfilled to the letter. The effect of the last was such, that immediately on its conclusion, more volunteers were enrolled than were needed, and the people followed him in crowds from the muster-ground to the tavern, still eager to hear his thrilling appeals.<sup>a</sup> The influence of such a minister upon those among whom he laboured, may be estimated by his success. Every where, at his approach, serious attention was awakened, lives were reformed, churches were organized, and the principles he cherished took vigorous root.

In 1755 the Presbytery of Hanover was formed, embracing all the Presbyterian churches in Virginia, and some in North Carolina. Four years afterwards, Mr. Davies was called to preside over Princeton College; but, though no one in all respects his equal has arisen in his Church, he left behind him in the Old Dominion, men eminent in piety, learning, and zeal. The foundations of his

<sup>a</sup> Howe's Hist. Collect., 294.

work had been well laid ; in the Valley, and through the lower counties of the Colony, his denomination gained many accessions. With their increase, they felt the necessity for securing to their youth education in which science and religion should be united, and, in 1774, under their auspices, two colleges arose, which yet exist. One was located in Prince Edward County, and bore the name of Hampden Sydney ; the other was in Rockbridge, in the Valley, and was named Liberty Hall.<sup>a</sup> Each of these titles will recall to our minds thoughts of freedom and patriotism, and may assure us that the founders of these schools of learning were the lovers of their country. With what disapprobation they regarded the restraints of conscience, yet sanctioned by law in Virginia, may be readily conceived.

Previous to, and during the Revolutionary War, the Methodists, as composing a distinct Church, had no existence in America. It is true, the followers of Mr. Wesley were numerous and active. Traces of their labours in Virginia may be found as early as 1745,<sup>b</sup> and in 1773, their exertions became uniform and efficient. In this year Robert Williams entered the town of Norfolk, and, standing on the steps of the court-house, sang aloud. A crowd assembled, and he preached to them zealously, urging a salutary fear of *hell* and *the devil*.

<sup>a</sup> Davidson's Pres. Ch. in Ky., 39—  
47. In 1812, Liberty Hall received  
the name of Washington College. It  
enjoys a liberal bequest which the  
Father of his Country declined to re-

ceive from the state for himself, and  
transferred to the Academy.

<sup>b</sup> Gooch's Charge, see vol. i. 429—  
431.

So seldom had they heard any thing of these startling subjects from the pulpits of the Establishment, that they at first thought Mr. Williams either mad or impious;<sup>a</sup> but, after a time, his earnestness had its reward, and a considerable number of converts were collected in Norfolk. Their preachers then spread themselves abroad through the counties of Sussex, Brunswick, Prince George, Lunenburg, Amelia, and Mecklenburg, and through a series of years they gathered increasing congregations. Great excitement prevailed. "Many sinners were powerfully convinced, and Mercy! Mercy! was their cry."<sup>b</sup> The vehement exhortations of which Mr. Wesley approved wrought their accustomed effect, and while we have reason to fear that the religion of some vanished with their tears, others gave proof of permanent reform.

But though their numbers thus swelled, the Methodists did not withdraw from the Established Church. When the Revolution opened, their condition was one of perplexity and hazard. Their great leader, instead of being friendly to freedom, had published a pamphlet in which he condemned the Americans, and justified the course of the British Ministry.<sup>c</sup> Four of their most distinguished preachers in America were from England, and were, with good reason, suspected to be attached to the cause of their native land, and, in many cases, both leaders and people did so imprudently declaim

<sup>a</sup> Dr. Bang's Hist. M. E. Church, i. 73.

<sup>c</sup> Bang's M. E. Church, i. 122; Hawks, 134.

<sup>b</sup> Letter in Dr. Bangs, i. 93.

against the measures of Congress, that they drew down upon themselves the merited contempt of all patriots.<sup>a</sup> They considered themselves as only “a society within the Church;” their preachers were expressly forbidden to administer the sacraments, and in Virginia their followers were to be earnestly exhorted to attend the Episcopal churches, and there receive the ordinances.<sup>b</sup> Although Mr. Wesley professed to have been long convinced by Lord King’s Account of the Primitive Church that bishops and presbyters were equal in authority, yet not until 1784 did he ordain Dr. Coke and his assistants, and send them to America to establish a separate Church.<sup>c</sup> Under these circumstances, we are not surprised to find the Methodists of Virginia co-operating with the Establishment, and using all their influence for its support, instead of endeavouring to destroy it.<sup>d</sup>

Thus were forces arrayed when the first *free* Legislature of Virginia commenced its session in Williamsburg, on the 7th day of October, 1776. Nearly two-thirds of the people had become, either openly or in feeling, dissenters from the Church of England;<sup>e</sup> yet a majority of the Legislators were Churchmen, and the triumph of religious liberty was due to its own commanding claims rather than to the prepossessions of the members.

<sup>a</sup> See Dr. Bangs, i. 118–122.

<sup>d</sup> Hawks, 132, 134, 139.

<sup>b</sup> Minutes of First Regular Conference, 1773; Bangs, i. 79.

<sup>e</sup> Compare Jefferson’s Works, i. 32, and Girardin, 180, with Hawks,

<sup>c</sup> Wesley’s Letter, Bangs, i. 153, 154; Southey’s Life of Wesley, ii. 247, 248, Am. edit. 1847.

140.



Hardly had the body been in session a week, before memorials began to appear urging action on the laws affecting conscience. The Bill of Rights had proclaimed abstract principles, but now something practical was sought. Baptists, Quakers, Presbyterians, and men holding no special creed, united in asking for a repeal of the oppressive laws which had grown up under the old *régime*. Few opposed this reform except Churchmen and Methodists, but, it is worthy of remark, that an earnest plea for the Establishment was published by a writer who seems to have been an open infidel. His address appeared in print during the session of the Assembly. He declares that, when tested by truth, every system of religion, except simple Deism, will be found equally "false and foolish." Yet he is in favour of a strict establishment, to depress sectaries, and to make the evils of religion as small as possible! Following out his principles, he says, that "Toleration carries satire in every letter of it; literally, it means the suffering an abuse," and, therefore, he intimates that Trajan and Pliny merited praise for endeavouring to destroy the Christian sect in its infancy!<sup>a</sup> From such an ally, it is to be hoped the friends of the Established Church derived little advantage.

The Dissenters urged the glaring injustice which had long been done to them. In the frontier counties of the state they had been compelled to contribute money to purchase glebes and to build churches, when in fact very few Episcopalians lived

<sup>a</sup> The Address is in the Va. Gazette, Dec. 13, 1776.

within their bounds.<sup>a</sup> And in the eastern counties, contributions were yet levied upon them where they were more numerous than Episcopalians, never attended their churches, and had their own ministers, from whom they heard the Gospel. Among these memorials one appeared from the Presbytery of Hanover, which strongly commended itself by the power of its argument, the elegance of its composition, and the dignity of its tone.<sup>b</sup> It asked that all sects might be placed on the same ground with regard to the state; that the Established Church should be abolished, and that the support of religion should be left to the voluntary offerings of the people. Its doctrines were bold and original; if adopted, they would at once level with the dust the huge fabric which centuries have built in Christendom; "there is no argument in favour of establishing the Christian religion, but what may be pleaded for establishing the tenets of Mohammed by those who believe the Koran, or, if this be not true, it is at least impossible for the magistrate to adjudge the right of preference among the various sects which profess the Christian faith, without erecting a chair of infallibility which would lead us back to the Church of Rome."<sup>c</sup>

In opposition to these protests, memorials were presented from the Methodists and the Episcopa-

<sup>a</sup> Journal of H. of D. for 1776, page 26; Girardin, 181.

<sup>b</sup> It may be found in the Journal of H. of D., 1776, 24, 25, and in Dr. Rice's *Evang. and Lit. Magazine*, ix. 30-33.

<sup>c</sup> Dr. Hawks should have quoted *all or none* of this passage. See his *Episc. Ch. in Va.*, 139. He misquotes even the part which he professes to give.

lians, urging a continuance of the Established system.<sup>a</sup> They argued that the clergy of the Church had accepted cures in Virginia, trusting to the laws which provided for their support, and to the good faith of the public for their countenance. They considered that they had thus acquired a *vested right* to a legal provision. It might have been answered that these very laws constituted the unjust system of which Dissenters complained. They argued farther that true wisdom required that the state should provide religious instruction for their people, and that the best mode of doing this was by an Established Church. While, therefore, they approve of the system generally, “they are more particularly convinced of the excellency of the religious establishment which has hitherto subsisted in this state;” “the experience of one hundred and fifty years,” they said, “had tested it;” and it had been productive of “order and internal tranquillity, true piety, and virtue.” That these opinions were sincere we may not doubt, but that they were correct, neither the past history of their state, nor their own experience would authorize the Legislature to believe. Finally, these memorialists asked that the question should not be immediately decided, but should be referred to the people, that they might speak from the polls. Had this been done, we have reason to believe the cause of dissent would have triumphed, but the Legislature did not think proper farther to delay.

The memorials and petitions, after passing under

<sup>a</sup> Journal of 1776, 30 and 47, and Hawks, 142.

review of a special committee on religion, were referred to the whole House, forming a committee on the state of the country. A severe contest immediately commenced. Edmund Pendleton was the speaker, and was justly revered for his age, his integrity, his power in argument. He was the strenuous advocate of the Established Church, and he was ably seconded by Robert Carter Nicholas. Mr. Jefferson was the great champion of religious freedom. He found something so congenial to his own taste in the views of the Dissenters, and particularly in the doctrines of the memorial from Hanover Presbytery, that he willingly adopted •and sustained them. Scepticism and Christianity may alike condemn the ruinous union of church and state. The struggle in committee was desperately maintained from the 11th of October to the 5th day of December. Mr. Jefferson has himself declared that the contests were the most severe he had ever engaged in.<sup>a</sup> At length, however, the triumph of the friends of liberty, if not complete, was decisive. A bill passed, repealing every law which denounced punishment for maintaining opinions in religion, or for not attending the Episcopal Church; exempting Dissenters from contributions for the support of the Episcopal clergy, and suspending the legal assessments of members of the Church until the next session. The salaries of the clergy were, however, continued to them until the 1st of January succeeding, and the glebe lands, churches, books, and plate which had been

<sup>a</sup> Works, i. 32; Hawks, 148.



provided by law for the Establishment, were still secured to it.<sup>a</sup> The question whether there should be a *general assessment* on the people for the support of pastors of their own choice, was expressly reserved to be decided thereafter.

When we remember how long the church establishment of Virginia had existed, how deeply it had planted its roots in the social system, and how strong were the habits which taught men to revere it, we should be surprised rather that so much was done for its destruction, than that so much remained to be accomplished. The very first Legislature under the new constitution, struck a fatal blow, from which the victim did not recover. Death was not instantaneous; the wound was mortal, but though the principle of life was driven from the heart, it continued to linger in the extremities, until exhaustion and renewed attacks finally extinguished it. The Act of 1776 went far to establish religious freedom. Men were no longer compelled to attend the worship of a particular sect, or to pay fines for disobedience; the rights of citizenship were no longer confined to Churchmen; the authority to exercise private judgment in religion was recognised; the state pretended not to decide which church taught the truth, and which was guilty of schism or heresy; Dissenters were released from the unjust burdens they had so long borne, and were allowed to build churches when and where they pleased, and to support their pastors as they thought best; even members of the Epis-

<sup>a</sup> Jefferson's Works, i. 32; Girardin, 182; Hawks, 148.

copal churches were released from legal obligation to support their rectors, and were left to the guidance of conscience. These were important results; they proved that the eyes of men had at length been opened to the truth, and gave an earnest that all that liberty demanded should finally be done.

But it is not to be denied that Virginia had not yet been completely disenthralled. Even after the late acts, the Legislature, by many expressions in its laws, continued to show special favour to the Episcopal Church. As late as to the year 1778, it was called the "Established Church," the word "toleration" had not ceased to be used, and the name of "Dissenters" was still applied to all who rejected the surplice and the prayer-book. Such expressions should be banished from the language of a free people, except to explain antiquated evils. Where man is at liberty to worship God as he pleases, he asks no *toleration* from human government, and he cannot be called a *dissenter*, whatever may be his creed. At this time, those who belonged to denominations other than the Episcopal, composed two-thirds of the people; the faith of the Church of England was no longer the religion of the country, and with some propriety those who adhered to that church, might have been called "Dissenters" in Virginia. Yet it continued to enjoy certain immunities which were not limited to an empty name.

The ministers of the Episcopal sect were considered as authorized to perform the marriage cere-

mony without special license. They were *ex officio* clergymen, and might tie the matrimonial knot whenever and wherever called upon through the state. But ministers of other sects had not this privilege; they were compelled by law to seek a license in the county in which they lived, and for this and the oath attending it, the clerks were empowered to demand certain fees, which often bore heavily on the poor pastors of country flocks. Again, the old parish system was yet alive in law; their vestries, *as such*, were considered as still having power to collect a class of fees allowed by various statutes, and in the absence of express legislation, the courts looked upon these church officers as clothed with their former authority; and farther, the glebe lands remained in exclusive possession of the Episcopal clergy. Property amounting to several hundred thousand pounds in value, a large proportion of which had been taken from men who never entered a church of the establishment, and all of which had accumulated under a system of injustice, was continued in the hands of a small number of ministers, whose teachings were attended by the most insignificant of minorities among the people.

As we advance in the history of our state, we shall see each one of these evils successively removed. The patriots of Virginia were not content with victory half-won. They knew that their principles were sound, and they followed them out even to their extreme results. While life lingered in any severed limb of the Establishment they did

not feel safe. They renewed their attacks until they had not merely hewn down the tree, but had torn it up by the roots, and had destroyed the last germ from which it might be reproduced. It will not be necessary any longer to separate the history of religion from the general narrative of Virginia's fortunes. The time was soon to come when *absolute religious liberty* was to be enjoyed by her people. We may be startled in view of a state in which civil government grants the same rights and the same protection to the Christian, the Mohammedan, the Jew, the disciple of Brahma, and the Bhoodist from Siam ; yet such is the case in Virginia, and such should be the case in every nation pretending to be free. On the soil of the "Ancient Dominion," the believer in the Koran has the same right to build his mosque, to preach his creed, and to exercise civil functions, that the believer in the Scriptures claims for his own privileges. All are at liberty ; all are protected. But while this is so, let it not be supposed that Christianity has ceased to be the religion of our people, or that any of her divine claims have been forgotten. Never has she been cherished with zeal so ardent, and with love so devoted as since the divorce was declared between church and state. She is now sustained, not by legal establishment, but by the voluntary offerings of people who feel that they depend upon her for happiness in time and eternity. She has been restored to that position intended for her by her Author, who declares that his "kingdom is not of this world." Her weapons are no longer the penal



statutes made by human governments ; they are more noble, more powerful, more holy. Her defence is THE TRUTH. With this, her advocates may meet error in its worst forms, and with the certainty of ultimate success. The victory thus gained will be permanent and glorious ; it will not have been achieved by bloodshed and oppression, but by the silent march of that power which is destined at last to conquer evil, and to establish the reign of the Prince of Peace.

## CHAPTER IV.

Changes required by the principles of the Revolution—Law—State of the Law in Virginia—Entails—Their progress in England—Docked by fine and recovery—Rigour of entails in Virginia—Aristocracy—Evils of the system—Mr. Jefferson's bill—Entails abolished—Proposed revisal of the whole legal system of the state—Revisors appointed—Their labours—Their report partially adopted—Review of their suggested reforms—Events of 1776—A dictator proposed—Patrick Henry and Archibald Cary—Progress of the Revolutionary War—Scientific association—Aid to Hampden Sydney College—Lafayette and De Kalb—General Thomas Nelson—Legislation as to British debts—Consequences thereof—Virginia accedes to confederation—Josiah Phillips—Dismal Swamp—Bill of attainder—Phillips captured, regularly tried, condemned, and executed—Further importation of slaves forbidden—English Commissioners—Their disgraceful conduct—Virginia refuses to hear them—Settlement of the west—Magnificence of the country—Daniel Boone in Kentucky—Manners of the western pioneers—English Governor Hamilton—George Rogers Clarke—Capture of Kaskaskia—Of Fort Vincennes—Hamilton sent a prisoner to Williamsburg—His rigorous treatment—General Mathew's incursion—Suffolk burned—Thomas Jefferson, governor—Defeat of Gates at Camden—Leslie's incursion—Saratoga prisoners—Arnold's incursion—Proceedings in Richmond—Arnold enters—Simcoe destroys stores at Westham—Baron Steuben—Skirmishes with the enemy—General Phillips takes command of the English—Marches to Petersburg—Lafayette appointed to defend Virginia—Phillips, after descending the river some distance, returns to Petersburg—His death—Cornwallis advances from North Carolina—Pursues Lafayette—Caution and skill of the Marquis—Simcoe drives Steuben from the Point of Fork—Tarleton seeks to capture the Legislature and Mr. Jefferson—Narrow escape—Masterly movement of Lafayette—Cornwallis retires to the seaboard—Takes post on York and Gloucester Points—Washington advances from the north with the combined French and American armies—French fleet enters the Chesapeake—Siege of Yorktown—Surrender of Cornwallis—End of the Revolutionary War.

VIRGINIA had boldly opened the work of the

Revolution. The changes she had wrought may not have been sensibly felt by her citizens for years, but they went to the very foundations of national happiness. Her conduct had been directed by reason. That enthusiasm had been felt in her bosom, is true; but it was enthusiasm which neither blinded her eyes, nor misguided her arm. Her statesmen were already looking to the future; they saw before them a singular crisis; such a concurrence of events favourable to human freedom, as had never before existed; and they hastened to seize its advantages. They prepared to carry their reforms into every department of life in which they were required, and to establish them upon a basis broad as the welfare of the people.

It was natural that the system of *Law* proper for the new Commonwealth should have been one of the first objects of their attention. Virginia had brought from her mother country the English Common Law, and early Statutes, and these were held to be binding wherever they were applicable to the circumstances of the Colony. In addition, her own Assemblies had enacted several volumes of statutes, and, frequently, the English Parliament had expressly extended to her the effect of their legislation. These sources furnished to her the law which bound her people when the Revolution commenced. It ought not to surprise us that many of her most accomplished citizens had learned to revere this time-honoured system, under which they had so long lived. The Common Law and the general current of early English enactments, had much to

commend them even beyond the venerated memories of the past, which encircled them. They breathed a sturdy and honest spirit; they loved the trial by jury; they fostered a temper of independence and moral purity. Yet with their acknowledged merits, they combined vices, rendered only the more dangerous by their inveteracy, and wholly incompatible with the principles which had been already announced in Virginia. To these vices her law-makers turned their thoughts, and, while they retained the general system as the basis of their jurisprudence, they laboured to take from it every rule inconsistent with freedom.

It would not be proper, in this work, to review the laws of the state in detail, and to trace with minuteness the various changes through which they have passed in assuming their present form. This would be the province of the professed jurist, rather than of the historian. Yet the laws of every people constitute a most important part of its history; they mould its character, and, in turn, are shaped by its dispositions. They act and react upon it, and often furnish the soundest test of its welfare. And there are some laws which, in their very nature, are inseparable from the destinies of their subjects; they do so entwine themselves around the social interests of man, and so constantly affect his practice, that he cannot be impartially considered without them. Upon such laws it is the duty of history to bestow due attention. And of this character were some which engaged the thoughts of Virginia's sages, in



the very infancy of her existence as a sovereign state.

The first of these upon which notice shall be bestowed, was the law of *entail*. A very early period of English history had witnessed its rise, and succeeding years had moulded it into form.<sup>a</sup> Under this law, landed property was fixed for perpetuity in the same family; the father held it for his life without power to sell or encumber, and at his death his oldest son succeeded to the same rights and the same restrictions. If the first son died without issue, the second and other sons took the property in the same way, and thus a succession almost unlimited was provided. This scheme has planted itself deeply in the heart of England; it is congenial to her constitution, and keeps alive the aristocratic spirit which many of her sages have held to be necessary to her welfare. Yet her enlightened sons have not been blind to the enormous evils flowing from entails, and long ago these evils were great enough to make the courts look with jealous eyes upon the system. Children were prone to disobedience when they knew their parents could not disinherit them. Creditors were defrauded, for the heir could not be compelled to pay debts contracted by an extravagant father; treasons were encouraged, for the lands could not be forfeited by crime.<sup>b</sup> Hence, in England, gradually

<sup>a</sup> The statute "De donis conditionalibus," which was the origin of estates tail, was enacted in the 13th year of King Edward I.—Blackstone, i. book ii. 88.

<sup>b</sup> See Blackstone's remarks, i. book ii. 91, 92; Tucker's Commentaries, i. book ii. 47.

arose the doctrine that entails might be destroyed by a judicial process known as a *fine and common recovery*. In this, the ancestor, the heir, and all other parties interested, usually joined, and the effect was to give to the possessor a title in fee simple, so that the property might be sold, or divided, or charged with debts, or otherwise appropriated, according to the general law of the land. This mode of breaking entails has been constantly used in England, but so strong is the tendency to privileged order there, that many thousand broad acres are yet locked in the embrace of the statute of King Edward the First.

Hardly had the settlement of Virginia been commenced, before the working of this system was seen. Her cavaliers and gentlemen were the very people who would be most partial to its use. They had grown up in contact with classes in the mother country, who loved it as a national privilege, and in their eyes a genuine entail was connected with all that was gentlemanly and dignified. Gradually plantations were established, and were bound in rigorous family settlements. The preference of sons to daughters was of course admitted in full strength, and the oldest son was still the favourite tenant in tail. Down from ancestor to heir, the lands skirting the Rappahannoc and the Powhatan descended in endless line. For a long time before the Revolution, the law operated in power; large possessions in land were held without encumbrance by the same family. The father was lord in his lifetime, and the son was lord in expectancy and

legal right. Nothing can convey a more vivid idea of the strong aristocratic feeling pervading Virginia, than her course as to this scheme. We have seen that in England the courts set their faces against entails, and permitted them to be *docked* by a fine and recovery; but the law-makers of the "Old Dominion" held all such innovations in high contempt, and by a statute enacted in 1705, forbade their use, and declared that no estate-tail should be destroyed, except by act of Assembly.<sup>a</sup> And to complete their work, in 1727 they enacted that slaves might be attached to lands, and might be entailed with them, subject to all the incidents proper to the system.<sup>b</sup>

Under these circumstances, the policy was allowed its full influence in Virginia. A special act of the legislature was sometimes asked and granted to break a settlement, but such cases were comparatively few, and were not favoured. All the evils attending the system in England existed in the Colony, with divers aggravations. Over the whole eastern region, fine lands were held by families who guarded their privileges with more than English jealousy. An aristocracy neither of talent, nor learning, nor moral worth, but of landed and slave interest, was fostered. The members of the Council of State were always chosen from this class,<sup>c</sup> and in many respects they were regarded

<sup>a</sup> Hening, iii. 320.—This was in the revival of 1705; the law was virtually repeated in Oct. 1710, iii. 518; see Tucker's Com. book ii. 49.

<sup>b</sup> Hening, iv. 225, 226; Tucker's Com., i. book ii. 49.

<sup>c</sup> Jefferson's Works, i. 30; Tucker's Jefferson, i. 92, 93.

as the peerage of the land. The hope of enjoying special marks of kingly favour kept the whole body in watchful dependence on the Crown. And dangerous distinctions of another kind flowed from the policy. Where lands could neither be sold nor mortgaged, debts must often have been contracted which were never paid, yet the tenants in tail lived in luxurious ease, to which others were strangers. The rich people of Virginia were then richer than at present, and the poor were poorer. There was no prospect for that equal distribution of property which is the legitimate reward of industry. Coaches drawn by four horses rolled from the doors of the aristocracy, and plate of gold and silver in the utmost profusion glittered on their boards, while the poor artisan and labourer worked for the necessities of life without hope of ever gaining any portion of the property guarded by entail. Thus an artificial state of society was produced, unfavourable to freedom, and fruitful in discontent.

On the 12th day of October, Mr. Jefferson opened his batteries upon this fortress of Virginian pride. He obtained leave to bring in a bill which provided that thereafter all estates tail should be converted into fee simple, so that the owner might sell, devise, mortgage, or otherwise dispose of them as he pleased.<sup>a</sup> He encountered warm opposition. Edmund Pendleton was the great champion of antiquity, the enemy of innovation. We are not to suppose that this distinguished man was wanting in patriotism, but he was cautious and cool. He had

<sup>a</sup> Jefferson's Works, i. 29; Tucker's Jefferson, i. 92.



drank so deeply of the fountains of English lore, that he did not relish the new spring of waters opened in America. He feared they would intoxicate and destroy. He was virtuous and benevolent, kind as a friend, philanthropic as a man, and therefore the more formidable as an opponent. He was an elegant and impressive speaker, quick as lightning to seize a point, and persevering to maintain it. He brought all his powers to bear against Mr. Jefferson's bill, and nearly defeated it. Finding that popular opinion was running too strongly against entails to permit him to save the entire policy, he introduced an amendment to the effect that the tenant in tail might convey in fee simple *if he thought proper so to do.*<sup>a</sup> This amendment came within a few votes of success, and it would have left the evil nearly as great as before, for the aristocratic feeling was yet strong enough to have preserved many family settlements from destruction. But, finally, the friends of the bill prevailed; it passed without material amendment. The axe was applied, and the tree of entails, which had been growing for centuries, was levelled with the ground.<sup>b</sup>

The wise men of the state were convinced that

<sup>a</sup> See Mr. Jefferson's remarks, Works, i. 30; Tucker's Jefferson, i. 93.

<sup>b</sup> Henry Lee's remarks on Jefferson, 123; Jefferson's Works, i. 30; Tucker's Jefferson, i. 93. Though the tree was felled, its roots remained, and they have produced a full growth

of litigation, notwithstanding statute after statute intended to destroy them. This subject is more interesting to the lawyer than to the general reader, but he who wishes to examine it, may consult Judge Tucker's Commentaries, vol. i., book ii. page 155, &c.

their whole system of jurisprudence needed revision. The law we have just noticed was so important, that immediate action had been applied to it, but Mr. Jefferson was resolved that, if possible, the whole legal fabric should be remodelled, that it might be fitted to the wants of a free people. Early in the session he brought in a bill for the purpose, which was passed on the 24th of October, and, on the 5th of November, revisors were appointed, to whom was committed the whole subject, with instructions to take the Common Law, the English and Virginia Statutes, to examine them, to suggest reforms, to arrange their suggestions in the shape of bills, and to report their labours to the Legislature, in order that the bills might be considered, and, if approved, passed into laws. The revisors were Thomas Jefferson, Edmund Pendleton, George Wythe, George Mason, and Thomas Ludwell Lee; but, after the work was commenced, Mr. Mason and Mr. Lee withdrew.<sup>a</sup> They were not lawyers by profession, and though their views might sometimes have been useful, they felt themselves incompetent to a task requiring the highest legal learning. The three remaining gentlemen proceeded to their work with zeal, and in three years they were prepared to make a report.

As this subject is perfectly distinct in its character, it will be best at once to follow the revisors in their learned labours, instead of recurring to them in the history of the years that succeeded. Early

<sup>a</sup> Jefferson's Works, i. 34, 35; Tucker's Jefferson, i. 103-105; Girardin, 187, 347.

in the year 1777 the committee met and distributed their task. With great propriety they determined to retain the Common Law as the basis of their reforms, and to embrace in their bills only such alterations as they thought should be applied to it, together with such enactments as would supply the place of all prior British and Virginia Statutes.<sup>a</sup> To have swept away at once the whole existing system, with the thousands of judicial decisions made upon it, and to have substituted for it a compact code, would have been a work of great labour and delicacy, and would have diminished the *certainty* of the law. Errors of opinion on this subject are common to the inexperienced. A simple code may suffice for an infant people. But as society widens, as orders are established, as property increases, as intricate relations arise, so must rules vary and distinctions be drawn. Therefore, the most accurate written laws that human wisdom could devise, would become subjects of litigation; every phrase would involve a context, every word would be weighed and found wanting, and until centuries of judicial proceedings had passed, uncertainty would prevail.<sup>b</sup> Considerations like these determined the revisors of Virginia, although, for a time, Mr. Pendleton was strongly in favour of an original code.

They divided the work by assigning to Mr. Jefferson the whole Common Law and the English

<sup>a</sup> Tucker's Jefferson, i. 103, 104; on the "Code Napoleon," as compared with English Jurisprudence. Jefferson's Works, i. 34, 35.

<sup>b</sup> See Remarks of Sir Walter Scott Life of Napoleon, vol. ii. 154-157.

Statutes prior to the fourth year of King James the First, when the Articles of Instruction for the Colony took effect.<sup>a</sup> To Mr. Wythe, the British Statutes from that date to the Revolution ; and to Mr. Pendleton, all the Virginia enactments.<sup>b</sup> They went to their homes, and in time not devoted to other duties, they laboured assiduously upon the new code. By the 18th of June, 1779, they were ready to report, and presented to the Legislature the result of their work, in a volume of ninety pages, containing one hundred and twenty-six bills.

Some of these reforms were adopted in a short time, but the greater part of the work was not taken up until 1785. James Madison had entered the Legislature in the session of 1776. He was then a young man, and had hardly tried his noble powers ; but in subsequent years he became more and more eminent. To his exertions in 1785, the new code was principally indebted. Many objections were made, some sound, some senseless ; “ endless quibbles, chicaneries, perversions, vexations, and delays of lawyers and demi-lawyers,”<sup>c</sup> but at length most of the bills were passed with little alteration.

To a few only of these reforms will it be proper in this work to refer. The law of *descents* had engaged the special thought of Mr. Jefferson. The English system had been loved in Virginia. The oldest son was the heir and inherited all the lands of the father, while other sons and all the daughters

<sup>a</sup> See vol. i. 83, 87.

<sup>c</sup> Jefferson, Works, i. 36.

<sup>b</sup> Jefferson, i. 35 ; Tucker, i. 105.



were fain to be content with scanty portions. The injustice of this scheme had availed nothing in argument with the aristocracy. Mr. Pendleton was anxious to preserve it, and finding that his companions were inexorable, he begged at least that the Jewish rule might prevail, and that the first born son might receive a double portion;<sup>a</sup> but Mr. Jefferson replied that unless the eldest son required a double portion of food, or could do a double amount of work, he did not see the justice of giving him a double share of property. Thus the dispute was ended—nature prevailed—the law of primogeniture was abolished; and the statute of descents substituted for it in our state, is a beautiful illustration of natural principles. It gives to all children equal portions, and when there are no children, it directs property into channels which the heart and the head of every sane man would be prone to choose. In proof of this, it is certain that, except under very peculiar circumstances, wills in Virginia have been found to make almost the same disposition of property that the law would have made had the owner died intestate.<sup>b</sup> Mr. Jefferson's statute of descents has been very slightly altered in subsequent years, and a learned mind has said that the only important change has deformed rather than improved the graceful symmetry of the original.<sup>c</sup>

It had been Mr. Jefferson's ardent desire to in-

<sup>a</sup> Deuteronomy, xxi. 16, 17.

<sup>b</sup> Tucker's Jefferson, i. 93, 94.

<sup>c</sup> See Judge Tucker's Commentaries, i. book ii. 193.

troduce into the laws permanent enactments for the support of education among the people. He proposed to have William and Mary elevated into a university, to establish colleges as an intermediate grade of schools, and to divide the state into districts, in each of which a public school should be supported. But this plan, though sometimes feebly urged, was never carried out. The strong Episcopal odour of William and Mary, made it ungrateful to those who had been called Dissenters,<sup>a</sup> and it may be that Virginia already exhibited some of that apathy on the subject of education which has since covered her with shame in the eyes of her sister states !

The proposed law of crimes and punishments seems to be the most exceptionable part of the work done by the revisors. It is true, they sought to cleanse the blood-stained code of England ; the one hundred and sixty capital crimes made by the British Parliament,<sup>b</sup> were not to exist. Only treason and murder were to be punished with death, but for other deep felonies they provided the penalty of hard labour on the public works. This policy is more than doubtful ; shaved heads, mean clothing, and limbs fettered with iron shackles, when openly shown, have seldom done any thing either for the reformation of offenders, or for general morals. By some unaccountable perversion of judgment and feeling, the revisors had established the barbarous "lex talionis," the law of retaliation for some

<sup>a</sup> Jefferson's Works, i. 39.

<sup>b</sup> See Blackstone's Commen., ii. book iv. 13.

offences.<sup>a</sup> Poison for poison, maim for maim, wound for wound; this was literally their system,<sup>b</sup> and for certain infamous crimes the punishment denounced was so revolting, that it is hard to believe it ever could have obtained the sanction of statesmen and sages! The bill was defeated in the Legislature by a single vote. We have every reason to rejoice that it was lost; it might have darkened the reputation of its distinguished authors; it would not have met the demands of the age, and it would probably have retarded Virginia in her subsequent efforts to ameliorate her criminal code.

Thus a gradual but decisive change was wrought in the law of the state, and was reflected upon the social system. Lord Bacon has said that Time is the greatest innovator, but that he works slowly and imperceptibly, and it were well that man should imitate him. Nothing ought more to raise our esteem for the wise men of the Revolution, than a view of the caution—the apparent delay—with which they worked reform. There was change, but there was no shock; no sudden rending. They applied the principles of freedom from time to time, and slowly and gracefully wove them into their system.<sup>c</sup> The innovations we have already noticed were, of all others, best adapted to secure human liberty. The conscience was released from bondage by the laws as to religion; the forbidding of entails prevented the rise of

<sup>a</sup> Jefferson's Works, i. 35, 36.

<sup>c</sup> See W. C. Rives' Discourse on

<sup>b</sup> Draft of bill for apportioning History, delivered 29th June, 1847, crimes, &c., Jefferson's Works, i. page 22.

hereditary privileges, and of any aristocracy other than that of worth and talent; the law of descents divided property according to nature, and promoted equality among men. Under such a system, the highest guarantees would be afforded for contentment and happiness.

Turning immediately back from this review, we find the Legislature of Virginia contemplating a most singular and dangerous measure. It is humiliating to fall from wisdom to folly, from liberty to slavery. Yet, before we pass sentence of condemnation upon the conduct of such men as lived in 1776, it will be proper to give them the benefit of every circumstance explaining their action, and covering, in some degree, its deformity. While they were in session, war was raging in the Northern States. Washington had struggled in vain against the disciplined troops under the British generals. He had been defeated on Long Island, and after the enemy took possession of New York, he had been driven through the Jerseys before a powerful force. Patriot hearts sank; the cause of the Revolution seemed lost; resistance was hardly opposed to the progress of the enemy, and their course was marked with rapine and violence. As the British and Hessian troops passed through the Jerseys, they committed horrible excesses. A Hessian soldier ravished a young girl, and while her unhappy father was endeavouring to release her, he was mortally wounded by the comrades of the ravisher.<sup>a</sup> Another girl, young and modest,

<sup>a</sup> Letter from Bucks County, Pa., and see Gordon's *America*, ii. 165, in *Virginia Gazette*, Dec. 27, 1776, 166.



was forcibly violated by a British officer, and was afterwards found by a small party of Americans in company with some of her female companions, who had with difficulty made their escape.<sup>a</sup> Fields were wasted, cattle destroyed, fruit trees cut down, houses burned; it seemed as though the conquerors were resolved to teach America her duty to England by reducing her to original desolation.

At this time the legislators of Virginia seemed to lose all hope. In perfect despair they listened to a proposal, startling even to themselves. This was neither more nor less than the appointment of a *dictator*, with absolute powers, military and civil, united in himself! Those friendly to this project sought a precedent in Roman history, which tells that in times of extreme danger, a dictator was appointed to take care of the commonwealth. They might have remembered that if such a step had ever produced transient good, it had at last been fatal; that example is dangerous, and power seducing; and that Rome was lost when her Cæsars had gained a permanent dictatorship. But it is needless to argue against a scheme, the very statement of which is enough to expose its madness.

There is little doubt that Patrick Henry was the man intended by the advocates of the dictatorship for this office, but we have no reason to believe that he favoured or even knew of the scheme.<sup>b</sup> As the matter went forward, fierce passions arose; the friends and opponents of the measure often exchanged angry remonstrances, and, at last, so high

<sup>a</sup> Ibid. Virginia Gazette.

<sup>b</sup> Wirt, 149; Girardin, 190.

did their excitement become, that they walked on different sides of the streets of Williamsburg.<sup>a</sup> No member was more distinguished for stern opposition to the plan than Archibald Cary, the venerable speaker of the Senate. He had introduced the resolutions of May 15, declaring Virginia to be free and independent, and his unbending patriotism made him formidable to the enemies of freedom. Meeting Colonel Syme, the brother-in-law of Patrick Henry, in the lobby of the House, Mr. Cary is said to have addressed him in a voice of fierce feeling: "Sir, I am told that your brother wishes to be dictator; tell him from me that the day of his appointment shall be the day of his death; for he shall feel my dagger in his heart before the sunset of that day."<sup>b</sup> The spirit of antiquity was not lost: another Brutus was ready to stab another Cæsar in the person of his friend. But the sacrifice was not demanded. Colonel Syme replied, in amazement, that his brother had never given countenance to the scheme, or to any other that would endanger liberty. Only a short time before, Mr. Henry had been so much indisposed that he was obliged to go into the country, and he had not resumed his duties when the dictatorship was proposed. It is probable that he would have used all his influence against it. The project was soon abandoned, and, though it was renewed in 1781, and wanted only a few votes of success,<sup>c</sup> yet, since the Revolution, the people of Virginia have

<sup>a</sup> Girardin, 190.

<sup>c</sup> Jefferson's Notes, 131-134.

<sup>b</sup> Wirt, 149.

looked upon it as an unnatural and half-forgotten dream.

Since the appointment of Robert Carter Nicholas as Treasurer, the finances of the state had been managed with skill and fidelity. Difficulties had arisen and were increasing; paper issues seemed necessary, and the evils to which they gave birth have become a mournful part of American history. But these were ills for which the best of human efforts at that time could provide no cure. Mr. Nicholas had given perfect satisfaction. His labours had been incessant, and finding that they preyed upon his health, and would moreover prevent his serving as a delegate in the Legislature, he signified his wish to resign. The Assembly passed a resolution expressing gratitude for his past services, and requesting him to continue his duties at least until the close of the session; this he consented to do. George Webb was elected to be his successor.<sup>a</sup>

(1777.) Those who are familiar with the events of the Revolutionary War, will remember that comparatively few of its battles and military operations occurred in Virginia. While the states north and south of her were the scenes of bloody struggles, she was long free from dangerous invasion. But let it not be supposed that she was idle, or that her children were indifferent spectators of the toils of their brethren. Her quotas of Continental troops were regularly furnished, and volunteers under such men as Morgan and Stevens, went from her

<sup>a</sup> MS. minutes of Assem., 1776-'77; Girardin, 186, 187.

counties to fight for freedom. As the war advanced, and as depressing causes gained strength, it was found more difficult to keep full the regiments with the regular army, under the commander-in-chief. Governor Henry at one time determined to fill the vacancies by volunteers for six months. (Feb. 21.) But Washington protested against this measure; a short term of enlistment would have been ruinous; it would have swelled the army for a season, only to leave it feeble at a time when numbers would be most important.<sup>a</sup> The Governor yielded, and issued a proclamation urging enlistments on such terms as would make the recruits of real service, and so much energy was shown in this work, that early in May the required battalions were almost complete.

The exertions of Virginia for the general cause, often left her deficient in military strength for her own defence. Throughout the reports and correspondence of her high officers, we read bitter complaints of the want of ammunition and arms in times of danger. Early in the war, a scarcity of gunpowder had been felt, and to supply it, General Lee had sent Colonel Gibson and Captain Lynn to New Orleans, as special agents to purchase this commodity. After an expedition full of danger, they returned with twelve thousand pounds of powder, which they had bought for eighteen hundred dollars.<sup>b</sup> Yet this stock was soon exhausted, either by use at home, or by drafts for the Continental service; and when afterwards the state was

<sup>a</sup> Girardin, 213.

<sup>b</sup> Note in Girardin, 145.



invaded, serious disasters occurred from the want of warlike stores. These incidents will be noticed in their proper order.

On the 30th of May, Patrick Henry was unanimously re-elected Governor of the state, to serve for another year. Though the duties assigned by the Constitution to his office had not brought him into brilliant action, yet he had so discharged them as to gain increased love from the people. He had kept alive the spirit of the Revolution; had breathed the fire of his own patriotism into the councils of the state, had urged on enlistments by his eloquence and personal efforts, and had crushed treason wherever it appeared in the eastern counties.<sup>a</sup> If the imprudent had dreamed of making him dictator, he had not encouraged their dreams; if the envious had accused him of undue ambition, he had disarmed their envy by his candour. The votes of all parties were given to the man in whom all felt equal confidence.

While war was in the land and Virginia was bearing her part, we are refreshed by finding some of her sons intent upon promoting the progress of science within her borders. Dr. Small, of William and Mary College, had always been eager to diffuse a love of letters, and Governor Fauquier had applied his refined taste to the same purpose. Mr. Jefferson had been the pupil of the first, and the *protégé* of the latter; he had learned lessons from both, and probably excelled both in the distinct systems of philosophy they had sought to inculcate. George

<sup>a</sup> Wirt, 148.

Wythe may not have sparkled so brightly as did these, but he was the soundest of scholars, and the most practical of instructors. Rev. James Madison, Professor of Mathematics in William and Mary, lent his aid, and John Page rejoiced to give his classical knowledge to a cause in which his bosom friend was so much interested.<sup>a</sup> These, with other kindred spirits, formed a society to diffuse light; to collect and publish matter which would aid the inquirer into science; to study chemistry, and to apply it to the agriculture of Virginia. Even during the war their labours did not cease; though the society could not meet frequently, an active committee was at work, and from numerous articles contributed for its inspection, it chose several of uncommon excellence, which were intended for the press. It is much to be regretted that their purpose was not carried out.<sup>b</sup> Subsequent events caused the decline of the society; but if in after years the torpor pervading our state has ever been disturbed by the friends of science, we may find the germ of the movement in the body of which John Page was the president, and Thomas Jefferson the leading member.

Connected with their efforts was the action of the Legislature in aiding manufactures and general education. They passed laws for the building of iron and salt works, and for encouraging by bounties those who would engage in them. At the last session, the trustees of Hampden Sydney Academy,

<sup>a</sup> See Tucker's Jefferson, i. 28—

<sup>b</sup> Girardin, 221.

41; Girardin, 220.

in Prince Edward County, had made an earnest appeal for aid. They represented that it was not their desire to interfere with the established college; but that it was fair that all should be encouraged. A monopoly in the province of training youth, was perhaps more dangerous than any other monopoly, and if Oxford and Cambridge, by their watchful rivalry, had sometimes saved the freedom of the English nation, it might not be amiss that William and Mary should have a rival. Their position was remote from the scenes of war, and favourable to study; their system of instruction was catholic and liberal; they asked not the full establishment given to the older College, but they prayed that they might be incorporated, and might have such aid as would enable them to erect suitable buildings for the students, who were daily applying for admission.<sup>a</sup> The Legislature heard their prayer with favour. An act of incorporation was not granted to them until 1783,<sup>b</sup> but at the session of 1777, a bill passed authorizing the trustees to raise, *by lottery*, a sum of money sufficient for the purpose designated.<sup>c</sup> A sensitive mind cannot but deplore the use of this unhappy scheme of gaming, by the trustees of an institution so sacred in its origin as was Hampden Sydney College. It is not easy to ascertain whether real benefit was derived from the scheme. It is certain that in 1784 the funds of the institution were so

<sup>a</sup> Girardin, 228.

<sup>c</sup> Hening, ix. 321, 322.

<sup>b</sup> Hening, xi. 272-275; Act of Incorporation, May, 1783.

low that to aid them the Legislature granted several hundred acres of land, which formerly belonged to British merchants, and were forfeited during the Revolution.<sup>a</sup> Since that time, varied fortunes have befallen the College; often it has been filled with students and adorned by accomplished professors, and though for several years past it has been languid in its movements, there are symptoms of good attending it which promise a bright renewal of its usefulness.

Not long after the commencement of this session, the Governor had been advised to remove arms and military munitions, together with the public records, to a place less exposed than the seat of government. Williamsburg was not far from the bay, and might be reached from British cruisers, who entered the James. Richmond was selected as a safe place of deposit, and the removal was made as soon as convenient. On the 28th June, the Legislature adjourned.<sup>b</sup>

While the people of the "Old Dominion" were watching the progress of war in the other states, two strangers appeared among them whose characters at once attracted to them the love of the generous and good. A young nobleman of France had left the luxuries of his native land, and the endearments of his family, to come to America. Gilbert Motier de La Fayette, had watched the opening struggle for freedom with intense interest. When the arms of the patriots had gained some advantages, he wished to embark for the New World,

<sup>a</sup> Henning, xi. 332, 393.

<sup>b</sup> Girardin, 229.



and *then* neither his friends nor his sovereign opposed him, but when Washington was driven from New York, and reverse after reverse depressed America, he was positively forbidden to engage personally in a cause that seemed so desperate.<sup>a</sup> The true nobility of his spirit now appeared: "Hitherto," he said to the American Commissioners, "I have done no more than wish success to your cause; I now go to serve it. The more it has fallen in public opinion, the greater will be the effect of my departure."<sup>b</sup>

The ship in which he embarked is said to have been chased by French cruisers, sent out to arrest him; but, happily escaping, he entered the port of Charleston, in South Carolina, early in the year 1777.

La Fayette was accompanied by the Baron De Kalb, a German by birth, but a Brigadier-General in the French army. Like his young companion, he came to battle for liberty in America. As these two distinguished men passed through Virginia, they were hailed with enthusiasm by her citizens. Her learning and talent rejoiced to do them honour. Their stay was brief, as they were anxious to meet Congress, and join the Continental army, but they were both destined to revisit Virginia. De Kalb passed through in 1780, to fight like a lion and die like a hero on the field of Camden, and to draw from Washington that pathetic lament uttered over his grave, "Here lies the brave De Kalb, the gene-

<sup>a</sup> Sarran's *La Fayette*, i. 24.

<sup>b</sup> Ramsay's *Revolution*, in Sarran, i. 24.

rous stranger, who came from a distant land to water with his blood the tree of our liberty. Would to God he had lived to share with us its fruits.”<sup>a</sup> And the greenest laurels won by La Fayette were those gained in Virginia, in the closing scenes of the Revolution.

An English fleet was hovering on the American coast, and keeping each exposed state in fear of a descent. (August 16.) At length it appeared at the mouth of the Chesapeake, and immediately the Virginia militia were put in motion to meet the attack. They repaired with alacrity to Williamsburg, York, Portsmouth, and other points where an assault seemed probable. Thomas Nelson was County Lieutenant of York, and in time of danger was looked to as a leader for the troops. He was a man of excellent education and decided civic talents; he was affable and modest, beloved by his friends, respected by opponents. With these qualities he united tried courage, and a skill in military combination which would have made him distinguished had his field been wider. The Governor and Council appointed him Brigadier-General, and gave him command of all the forces of the state. Had the British landed, they would have met steady opposition, but the fleet sailed to the head of Chesapeake Bay, and Sir William Howe, landing eighteen thousand men, advanced towards Philadelphia.<sup>b</sup> Washington offered him battle, and the well-known struggle at Brandywine immediately followed.

<sup>a</sup> Weems' *Life of Marion*, 107,  
edit. 1845.

<sup>b</sup> Girardin, 232.

On the 20th October, the Legislature again assembled. Their most important action was that produced by the state of war. They exerted themselves to complete the Continental line. Finding that enlistments were slow, a draft from the unmarried militia was resorted to; one able-bodied man was drawn by lot from every twenty-five, and a bounty of fifteen dollars was paid to the soldier thus drafted. Desertions had become so common and so ruinous that it was enacted that if a man concealed a deserter, he should take his place; and if a woman, she should pay a heavy fine; but with tender regard for human sympathies, it was provided, that from this law should be excepted the wife concealing her husband, the widow her son, and the child his or her parent.<sup>a</sup> Advantage was taken of all circumstances favourable to the great end of enrolling soldiers; Baptists and Methodists, and other religious societies, were invited to organize separate companies, and to appoint officers of their own persuasion. Sometimes energy exhibited itself in doubtful means; materials for clothing were seized wherever found, and being immediately appraised, were paid for on the spot, and converted into clothes for the soldiers.<sup>b</sup> The exportation of beef, pork, and bacon, except for the use of the army, was forbidden; monopolies were crushed, and every movement of domestic commerce was watched with jealous eyes.

Another series of acts were passed, which have

<sup>a</sup> Girardin, 255.

<sup>b</sup> Ibid. 256.

been assailed by writers on morals,<sup>a</sup> and which afterwards gave rise to extended litigation. Early in the war, many inhabitants of Virginia left her soil and fled to England; they abhorred the principles of the Revolution, and would willingly have seen its overthrow. These were known by the title of "English Refugees." They were, in the worst sense of the word, "alien enemies," and not merely enemies, but traitors to their country. According to the received rules of the common law, such could hold no property, and enjoy no civil rights.<sup>b</sup> Yet the law-makers of Virginia were not disposed to proceed to extremity; they had not learned that England had yet gone so far as to confiscate all property within her bounds belonging to Americans, and they wished to govern their action by her own. To permit the rents and profits of estates, and debts accruing to alien enemies, to be transmitted to them abroad, would have strengthened the common foe, and weakened Virginia.<sup>c</sup> Therefore they enacted that commissioners should be appointed to take charge of the lands and personalty of the "refugees," and to pay the profits arising from them into the Public Loan Office; all debtors of such refugees were also authorized to pay their debts into the Loan Office, receiving from the proper officer a certificate of the amount and date of the payment; from the proceeds thus accumulated in the treasury, the Governor and Council were

<sup>a</sup> See Jonathan Dymond's *Essays on Morality*, edit. 1842, page 76.

<sup>b</sup> Blackstone, (by Chitty,) i. 287.

<sup>c</sup> Preamble in *Hening*, ix. 377.



empowered to appropriate sufficient sums for the support of the wives and children of the fugitives, if they had left any such behind them, and for payment of their creditors, if any such were in America.<sup>a</sup> The balance was to be held subject to the future order of the Legislature, whose action was to be guided by the conduct of Great Britain. It will not be premature at once to state, that two years afterwards, another act was passed, declaring that all the property of British subjects, real and personal, should be vested by escheat and forfeiture in the Commonwealth, still subject, however, to the disposition and control of the Legislature.<sup>b</sup> From the operation of this act, British debts authorized to be paid into the Loan Office by the law of 1777, were expressly excepted; but, in a short time thereafter, this clause of the law of '77 was repealed,<sup>c</sup> and thus the rights of British creditors in Virginia were chiefly dependent on the construction of the law of 1779.

Many years after the close of the Revolution, a celebrated cause was tried in the United States Courts, in which these laws of Virginia all came under review. It would not be proper here to give an extended account of this struggle. It was long-continued and gave exercise to the highest legal learning, and the most brilliant popular eloquence. Patrick Henry was engaged in it, and his course in its management has been traced by the hand of a

<sup>a</sup> Hening, ix. 378-380; Girardin, 257.

<sup>b</sup> Hening, x. 66, 67; Act, May, 1779.

<sup>c</sup> Hening, x. 227.

master.<sup>a</sup> It will be sufficient to say that a case involving all the questions of the original contest came before the Supreme Court of the United States in 1796, and was elaborately argued by distinguished counsel.<sup>b</sup> The court thought that the laws of Virginia were not intended absolutely to confiscate British debts;<sup>c</sup> but they decided that, admitting these laws were so intended, and were originally valid, yet they were repealed by the Treaty of Peace in 1783; one article of which provided that creditors on either side should meet with no lawful impediment in the recovery of their debts.

At this session the Legislature turned its thoughts to the plan of union which had been proposed by Congress for the approval of the several states. The "Articles of Confederation" had been originally prepared in November, 1776; they were not the result of painful thought and profound research, but were offered in haste, and adopted for want of something better. The emergency was pressing, disunion would have been fatal, and the world needed some tangible evidence that the states were confederate. (December 15.) Virginia, by her Assembly, passed a unanimous resolution, that under the circumstances of the country, these articles ought to be approved, and instructed her delegates in Congress to ratify the plan in the name of the

<sup>a</sup> The reader is referred to Wirt's Court. 99, 131. See, also, Dunlop et al. v. Ball, 2 Cranch, 180-185; Hop-

<sup>b</sup> Ware v. Hylton et al., 3 Dallas, 199, 285, and 1 Cond. Rep. Sup. <sup>c</sup> Patterson, J., Cond. Rep. i. 121.

Commonwealth.<sup>a</sup> The well-known defects of this scheme will not now be dwelt upon;<sup>b</sup> while the war lasted the "Articles" might suffice; for outward danger pressed the states together, and invasion forced them to raise men and money. The plan was not affirmatively vicious, but it was weak, contemptible, a mere rope of sand. Instead of bearing down immediately upon *persons*, and forcing them to their duty, it made requirements of *states*, only to be disobeyed or neglected.<sup>c</sup>

(1778.) Early in the next year the eyes of the vigilant were drawn to disorders in the southeastern part of the state, which called for redress. Many of the people there living were still disaffected, yet they could not be removed without measures approaching to cruelty. A brutal wretch in Princess Anne County, named Josiah Phillips, became distinguished in marauding. Through his own county, and Nansemond and Norfolk, he prowled like a wild beast in search of prey. His followers were outlaws like himself. When hard pressed by pursuers, they would lie concealed for days in the swamps of the country. The matted undergrowth and deep gloom of these fastnesses were their protection; but when the danger passed, they would suddenly sally forth, fall upon a defenceless homestead, murder all the inhabitants, burn the house to the ground, and return to their

<sup>a</sup> Resolutions in Girardin, 258, 259. tions, published in Philada., in 1828, pp. 7-16.

<sup>b</sup> The "Articles of Confederation" will be found in the Amer. Constitution. <sup>c</sup> Madison Papers, i. passim, Virginia Debates, 1788, 30, 31.

hiding-place laden with booty. The very name of Phillips spread terror through the country; children trembled when they heard it, and even bold men feared his stealthy attacks. The militia were often called out to form bands for his destruction, but so great was their apathy, that not more than five or six men would attend at a muster; or if a sufficient number were enrolled, most of them deserted with the first opportunity.<sup>a</sup> Upon receiving a full report of the facts, Governor Henry addressed a message to the Assembly, (May 27,) in which he spoke of the difficulty of reaching the murderers by the ordinary process of law, alluded to their enormities, and urged decided action. This gave rise to a proceeding which has been thought little in accordance with the spirit of American institutions, and which under any other circumstances could hardly be justified. The House of Delegates resolved itself into a committee of the whole on the state of the country, and on the 28th of May, a report was made by Mr. Carter, reciting the crimes of Phillips and his band, and recommending that unless they should surrender themselves within a limited time, they should be attainted of high treason. Messrs. Jefferson, Smith, and Tyler, were appointed to prepare a bill, which was duly reported, and after passing through the regular forms in both houses, became a law on the 1st day of June. It declared that unless Josiah Phillips and his associates should voluntarily surrender themselves to some duly authorized officer of

<sup>a</sup> John Wilson's letter to Governor Henry, May, 1778; Wirt, 159, 160.



government, on or before the last day of June, they should stand and be attainted and convicted of high treason, and should suffer all its penalties, whenever they could be applied. After the 1st of July, all persons were empowered to pursue and *slay* the outlaws wherever they could be found, provided they should be in arms at the time, or else they were authorized to capture and bring them to justice.<sup>a</sup>

This was the first act of attainder passed in Virginia since the opening of the Revolution, and it is also believed to have been the last. Such acts constitute the most dangerous exercise of power that law-makers can use. In England they have been the means of perpetrating cruelty and injustice beyond expression, and so frightful are they in every aspect, that modern improvements in government reject them altogether. If ever there was a case in which a bill of attainder was just and salutary, it was that of Josiah Phillips and his band of robbers. Yet so shocking to our moral sense is the principle of condemning to death a man unheard, that we cannot but rejoice to find that in fact *it was not used*. After long evading his pursuers, Phillips was captured and brought to trial. Instead of seeking to enforce against him the penalties of the attainder, Edmund Randolph, the Attorney-General, rejected it entirely, and indicted the prisoner in regular form for murder and robbery.<sup>b</sup> Upon this indictment he was tried; he

<sup>a</sup> Act in Wirt's Henry, 160, 161; Girardin, 305, 306.

<sup>b</sup> Girardin, 306; Wirt says "for highway robbery" alone, 161.

pleaded a license from Lord Dunmore, to make war upon the people of Virginia; but could a license from a renegade Governor justify murder and robbery? His plea was overruled; he was convicted, and suffered death according to the solemn sentence of the court. It is a fact too singular to be overlooked, that Edmund Randolph, who at that time filled both the office of Attorney-General and that of Clerk to the House of Delegates, seems to have forgotten entirely the true character of the prosecution against Phillips. For, ten years afterwards, in the great debate on the Federal Constitution, he replied to Patrick Henry's eulogy upon the government of Virginia, and in terms of eloquent invective denounced the course pursued as to Phillips, whose condemnation and death he ascribed solely to the bill of attainder!<sup>a</sup> And in continuing the debate, Mr. Henry appears to have fallen into the same error.

Feeling in all their force the evils of slavery which their English ancestors had introduced among them, the people of Virginia would willingly have abrogated the institution. But it was now fixed beyond remedy; even after the great drain caused by death during Lord Dunmore's attacks, and the number he carried away, the slaves in eastern Virginia were still nearly one half her population. To banish them was impossible; to make them all free would have been ruinous to private resources at a time when they were most needed, and would have introduced domestic ene-

<sup>a</sup> Virg. Debates, 1778, 2d. edit. 58; Wirt, 206, 207, and Appen. C.

mies, whose ferocity would have had no check but their ignorance; to establish a plan for their gradual emancipation was a matter of extreme delicacy, and one for which the public mind was not prepared. But there was one barrier to the increase of the evil which the Legislature could erect; they could turn back the poisonous stream of importation which the British government had long forced into their land.<sup>a</sup> On the 5th of October, the Assembly enacted that from that time forth, no slaves should be imported into the Commonwealth by sea or land; any person so importing should be subject to a fine of one thousand dollars for each one brought in, and the slave himself should be absolutely free.<sup>b</sup> From this law were excepted slaves brought by transient visiters to the state, those which might vest in the owners by descent, devise, or marriage, and those that might be brought by citizens of other states intending to reside in Virginia, and who should make oath that they did not intend to evade the law, and that their slaves had not been imported from Africa or the West India Isles after the 1st day of November, 1778.<sup>c</sup> Under these laws the slave

<sup>a</sup> See Bancroft, iii. 410-416.

<sup>b</sup> Hening, ix. 471.

<sup>c</sup> Hening, ix. 472, and read Girardin, 312.—Negroes from Africa were not the only servants whom England sent to Virginia; convicts from Great Britain were constantly sent, up to the time of the Revolution, and were sold to servitude in the Colony. From the Virginia Gazette, March

3d, 1768, I have copied the following advertisement, which will shed light on the subject.

“Just arrived—the Neptune, Captain Arbuckle, with one hundred and ten healthy servants, men, women, and boys, among whom are many valuable tradesmen, viz.: tailors, weavers, barbers, blacksmiths, carpenters and joiners, shoemakers, a

trade to Virginia was cut off, one immense source of increase was destroyed ; and if the curse was not removed, it was at least confined to narrower limits. Yet since this time, the process of natural propagation has kept slavery nearly even with freedom, and until within a few years past, the philanthropist looked in vain for symptoms of its decline in the " Old Dominion."

Another act of this Assembly proved its jealous watchfulness for the common good. After France recognised the independence of the United States, and became their ally, the English Parliament were driven to a final " Conciliatory Bill" to recover their dominion. This act made many concessions, but it did not concede the great point of independence, and, without this, all others were of no avail. The Bill was carried to America by three special Commissioners, Lord Carlisle, William Eden, and Governor Johnstone. Johnstone had before professed to be a friend of America and attached to the opposition, but after having " touched ministerial gold" his eyes were opened to his errors, and he became a fit agent for the Ministry.<sup>a</sup> The Commissioners sent the plan of conciliation to Congress, together with a letter from themselves. In this edifying composition abuse is poured out

stay-maker, cooper, cabinet-maker, bakers, silversmiths, a gold and silver refiner, and many others. The sale will commence at Leedstown, on the Rappahannoe, on Wednesday the 9th of this instant (March). A

reasonable credit will be allowed on giving approved security to

THOMAS HODGE."

Then follows the regular permit for landing.

<sup>a</sup> Letter from a Virginia Delegate to Congress, in Girardin, 279.



upon America and France. Such men as Hancock and Adams are stigmatized as “audacious and wicked leaders;” Dr. Franklin is called “a dark agent;” Congress is accused of “impudence;” Louis XVI. is declared to have “exhausted every infamous resource of perfidy and dissimulation” in negotiating with the Colonies, and to have acted treacherously towards Great Britain. So gross was the insult offered to France, that the fiery young La Fayette challenged the Earl of Carlisle to single combat for words which as head of the Commission he had made his own! The Earl, whose discretion exceeded his valour, declined the meeting, on the ground that his conduct had been official, and that he was accountable for it to none except his sovereign.<sup>a</sup>

Congress treated the Commissioners and their offer with calm contempt, and rejected the plan of conciliation proposed by the Ministry. Foiled in each effort to obtain a more favourable decision, the agents now resorted to measures distinguished in infamy and violence. George Johnstone sought to open a secret correspondence with members of Congress, and, by a female agent, he offered to Mr. Reed, a delegate from Pennsylvania, ten thousand pounds sterling, and the best office in the Colonies that his Majesty could bestow, if he would use his influence in favour of the Conciliatory Bill. Mr. Reed’s reply has immortalized him: “I am not worth purchasing, but such as I am, the King of

<sup>a</sup> Otis’s Botta, ii. 146.

England is not rich enough to do it.”<sup>a</sup> The Commissioners were stopped in their course by no considerations either of honour or prudence. With the hope of scattering disaffection, and of rending the Union asunder, they addressed manifestoes to the Assemblies of the separate states, and to the people generally, in which they sought to rouse individual prejudices, to awe the timid, to distract the brave, to seduce the wavering by hopes of pardon. They concluded their addresses by plain intimations that though leniency had thus far been practised, yet if the Colonies threw themselves into the arms of France, England would seek to make them useless to her enemy, by wasting their country with fire and sword!<sup>b</sup>

The manifestoes named the 11th November as the time within which the states must make submission; but, much to the chagrin of the agents, every where their offers were spurned with contempt. In the month of October, the Legislature of Virginia learned, through the executive, that a British officer had arrived at Fort Henry, from New York, bearing these addresses to the Speaker of the Assembly, the several members of government, and to all ministers of the Gospel. Major Thomas Matthews, who commanded the Fort, refused to receive these papers until he heard from the Governor. (Oct. 17.) The Legislature passed a resolution approving in warm terms of the conduct of Major Matthews, directing him to express

<sup>a</sup> Gordon, ii. 378; Otis's Botta, ii. 142; note in Girardin, 280.

<sup>b</sup> Otis's Botta, ii. 144.

to the British officer their indignation at his conduct, and that of his principals, and to order him instantly to depart from the state, with the assurance that any one making a similar attempt should be seized "as an enemy to America."<sup>a</sup> Thus, the infamous designs of the Commissioners failed of success, and, in despair of effecting any thing, they left the country and returned to Great Britain. Of the whole wretched system pursued by the English Ministry towards America, no part was more dishonouring to themselves, and more efficient in uniting the Colonies, than the Bill and Commission of 1778.<sup>b</sup>

While vigilant guardians were shielding the eastern counties from danger, events were passing in the "far West" which had a material bearing on the welfare of Virginia. We have, heretofore, in the progress of this work, glanced at the tide of migration which was filling up the country beyond the Blue Ridge, and we have seen that many things contributed to make this territory alike important in peace or war. Beautiful as were the vales, fertile as was the land, verdant as were the savannas of the West, it required more than ordinary men to people and reclaim them. But nothing could repress the eagerness with which this task was prosecuted, after some of its hardy charms had been tasted by adventurers from the north and east. The stream of settlement flowed yearly onward; at first, a few dauntless woodsmen shouldered their

<sup>a</sup> Girardin, 283, 284.

his countrymen in this matter. See

<sup>b</sup> Even Stedman does not defend his "American War," ii. 3, 4.

rifles and plunged into the wilderness, then a single wagon, carrying a brave family, and accompanied by the father and his sturdy sons, broke its rough way into the new country; soon other families came, and neighbours began to salute each other. As early as 1772 permanent settlements were made west of the Alleghanies, and between them and the Laurel Ridge, and the next year they reached the Ohio.<sup>a</sup>

Six years before, Daniel Boone had entered the Kentucky of the Indians, "the dark and bloody land," often the scene of savage conflicts, and afterwards the battle-ground of natives and whites. Yet it was beautiful enough to have stilled human passions. Resting upon a bed of limestone, and abounding in mysterious caves and fountains, the land was yet generous and grateful for the slightest care. After retreating from the Ohio, it was elevated, even mountainous, and topped with heavy forests; in the south, underneath a lofty growth of trees, was found a barrier of giant reeds, so thick and tough, that the adventurer would shrink back discouraged; but in the vales through which the three great rivers ran, the ground was literally "the garden of the West." Grass grew, so green and tall that thousands of cattle might have feasted upon it; the ash, the walnut, the buckeye, the elm, the mulberry, the poplar, all towered in majesty, as though to assert their dominion over the land. The soil was so rich, that in after years it was found that many

<sup>a</sup> Doddridge, in Kercheval, 326.



crops of corn, hemp, or cotton must be raised, before it was sufficiently reduced for making wheat.<sup>a</sup> Such a country could not remain long neglected; it was settled from Virginia and North Carolina, and every year became more vigorous, until it was erected into a state in 1785.

To meet the dangers of a new country, the luxurious, the feeble, the timid, would seldom offer. The pioneers and their families were among the wildest and most fearless of men pretending to be civilized. A rich planter coming from the East would hardly have recognised a feature among his brethren of the Alleghany and Ohio regions. Incessant watchfulness and war gradually assimilated them to the Indians, until they even went beyond them in physical accomplishments. With as many wiles and stratagems, as much fierceness and patient endurance, they had more strength, more fleetness, more skill in using weapons. The western settler was clothed in a hunting-shirt which left his limbs free in motion, a tomahawk was in his girdle, a long rifle was grasped in his hand, his feet were protected by mocassins instead of shoes.<sup>b</sup> In this last point he fared better than his wife, who generally went bare-footed in summer.<sup>c</sup> Hunting, among the men, became a serious avocation, and was brought to a system. In autumn the deer were pursued and taken in great numbers; in winter the bear and wolf became the hunter's prey. Nothing could exceed their skill in using the rifle.

<sup>a</sup> Murray's *Encyc. Geog.*, iii. 570;  
Adams' *Geog.*, 157.

<sup>b</sup> Doddridge, in Kercheval, 338.

<sup>c</sup> Doddridge, 340.

Solemn shooting-matches were often held, which to them at least, were as important as the Olympic games to the Greeks. It was common for the marksman at ninety yards to cut his bullet in twain on the edge of a knife, and to snuff the wick of a candle without extinguishing it. From early years the boys were trained to forest life; their very sports partook of this character. They imitated the cries of young animals so accurately that often the parents themselves were deceived and fell into the snare.<sup>a</sup> In the long winter evenings, families assembled in their warm huts, and the younger members heard with delight from the old, tales of daring adventure, and "accidents by field and flood."<sup>b</sup>

As the West thus filled, it became more and more interesting to the belligerents of the Revolution. Hamilton, the English Governor at Detroit, was a man of firm character, but cold and cruel. He sought to bring all the Indian tribes under his control, and to rouse them against the Americans. He paid a tempting price for every white scalp brought by his savage allies; and with infernal ingenuity, he urged them to the work of death.<sup>c</sup> But his course was soon to be arrested. Among the people of Western Virginia, was Colonel George Rogers Clarke, a man so cool in danger, so heroic in combat, so prompt in difficulty, so untiring in

<sup>a</sup> Doddridge, 372, 373.

<sup>c</sup> Withers' *Border Warfare*, 185;

<sup>b</sup> Doddridge says some imaginary Gordon, ii. 390.

"Jack" was always the hero of their stories; Kercheval, 375.

toil, that John Randolph of Roanoke, has bestowed upon him the expressive title of "the Hannibal of the West."<sup>a</sup> The whole territory west of her own and the Pennsylvania frontier, belonged to Virginia, but as it was yet thinly inhabited by whites, she had not exercised over it direct jurisdiction. It now became important to secure this country, to drive back the savages, and to check the English by a well-directed stroke. Early in the fall, two expeditions were planned; one, consisting of nearly a thousand men, was placed under the command of General McIntosh, and sent against the Sandusky towns, but this attempt accomplished little, and at last failed entirely.<sup>b</sup> Far different was the conduct of the other. By his own request, about two hundred and eighty men were assigned to Colonel Clarke; they were selected from the bone and sinew of the land, and with them he prepared for a daring attempt. Descending the Monongahela, he re-embarked at Fort Pitt, and went down the Ohio in boats until he reached the "Great Falls," about two hundred and forty miles from its mouth. Here the adventurers hid their boats, and taking on their backs as much food as they could carry, plunged into the forests north of the river. In three days their provision was exhausted; they fed upon roots and mast found in the woods; yet with undiminished courage they pressed on. At midnight they arrived near the town of Kaskaskia on the Mississippi, about one hundred miles above the mouth of

<sup>a</sup> Note in Girardin, 321; Howe, 116.

<sup>b</sup> Withers' Border Warfare, 185, 187, 191-193.

the Ohio. Worn down by travel and hunger, the Virginians yet resolved on an assault ; to conquer or perish was the only alternative. The town consisted of nearly two hundred and fifty houses, and was so fortified that it might have made formidable resistance, but the people had not dreamed of attack. Surrounded by forests, and nearly twelve hundred miles from the frontiers of the East, they had thought themselves secure. In the darkness they were roused by the summons to surrender ; and so skilful were the measures of Clarke, that not one man escaped captivity. The town was taken, and after receiving hasty refreshment, a body of the Virginians, mounted on fleet horses, proceeded up the river, and surprised three other French towns, equally unprepared for assault. Thus the whole region was reduced ; Philip Rocheblane, the Governor of Kaskaskia, was captured, and was sent to Virginia, together with the written instructions he had received from the English authorities of Quebec and Detroit, urging him to rouse the Indians to war, and to reward them for every deed of blood.<sup>a</sup>

The Legislature received with joy intelligence of these events. (November 23.) They voted warm thanks to Colonel Clarke, his officers and men, for their “extraordinary resolution and perseverance.”<sup>b</sup> Learning that the people of this region had willingly transferred their allegiance from England to the United States, the Assembly passed

<sup>a</sup> Withers, 186, 187 ; Gordon, ii.  
390 ; Girardin, 312, 313.

<sup>b</sup> Resolution in Girardin, 319.



an act, erecting the territory into a county called Illinois, and establishing there a provisional government.<sup>a</sup> But the triumph was not to be confirmed without a further struggle. When Governor Hamilton heard of the successes of Clarke, he was excited to renewed effort by rage and disappointment. He collected a body of more than six hundred men, chiefly Indians; with these he designed to overwhelm the feeble force in Illinois, to sweep the Virginia settlements in Kentucky, to advance to Fort Pitt, and perhaps to carry ruin into the heart of West Augusta.<sup>b</sup> About the middle of December, he arrived at Vincennes on the Wabash, and having repaired the fort, he sent most of his Indians to attack the white settlements on the Ohio, reserving to himself only one company of men.

(1779.) Colonel Clarke perceived the danger. Happily at this time a Spanish trader arrived from Fort Vincennes, and told him how much Hamilton's force had been reduced. Quick as lightning, he seized the opportunity. Sending a galley filled with men, and armed with two four-pounders, and four swivels, to ascend the Wabash, he himself selected one hundred and thirty of his best men, and marched directly towards the fort. Great hardships attended them; five days were employed in crossing the sunken lands of the Wabash, which were frequently overflowed, and at one time the men marched six miles up to their waists in ice and water. They would have been frozen had not the weather been remarkably mild. They arrived

<sup>a</sup> Girardin, 318.

<sup>b</sup> Withers, 188; Girardin, 319, 320.

in front of the town, nearly at the time when the galley made her appearance on the river. Nothing could exceed the astonishment of the besieged. The people of the town surrendered at once, and joyfully transferred allegiance to Virginia; they even assisted in attacking the fort. But Hamilton was desperate, and for eighteen hours the fort was defended amid an incessant fire on both sides. (February 23.) During the night, after the moon went down, Colonel Clarke caused an entrenchment to be thrown up, overlooking the strongest battery of the foe, and the next morning his marksmen commenced pouring rifle bullets upon the artillerists. The fire was not to be endured; no man could show himself without being cut down; in fifteen minutes two cannon were silenced. Governor Hamilton demanded a parley, and on the next evening the fort and all its stores were surrendered, and the Governor and his men became prisoners of war.<sup>a</sup>

Whether we consider the hardships endured, the courage displayed, or the results obtained in these achievements, we must alike assign to Colonel Clarke a high place in the temple of renown. It has been said that his conquest was afterwards regarded as the true basis of the claim of the United States to a northern boundary on the Lakes. In the treaty of peace, England insisted on the Ohio as the boundary, and the Count de Vergennes, in behalf of France, was disposed to assent, but the

<sup>a</sup> Judge Burnet's Notes on N. W. Territory, 77, 78; Withers, 189, 190; Girardin, 321.

American Commissioners urged the success of Clarke with so much force, that their claims were at last admitted.<sup>a</sup> We must ever deplore the seeming ingratitude of which this great man afterwards had cause to complain. The state had not made adequate provision for his soldiers, and in fitting them out he had himself contracted debts which were afterwards sued to judgment, and his property was wrested from him. Virginia sought to repay him and his men, by granting to them a large tract of land within the bounds of the present state of Indiana; but its value was then nominal, and it yielded little to General Clarke. Disappointment drove him to intemperance; he sought to drown care in the bowl.<sup>b</sup> A sun which had risen undimmed, and had shone at meridian with splendour, went down at last amid clouds and gloom.

Hamilton and several of his chief officers were sent to Virginia. Meanwhile a change had taken place in her government. Patrick Henry had declined a re-election as Governor, believing that the spirit of the constitution forbade it. Thomas Jefferson was duly chosen on the 1st day of June to be chief magistrate of the Commonwealth. John Page was voted for in opposition, but this circumstance did not at all impair the good feeling existing between these two friends.<sup>c</sup> A short time after Mr. Jefferson commenced his duties, the prisoners from Illinois arrived in Williamsburg. Written evi-

<sup>a</sup> Burnet's Notes on N. W. Territory, 77.

<sup>c</sup> See Jefferson's Letter to Page, Works, i. 162; Tucker's Jefferson, i.

<sup>b</sup> Burnet's Notes, N. W. T. 80, 81. 125, 126.

dence accompanied them, showing that Hamilton had offered rewards for scalps and none for prisoners; that he had incited the Indians to many acts of cruelty, and that his companions had approved and aided. Therefore the Council advised retaliation, and the Governor, acting under their advice, caused Hamilton, together with Dejean, a magistrate, and Lamothe, a captain of volunteers, to be confined in the dungeon of the jail, fettered with iron shackles, deprived of pen, ink, and paper, and forbidden all converse, except with their keeper.<sup>a</sup> Such rigour could do nothing but harm; it was unworthy of a generous people, even if Hamilton had been guilty of all the enormities ascribed to him; but one who had personal acquaintance with him has expressed the opinion that his nature was manly and upright, and that if he sanctioned Indian hostilities, it was under the express orders of his Government.<sup>b</sup>

General Phillips, the commander of the "Convention troops," who were then prisoners of war in Albemarle County, made a solemn protest against the treatment of Governor Hamilton and his subordinates, as being alike unwarranted by the laws of war and the facts of the case. Much indignation prevailed among the British officers in New York and elsewhere, and threats were made that not one officer of the Virginia line should be released until the prisoners at Williamsburg were enlarged. On the 17th July, Mr. Jefferson wrote to the Comman-

<sup>a</sup> Tucker's Jefferson, i. 128, 129.

<sup>b</sup> Note in Tucker's Jefferson, i. 129, 130.



der-in-chief for advice, and Washington, with his accustomed nobleness of soul, recommended a lenient course. Accordingly, the captives were brought out, and offered liberty on parole, if they would engage neither to *say* nor do any thing to the prejudice of the United States, until exchanged.<sup>a</sup> After some demur, all assented, and in the following year, Governor Hamilton was allowed to go to New York.

Thus commenced Mr. Jefferson's career as Governor. He was called to the office at the opening of a period of peculiar difficulty, and for the demands of which he was little suited. He was profound as a statesman, sagacious as a law-maker, and ingenious as a philosopher; but as a soldier and a general his skill existed in theory, *and not elsewhere*. The time was again coming when Virginia was to be visited by actual war. The British commanders turned their eyes to the South, and resolved to possess it by vigorous campaigns. Already Georgia had been reduced to submission. While Patrick Henry was yet Governor, a serious invasion of Virginia was projected. Admiral Sir George Collier, with a fleet of armed ships and transports, carrying two thousand troops, under General Matthew, entered Hampton Roads on the 9th of May. The Virginians had built Fort Nelson, on the west side of Elizabeth River, and not far below Portsmouth, to protect the Gosport shipyard, and the town of Norfolk. The fort was

<sup>a</sup> See Notes A. and B., Jefferson's Works, i. 450-459, and Letters, pages 164-167.

built of heavy logs with earth forced in between them; it was strong on the water side, but almost uncovered in the rear. The British brought up the Rainbow sloop to batter it in front, while land forces prepared for an assault. Finding that he could not hold it, Major Thomas Matthews, the commandant, sent off his ammunition, spiked his guns, hoisted his colours, and then retreating before the enemy, found a safe refuge in the fastnesses of the Dismal Swamp.<sup>a</sup> General Matthew took possession of the fort, and thence despatched strong bodies of men to Norfolk, Portsmouth, and Suffolk.

Every where the progress of the English was marked with devastation; they burned houses, destroyed live stock, ruined private furniture, and carried off booty. Defenceless women were violated, and seven Frenchmen found at the Great Bridge were inhumanly put to death.<sup>b</sup> The militia of the country offered but feeble resistance. The town of Suffolk, in Nansemond County, was very important to Virginia. Besides other stores, several thousand barrels of pork had been accumulated there for the use of the army. As the enemy advanced, Colonel Willis Riddick made several efforts to stop them, but not more than one hundred and fifty militia could be collected, and these, of course, could make no stand against six hundred regulars. (May 13.) The British set fire to the town. Several hundred barrels of tar, pitch, turpentine, and rum had been stored in lots near the wharves;

<sup>a</sup> Girardin, 334.

<sup>b</sup> Ibid. Colonel Lawson's letter, 335.

the heads of the barrels were staved, and their contents taking fire, ran down into the river, in a broad sheet of flame. The burning mass floated over to the opposite shore, and set fire to the dry herbage of a marsh, which was instantly in conflagration; the town was burning at the same time; public and private stores were alike destroyed; and before the enemy left it, the country for miles around was a scene of ruin. After committing ravages in other places, the troops re-embarked, and the fleet sailed back to New York about the last of May.<sup>a</sup>

How could a body of troops, certainly not overwhelming in numbers, thus desolate whole counties, without effectual resistance? This is a question often asked. To answer it we may say that there was much in the condition of Virginia to account for her feebleness and to excuse her rulers. Regular soldiers withdrawn for the Continental service; no ships to guard the entrance of her bay; no heavy forts to protect Hampton Roads; a wide country thinly peopled; scanty supplies of ammunition; indifferent arms; undisciplined militia: these facts explain the result. Yet we cannot entirely acquit the authorities of the land; there *ought* to have been preparation. We shall soon see the same scenes repeated and enlarged, and the same fatal inefficiency attending the movements of the invaded.

(1780.) Early in the session of the next year, the Legislature made every preparation that law could do for the defence of the commonwealth.

<sup>a</sup> Girardin, 336-338.

War was coming nearer to them every day; the enemy was generally successful in the South, and after overrunning the Carolinas, Virginia would be the next point of attack. The Assembly authorised the Governor to call twenty thousand militia into the field, if necessary; to impress provisions and clothing; to lay an embargo on the ports of the state, when expedient; to hasten the manufacture of arms, and to raise money by new taxes.<sup>a</sup> At the same time they filled the Continental regiments by drafts of one man from every fifteen, and provided for a new issue of paper money. This last was ruinous, but necessary. It is true, the state bills had fallen so low in value that hundreds of *nominal dollars* would hardly buy food for a day for a single man; but they had no other money, and no hope except to wait for better times, when the public faith should be redeemed. The Assembly farther empowered the Governor to punish desertion severely, and to confine or remove all persons thought to be disaffected to the common cause.

On the 20th June, General Horatio Gates received notice of his appointment to command the southern army. He immediately left his farm in Berkeley County, and passed through Fredericksburg and Richmond, on his way to join the Baron De Kalb, in North Carolina. While in Fredericksburg, the hero of Saratoga met with the eccentric General Charles Lee, and in conversation with him expressed high hopes for the coming campaign, "Take care," said Lee, "or your northern laurels will soon

<sup>a</sup> Girardin, 390.



be covered with a southern willow.”<sup>a</sup> The prediction was but too speedily verified. It will not be necessary to accompany the unhappy Gates through the bloody field of Camden, where his own hopes, and those of his country, came near to annihilation. (August 16.) He met the British army under Cornwallis, and was totally defeated; the militia fled, and Gates was borne away in vain efforts to rally them; the Continentals fought and died, and the heroic De Kalb fell in their midst, after receiving eleven wounds. The brave Colonel Porterfield, who commanded the Virginia regulars, was one of the victims of this day. The Virginia militia were among those who ingloriously fled from the field. Colonel Stevens who commanded them was almost maddened by their conduct; he urged, he implored, he threw himself upon their bayonets, and turned them towards the enemy, but all in vain. A false move directed by Gates had exposed them to a disadvantageous attack, and they never recovered from their panic.<sup>b</sup>

The unfortunate General was soon superseded, and returned to Virginia depressed with grief and mortification. (December 28th.) As he passed through Richmond, the Legislature was in session, and generously sought to soothe his pain by a vote of sympathy. They assured him of their high regard and esteem; that the memory of former services could not be obliterated by the late reverse, and that Virginia, as a member of the Union, would

<sup>a</sup> Weems' Marion, 99, 100.

Weems' Marion, 106; Girardin, 400,

<sup>b</sup> See Otis's Botta, ii. 292, 293; 401.

always be ready to testify to him her gratitude.<sup>a</sup> He retired to his farm in the country, which he did not leave again during the war. If he had erred by the indulgence of vanity, and had grossly sinned in striving to supplant Washington, his punishment was ample, and we have reason to believe his repentance was sincere.<sup>b</sup> As a gentleman of courteous and liberal character, he was respected by all who knew him.

After the defeat of Gates, Cornwallis had hoped to be able to penetrate Virginia, and for this purpose, had urged Sir Henry Clinton to send a sufficient force from New York to co-operate with him. Accordingly, about the close of October, a British fleet entered Chesapeake Bay, giving convoy to three thousand troops, under General Leslie. Some of these were disembarked at Portsmouth, some at Hampton, and others at points in the Bay in Princess Anne County; but, after a time, all were concentrated at Portsmouth, and entrenchments were commenced. The movements of the foe were mysterious and seemed undecided, but the mystery was soon explained. Instead of being able to advance into Virginia, Cornwallis had made a precipitate retreat; the total overthrow of his subordinate, Ferguson, at King's Mountain, had deranged all his plans. General Leslie was thus left without support. These facts were discovered by a singular incident. A man whose appearance excited suspicion, was apprehended between Portsmouth and North Caro-

<sup>a</sup> Resolution in Girardin, 416.

<sup>b</sup> Read Lincoln's Lives of the Presidents, Washington, 67.

lina. When it was proposed to search him, he was observed to carry something rapidly from his pocket to his mouth; this was taken out, and found to be a letter written on silk paper, rolled in goldbeater's skin, and tightly tied, so as not to be larger than a goose-quill. The letter was signed A. L., was dated Portsmouth, Virginia, November 4, 1780, and directed to Lord Cornwallis. It informed his lordship that the writer had already written to him; knew not certainly where he was; waited his orders, and would reward the bearer if he brought him a note or mark from his lordship.<sup>a</sup> This missive explained all, and relieved Governor Jefferson from some of his anxiety. Militia were ordered to guard the passages from Portsmouth, but no collision took place. Could the French fleet, then hovering on the American coast, have been informed of the true state of things, they might have caught the enemy as "in a net;"<sup>b</sup> but, on the 22d November, the British re-embarked, and clearing from Hampton Roads, sailed for Charleston. They had committed devastations, but these were never sanctioned by their officers, whose conduct had been worthy of generous soldiers.<sup>c</sup>

This invasion led to a change, which will not be understood without a preliminary statement. When Burgoyne surrendered at Saratoga, the "Convention" between himself and Gates provided that the prisoners, rank and file, should be kept together,

<sup>a</sup> Jefferson's Works, i. 196. The letter is in the Appen., Note F., 461, and in Girardin, 420.

<sup>b</sup> Jefferson's Letter to Gates, i. 194.

<sup>c</sup> Jefferson's Works, i. 194-198; Girardin, 424.

and should be permitted to go to England, not to serve again *against America*, until exchanged. This would have enabled Great Britain to employ them elsewhere, and to send against America the troops whose places they took. Certainly, therefore, it was an arrangement most unfavourable to the United States. Some delay occurred in getting quarters for these troops in Boston, and British authorities having on several occasions uttered and *acted* the principle that "faith was not to be kept with rebels," Congress resolved not to suffer the prisoners to embark until England should expressly ratify the Saratoga Convention. Meanwhile, some place, at once secure and comfortable, was to be selected, in which they might be quartered. The neighbourhood of Charlottesville, in Virginia, was chosen, and early in 1779, the troops, numbering more than four thousand souls, were transferred to this spot. On the top and brow of a ridge, five miles from the town, barracks were built for them which cost twenty-five thousand dollars. The officers rented houses and settled their families, bought cows and sheep, and turned farmers; their society was sought by the gentlemen of the country, and music and literature enabled them to beguile the hours of captivity. The ground near the barracks was laid off in several hundred gardens; the men enclosed them with separate paling, and cultivated them with care. The German General, Reidésel, is said to have expended two hundred pounds in garden-seeds for the use of his own troops. As far as possible the prisoners were made quiet



and content, and their sojourn was a source rather of gain than of injury to Virginia. Forty-five thousand bushels of grain for their use, were to be supplied by her harvests every year, and it has been estimated that in each week thirty thousand dollars were circulated by reason of the presence of these troops.<sup>a</sup> Their health was remarkable; in three months only four deaths occurred at the barracks; two were infants, and two soldiers fell victims to apoplexy.

Yet captivity is never grateful; man may have every physical want supplied, but without liberty he is not happy. Desertions from the station often occurred, and at one time in so great numbers that Mr. Jefferson found it necessary to write to the Commander-in-chief, with the hope that he might arrest some of a party of nearly four hundred, who were making their way to the North.<sup>b</sup> When General Leslie penetrated Virginia, and fortified himself at Portsmouth, the prisoners became more and more restive. Many deserted and joined their countrymen; several were apprehended in attempting the same course, and there were serious fears that the whole body of British captives would rise and endeavour to overcome their guard. The Germans were less impatient, but the danger was pressing. Under these circumstances it was thought expedient that the whole of these troops should be transferred from Virginia to some place of greater

<sup>a</sup> Jefferson, i. 156, 158, 160.

Bland, of Virginia, commanded the

<sup>b</sup> Jefferson to General Washington, i. 165.—Colonel Theodoric

barracks in Albemarle for a long time.—See Bland Papers, *passim*.

safety. (Oct. 26.) They were now about two thousand one hundred in number; desertions, death, and partial exchanges having greatly reduced them. Fort Frederick, in Maryland, was prepared for their reception; two divisions were formed; on the 20th November, the British were marched from their barracks, and crossing the Blue Ridge, proceeded through the Valley to Maryland; the Germans followed to Winchester in a few weeks, and about the end of the year all were safely quartered in their new stations.<sup>a</sup>

(1781.) The next year was pregnant with the fate of America; but before we proceed to its military history, the order of events will require reference to a subject of high importance, and of influence not yet exhausted. On the 2d day of January, the Legislature passed a resolution offering to cede to Congress all the lands of the Commonwealth in the huge territory northwest of the Ohio River, for the benefit of the states composing the Union. This liberal grant was made with the immediate design of inducing all the states to become parties to the Articles of Confederation. It was proposed on certain conditions, and as nearly three years passed before it was finally ratified, its farther consideration will be deferred until it can be regularly presented.

The previous dangers of Virginia might have warned her rulers to be prepared for a renewal of invasion. The invasion of Leslie was so recent that its marks were yet visible, and in addition to

<sup>a</sup> Jefferson, i. 193; Girardin, 422.

these, Washington, ever vigilant, had warned the Governor of movements in New York which threatened a descent.<sup>a</sup> Yet no adequate means of defence were used, and when the storm actually commenced, it met feeble resistance. On the last day of the old year, Mr. Jefferson received intelligence that twenty-seven ships had entered Chesapeake Bay, and were standing up towards the mouth of James River. This should have been the signal for vigorous movements; not for flying, but for fighting. Had General Nelson been called to the capital, and suffered to direct the military operations, it is probable that the enemy would have been checked, and Richmond saved from impending insult. But this efficient officer was in the counties near the coast, striving to organize the militia, and to make the stand which afterwards so distinguished him.<sup>b</sup> The hostile fleet sailed slowly up James River, on the 2d and 3d of January, and on the 4th, at 2 o'clock, P.M., the invading force landed at Westover, on the north side of the river, and twenty-five miles below Richmond, thus making it certain that the capital was their object. The enemy were about nine hundred in number, and many of them were deserters from the American army.<sup>c</sup> They were commanded by Benedict Arnold, the traitor, the man of infamy, whom the conscience of a world would have condemned to

<sup>a</sup> Girardin, 453.

<sup>c</sup> Lee's *Memoirs of War in S.*

<sup>b</sup> Letter to Washington, *Jeffer. Campaign.*

son's *Works*, i. 200; Henry Lee's  
*Remarks on Jefferson*, 140.

the gibbet, and whose natural courage hardly neutralized his fear of falling into the hands of his countrymen.

It is deeply to be regretted, that no leader was present to use the resources at hand for defending Richmond. Pressing as was the emergency, ample means existed for resistance, and had they been turned against the enemy at the critical moment, it is not improbable that they would have been successful. On the 4th of January, two hundred militia were assembled, and by placing in the ranks the men of the town, and the teamsters of ammunition wagons, together with new arrivals from the country, the number by the 5th would have been considerably increased. At the foundry, near Westham, and hardly six miles above Richmond, were more than five tons of gunpowder and other warlike stores, and in the city there were five brass four-pounders, and a full supply of muskets, with all necessary accompaniments.<sup>a</sup> The natural position of Richmond is strong; hills descend to the river on all sides, and cannon properly planted, and backed by resolute men, would have opposed formidable resistance to the invaders, who were entirely without artillery.

But Governor Jefferson was not a warrior. His call for militia on the 4th was the only step that bore even the appearance of defence; all his other measures were for flight, and for flight conducted with singular disregard to every thing except the safety of persons. In reviewing the course adopted

<sup>a</sup> Jefferson, Works, i. 201, 202; iv. 39; Girardin, 455; Henry Lee, 130.



under his order, it is hard to avoid the impression that a strange bewilderment pervaded his proceedings, betokening the absence not merely of military skill, but of firm nerves, and of apprehension quick in times of danger. The five brass cannon were planted, *not* against the enemy, but at the bottom of the James; the teamsters and militia, instead of loading muskets with powder and ball, loaded wagons with arms and ammunition, and drove them off in haste to Westham. When news was received that the British had landed at Westover, orders were given to throw the remaining stores directly across the river from Richmond, with the hope of preserving them.<sup>a</sup> Why it should have been supposed that these military munitions would be safe at Westham, if they were not so in Richmond, it is not easy to divine. If the city was taken, there was nothing to prevent the enemy from marching up or crossing the river, as was afterwards fully proved. But Mr. Jefferson urged on the fugitive operations with vigour; at about half-past seven in the evening of the 4th, he mounted his horse, and leaving the capital, rode speedily to Westham to see to the arms, and thence went on to Tuckahoe, eight miles above, arriving at one o'clock in the night. Hither his family had preceded him. Following the Governor's example, most of the white inhabitants of Richmond at the same time took to flight.

The town at this time did not contain three hundred houses, but was rapidly expanding up and

<sup>a</sup> Jefferson, iv. 39; Girardin, 454, 455.

down the river.<sup>a</sup> (January 5.) At about one o'clock on this day, Arnold, at the head of his troops, entered the principal street without encountering the slightest opposition. Meanwhile Mr. Jefferson crossed the river, and came down to Britton's opposite to Westham. He was still anxious as to the arms; they were never pointed at the enemy, but fearing they might be shot at from the other shore, or be wet by rain, he had them removed to a place of greater safety.<sup>b</sup> During the evening, while he was at Colonel Flemming's, five miles above Britton's, some citizens from Richmond waited on him, conveying an offer from Arnold not to burn the town, if British ships might be allowed quietly to come up and take away the tobacco there stored. This offer was rejected; if acceded to, it would probably have saved none of the public stores. Hardly had the British entered the town, before Colonel Simcoe, at the head of a body of infantry and fifty horse, dashed forward upon Westham, burned the foundry, the boring-mill, the magazine, and several other houses, threw the five tons of gunpowder into the canal, and destroyed all the papers belonging to the Auditor's office and the Council of State. They then returned unmolested to Richmond.

(January 6.) Arnold commenced his work by destroying a great quantity of private stores in the town. Many warehouses were broken open, and casks containing ardent spirits were rolled out and

<sup>a</sup> Morse, in Howe, 307.

<sup>b</sup> Works, iv. 40; Girardin, 454; Henry Lee, 133.

staved. The liquor ran in streams down the gutters, and cows and hogs partaking freely, were seen staggering about the streets. Thus the foe might have learned a lesson of temperance. They burned several private, and all that could by any possibility be considered as public, buildings. Three hundred muskets, three wagons, and a set of artificer's tools, were included in the destruction. The five brass pieces buried in the river under the Governor's order, were found by the British, raised and borne off in triumph.<sup>a</sup> Having thus wrought his pleasure in the capital, the enemy commenced his march in the evening, and retired leisurely to his shipping, striking a body of one hundred and fifty militia at Charles City Courthouse, of whom one was killed and eleven were captured. In forty-eight hours the invaders had penetrated thirty-three miles into the country, committed the desired waste, and returned. On the 10th, they re-embarked, and with a fair wind sailed down the river.

(Jan. 8.) Finding the coast clear, Mr. Jefferson once more took possession of his capital. So animated had been his movements during the past three days, that he had borne down his horse with fatigue, and had then been driven to mount "an unbroken colt."<sup>b</sup> Such exertions may well be pleaded as his excuse for declining to take the field in person in the subsequent skirmishes. Virginia was not without her brave spirits, and had they but gained a chance for fair combat, the enemy would have had little to boast of for the future. Baron Steuben, a Prussian

<sup>a</sup> Jefferson, i. 201.

<sup>b</sup> Henry Lee, 137.

officer, was a Brigadier-General in the American service. He had accompanied General Greene to Virginia, and had happily been detained. He was a fine tactician, and indefatigable at the drill. Now he came forward, and assumed the difficult task of disciplining the militia. In a short time, thirty-seven hundred were ready, in three divisions: one under General Weeden, at Fredericksburg; another under General Nelson, at Williamsburg, and in the low counties; and the third under Steuben, who followed closely on the enemy.

Some of the British vessels had ventured up the Appamatox, to a place known as Broadway's, when they were fiercely attacked by General Smallwood, with three hundred militia, armed with muskets, and they returned precipitately to City Point. Not content with this success, Smallwood brought up two four-pounders, and opened upon the ships at the Point a fire which drove them down the river to join the main fleet. Baron Steuben now marched with his division towards a landing called Hood's, hoping there to intercept part of the adverse force; but the ships arrived there three hours before him, and Arnold, with all of his troops, disembarked. Now a blow was to be struck by a hero; Colonel Clarke, the conqueror of Illinois, was with Steuben, and earnestly asked permission to go forward with two hundred and forty men. His request was granted. Placing his force in ambush near the spot where Arnold and his men were landing in the night, he gave them a close volley, which killed seventeen on the spot, and wounded thirteen.



They were thrown into the utmost confusion ; but, recovering, they returned the fire, and charged with the bayonet.<sup>a</sup> The Virginians, being few in number, and without bayonets, were compelled to retire, yet the partial success of their attack will convince us that resolute resistance would have stopped the progress of the enemy.

Arnold marched slowly down towards the Bay, destroying stores, and carrying off tobacco wherever he could find them. Finally, he established his force at Portsmouth, and threw up entrenchments. Mr. Jefferson was eager to capture him, and offered five thousand guineas to any of the men of General Muhlenburg's western corps who would accomplish the work.<sup>b</sup> But the traitor knew his danger, and kept close quarters, never stirring beyond them, unless with a guard. Meanwhile the attention of General Washington was more and more directed to Virginia ; his quick eye saw that with a sufficient naval force at the mouth of the Bay, and firm operations on land, the British might be overcome ; his representations induced the French Admiral Destouches to sail with his fleet from Rhode Island, for the Chesapeake ; but, meeting the English squadron under Arbuthnot, a battle ensued, which, though indecisive, induced the French to return to Newport.

On the 26th of March, the British General Phillips arrived at Portsmouth with two thousand men. He immediately assumed the command, much to

<sup>a</sup> Jefferson, i. 206 ; Girardin, 457.

<sup>b</sup> See his letter to Muhlenburg, Girardin, 458.

the relief of the soldiers, who heartily despised Arnold. Treason may be encouraged, but traitors will always be hated. Phillips was not long content with inactivity. On the 18th April, he commenced ascending the James, sending parties to York, where they spiked guns, and to the Chickahominy, where they burned a twenty-gun ship, then on the stocks. On the 24th, the whole body of troops, numbering twenty-three hundred men, landed at City Point, and marched directly upon Petersburg. Here Baron Steuben, with one thousand militia, prepared to receive them; although so much their inferior, he most gallantly contested the ground, pouring in several fires, which threw the British van into confusion, and made them retreat precipitately upon their comrades. The enemy gained inch by inch; in two hours they had advanced but a single mile; yet, at length, the Virginians retreated, and in perfect order passed a bridge which spanned the Appamatox. General Phillips took possession of Petersburg, burned many hogsheads of tobacco, and some small vessels lying at the wharves, and then despatched Arnold to Chesterfield Court-house, where he destroyed the barracks, and burned a quantity of flour. On the 30th, Phillips and Arnold again united, and marched to Manchester. They desired to pay Richmond another visit, as courteous as the last; but this time, they were disappointed.<sup>a</sup>

The Marquis de la Fayette had earnestly sought for service in the South, and Washington, who had

<sup>a</sup> Girardin, 466.

great confidence in his prudence, assigned to him the responsible duty of defending Virginia. Full of hope, the chivalrous young Frenchman sought his charge; he brought with him a small body of Continental troops from Annapolis, and, on the 29th of April, entered Richmond. His very name excited enthusiasm; militia came in on all sides, and, under the stimulus of his addresses, desertions ceased, and courage kindled into flame. When the British learned of his arrival and preparations, they abandoned all thought of attacking Richmond, and marched down to Bermuda Hundreds, burning and destroying tobacco, flour, mills, and shipping on the way. They re-embarked their land forces and sailed down the river; but, on the 6th of May, a boat with despatches from Portsmouth, met Phillips, and the moment he read them, he gave a signal, and the whole fleet turned once more up the James, and with a fair wind sailed to Brandon. Here provisions for six days were dealt out to every man, and on the 9th of May the army once more entered Petersburg.<sup>a</sup> We shall soon see the cause of this sudden return.

General Phillips was already labouring under a mortal disease, but his ruling passion appeared strong in death. He was a proud man, thoroughly English in feeling, and he would fain have held Americans in contempt. In reply to a message from the Governor, he wrote to him and directed his letter to "Thomas Jefferson, Esq., American Governor of Virginia." Mr. Jefferson felt the

<sup>a</sup> Girardin, 461; Jefferson, i. 420.

stroke, and soon returned it; having heard of the arrival of a British vessel at Alexandria, with refreshments for the "Convention troops," before he granted a passport he wrote to Phillips, directing to "William Phillips, Esq., commanding the British forces in the Commonwealth of Virginia." This was a bitter pill for the proud Englishman to swallow, but Mr. Jefferson resolved that no supplies should go to the Convention troops until his lesson had been learned.<sup>a</sup> Providence dissolved this vapour of punctilio which threatened to suffocate humanity. General Phillips died at Petersburg, on the 13th of May, and the command of the British again devolved upon Arnold.

Meanwhile a new and most important actor was preparing to come forward. Lord Cornwallis was advancing from the south; he had sent an express to apprise Phillips of his motions, in order that they might effect a junction at Petersburg. This had caused the rapid return of which we have spoken. On the 25th of April, his lordship marched towards Halifax, sending before him the dashing Colonel Tarleton, with one hundred and eighty dragoons and light troops, who scoured the country in every direction. Near Roanoke, an incident occurred highly honourable to Cornwallis. A sergeant and private of Tarleton's troop, during the night had forcibly violated an unhappy girl in the country, and robbed the house in which she lived. The next morning, Lord Cornwallis, attended by six dragoons of his guard, overtook

<sup>a</sup> Jefferson, i. 220, 221; Girardin, 469.



Tarleton, and directed him to draw up his men in a line. Some country people were present, and pointed out the delinquents. They were seized, tried by martial law, condemned and instantly executed.<sup>a</sup> This well-timed rigour did much to preserve order in the subsequent march. On the 20th of May, Cornwallis entered Petersburg, and formed a junction with Arnold.<sup>b</sup>

It would be hard to find terms of praise too high for the conduct of Lafayette at this crisis. Young, brave, impetuous, with fiery blood running through his veins, there was much to tempt him to a rash encounter. But to the courage of a Cæsar, he added the prudence of a Fabius. He now commanded three thousand troops, Continental and militia; but an expected supply of eleven hundred muskets had not arrived, and they were imperfectly armed. Cornwallis moved from Petersburg, and crossed the James at Westover, fully convinced that "the boy" could not escape him. As he advanced, Lafayette retreated, watching his every motion, and detecting every stratagem to ensnare him. His lordship was very anxious to prevent the junction of Lafayette and General Wayne, who, with eight hundred men of the Pennsylvania line, was rapidly approaching from the north. But finding his young adversary too wary to be entrapped, he suddenly changed his plan, and encamped on the North Anna River, in the county

<sup>a</sup> Tarleton's Campaigns, 289, 290,  
quarto edit—See Stedman's Amer.  
War, ii. 385, note.

<sup>b</sup> Stedman, 385; Girardin, 489.

of Hanover. The Marquis passed through Spotsylvania County to the Raccoon Ford, in Culpeper, where, on the 10th of June, he was joined by General Wayne.

In the meantime, Governor Jefferson had been in great trouble. War was approaching on all sides, and feeling a painful sense of his incompetency, he wished to withdraw from public service, that a more efficient successor might take his place.<sup>a</sup> The Legislature met in Richmond on the 7th of May, but finding Phillips and Arnold uncomfortably near to them, they adjourned on the 10th, to meet in Charlottesville on the 24th. Mr. Jefferson's term of office expired on the 1st June; a re-election was a matter of course, if the incumbent desired it, and if he appeared to be equal to all the duties; but neither of these conditions existing in the Governor's case, he signified his wish to retire, and that General Nelson should be elected in his stead.<sup>b</sup> The Legislature readily acquiesced in his views; and in thus relieving him from harassing cares, they were doubtless well pleased to promote the welfare of the state. The same regard for the interests and honour of the Commonwealth, required that the Assembly should investigate Mr. Jefferson's conduct during the months of invasion. In the course of the session, George Nicholas, a member of the body, young, but talented and honest, introduced articles of impeach-

<sup>a</sup> Compare his letter to Washing- 136, 137; see also Jefferson's ton, i. 222, 223, with Henry Lee, Works, iv. 41.

<sup>b</sup> Jefferson's Works, iv. 41.

ment, founded on regular charges of incompetency, against the Governor, but ere they were acted upon, the Legislature fled before Tarleton; and after the triumph at Yorktown, they were finally dropped.<sup>a</sup> In their place the Assembly passed a vote of thanks to Mr. Jefferson, confining their plaudits to his civic attainments, which were worthy of all praise.<sup>b</sup>

Cornwallis had halted, but he was not inactive; two objects engaged his thoughts. Just between the Rivanna and the southern branch of the James, is a spot known as the Point of Fork, where the Virginians had gathered a quantity of military stores. Baron Steuben, with about six hundred raw militia, defended it. At the same time, the Legislature were assembled in Charlottesville, and Mr. Jefferson had sought repose at Monticello. To strike Steuben, Cornwallis detached Lieutenant-Colonel Simcoe, with five hundred picked men, Queen's Rangers, infantry and cavalry, trained to partisan warfare, and full of confidence in their leader. To catch the law-makers and Governor, together, Tarleton was started with his hundred and eighty dragoons, and a number of mounted infantry. These two detachments moved nearly at the same time.

As Simcoe approached, Steuben caught intimations of an intended attack, and, with proper caution, he retreated across the south branch of the

<sup>a</sup> Compare Jefferson's Works, iv.    <sup>b</sup> Girardin, Appen. C. xv.; Henry 42, 43; Tucker, i. 149-155, with Lee, 143, 144.

Henry Lee's remarks, 143.

James, carrying with him all the important stores. Hardly had he passed, before the British partisan appeared on the heights skirting the Rivanna, and so sudden was the rush of his cavalry, that thirty Virginians fell into his hands. The prey had escaped ; but, determining, if possible, to get at the stores, Simcoe resorted to a most ingenious stratagem, and the plain-sailing old Prussian fell into the snare. The British spread their camp far and wide over the hills, lighted a large number of fires, and used every sign that would indicate the presence of the *whole British army*. Hearing of Tarleton's approach on his left, and fearing that he would be crushed, Steuben retreated as fast as possible, marching during the night nearly thirty miles, and leaving behind him all the more heavy stores. Simcoe followed up his advantage, by sending on a small body, as if in hot pursuit, and having driven the Baron out of reach, and destroyed the stores, he prepared to rejoin Cornwallis.\*

Meanwhile Tarleton moved forward with his accustomed speed towards Charlottesville, passing through the county of Louisa. (June 4.) On his way he fell in with twelve wagons loaded with clothing for the southern army ; these he immediately captured and burned. Learning that a number of distinguished gentlemen were at the houses of Mr. John Walker, and Dr. Walker, in Albemarle, and nearly on his route, he resolved to pay his respects to them. He detached a party to Mr. John Walker's, while he himself, with his

\* Stedman's American War, ii. 389 ; Girardin, 497, 498. \



dragoons, galloped up to the residence of the Doctor. At the two places, were captured Colonel John Simms, a member of the Virginia Senate, and William and Robert Nelson, brothers of General Nelson, who was soon to be Governor of the state.<sup>a</sup> Tarleton was not discourteous to his host; but he wanted a morning meal, and as *two breakfasts* had been already secretly devoured by his subordinates, he placed a guard in the kitchen to secure the third.<sup>b</sup> Slight as were these delays they saved the Legislature; while the Englishman was pursuing single birds, the flock escaped him.

As the British dragoons passed through Louisa, a Mr. Jouitte had observed them, and divining their object, he mounted a fleet horse, and galloped off like lightning, through paths and by-roads, to Charlottesville, while the enemy followed the beaten track. The moment he arrived, the Assembly passed a vote to convene in Staunton on the 7th, and then dissolving, the members fled away, like a covey of partridges before a keen sportsman. The very name of Tarleton had a melting effect upon the body. Knowing nothing of their flight, he came on at a sweeping pace, and when near the Fords of the Rivanna, he detached a party under Captain McLeod to seize Mr. Jefferson, at his well-known mountain residence. The sage of Monticello was then entertaining some friends from the Legislature, but hearing that the dragoons were winding round the road which led to his house, he sent off Mrs. Jefferson and her three children in a

<sup>a</sup> Girardin, 499.

<sup>b</sup> Note in Tucker's Jefferson, i. 147.

carriage to Colonel Carter's, about six miles distant, and directing his horse to be brought to a back gate, opening on the road, he mounted, and leaving the road, plunged into the dark recesses of Carter's Mountain.<sup>a</sup> Thus he easily made his escape; his prudence and self-possession saved him from captivity. Demosthenes fled from Cheronæa, and Horace was frightened at Philippi: these illustrious examples shall for ever excuse the orator, the statesman, the wit, who shall withdraw his precious life from the field of battle; but Mr. Jefferson needs no such excuse; he did not fly the well-contested field; he only retreated before overwhelming odds; he could not be expected to cope singly with a squadron of armed dragoons.

It is due to Captain McLeod to say, that he permitted no violence to be offered to private property at Monticello. All of Mr. Jefferson's books and papers were treated with sacred respect, and if any pillage was done, it was unknown to the commander. In Charlottesville, finding his chief game had escaped him, Tarleton sought for military stores: he destroyed one thousand new firelocks made at the foundry near Fredericksburg, four hundred barrels of powder, and a stock of clothing for soldiers.<sup>b</sup> Seven members of the Legislature had fallen into his hands, and with these he turned again to join Cornwallis and Simcoe, near the Point of Fork. Tarleton's career in Virginia illustrated the prominent traits of his character: always active

<sup>a</sup> Jefferson, iv. 42; Tucker, i. 147;      <sup>b</sup> Tarleton's Campaigns, 297; Girardin, 502; Henry Lee, 142.      Stedman's Am. War, ii. 387.

and reckless ; not cruel, unless policy required it ; unscrupulous in measures to gain his ends. He slept on the floor, while his subordinates rolled in comfortable beds ; and once on a sudden alarm, he threw aside his razor, sprang half shaved into his saddle, and with sabre in hand, prepared to rush into the thickest of the fight.<sup>a</sup> It is not strange that such a partisan should have had reputation.

Even in Staunton, the Legislature did not feel safe. On the morning of the 7th, Lieutenant Brooke, at the head of a small body of Virginia infantry, crossed the Blue Ridge, to convey a message from the Baron Steuben. As this squadron approached at a rapid gait, the Assembly received notice of their coming, and instantly betook themselves to flight, believing that they were still pursued by Tarleton.<sup>b</sup> Some time elapsed before they could be reassured and brought back to their duties. On the 12th of June, they elected General Nelson Governor of the Commonwealth.

Cornwallis had advanced from the North Anna, and established himself near the Point of Fork. He took possession of Elk Hill, one of Mr. Jefferson's farms, and on this and other plantations in Virginia, a system of frightful devastation was carried on. The cattle were slaughtered or driven off, all the horses fit for use were seized, and the throats of the young horses were wantonly cut ; the growing crops of grain and tobacco were destroyed,

<sup>a</sup> Girardin, 502.

a venerable Judge of the Virginia

<sup>b</sup> This incident was related to me Court of Appeals.

by Lieutenant Brooke himself, now

and every barn and fence was reduced to ashes. Indeed, from the opening of the game by Arnold, to its close at Yorktown, the British appeared intent upon breaking the sinews of the Commonwealth. In their invasions thirty thousand slaves were carried off, of whom twenty-seven thousand are supposed to have died of small-pox or camp fever, in the course of six months. In the same time it is estimated that property amounting to three million pounds sterling, was destroyed or carried away by the invaders.<sup>a</sup> It was just that the authors of this ruin should suffer the full retribution which finally overtook them.

At Albemarle Old Courthouse, the Virginians had collected a large quantity of valuable military stores. To destroy these now became an important object to Cornwallis; to protect them an equally important one to Lafayette. After his junction with Wayne, the Marquis moved cautiously from Culpeper through Orange and the upper part of Louisa, to Boswell's Tavern, near the Albemarle line. Cornwallis marked his movement, and threw forward Colonel Tarleton, with a strong advanced guard, to such a position, that it seemed inevitable that Lafayette should either hazard a fight with the whole British army, or abandon the stores. But "the boy" was equal to the crisis. There was a rough road, long disused, leading from a few miles below Boswell's, to a point on Mechunk Creek; forthwith Lafayette set to work his pioneers and axemen; the road was opened, the army passed

<sup>a</sup> Girardin, 503, 504, with his notes; Tucker, i. 148; Gordon, iii. 389.



along it, and the next morning, to the utter astonishment of Cornwallis, his adversary was encamped in an impregnable position on the Creek, and just between the British army and the stores at Albemarle Courthouse!<sup>a</sup> His English lordship was once more baffled, and having in the meantime received instructions from Sir Henry Clinton, in New York, he changed his front, and marched slowly towards the eastern coast.

An incident occurred during the opening of the "Marquis's Road," which happily illustrated the commingled soldier and gentleman of Lafayette's character. Full of zeal, he was dashing at a swift gallop along the line, when his horse struck a private at work on the road, and felled him to the earth. The Marquis instantly dismounted. "Soldier, are you hurt?" he said. The man, who had risen uninjured, replied, that he was not. "I ask your pardon," said Lafayette, and waving his hand with a smile, he remounted and resumed his course.<sup>b</sup> It was by such conduct, that the chivalric Frenchman riveted the chains which already bound to him all American hearts.

(June 16.) Now at last Cornwallis was on the retreat, and Lafayette was the pursuer; but the English retired slowly, and as if in perfect security, while the Marquis used the same eagle-eyed vigilance which had distinguished his own retreat.

<sup>a</sup> Gordon's America, iii. 210; Girardin, 506, 507.

integrity was only *one* of the qualities which drew to him the love of all who knew him.

<sup>b</sup> This incident was related to me by a friend now no more, but whose

On the Chickahominy, and not far from Williamsburg, a partial engagement occurred between Simcoe with his rangers, and Lieutenant-Colonel Butler of the Pennsylvania line. It was sharply contested, and was attended with loss to both; Simcoe pursued his retreat, and Butler did not follow him, fearing the presence of Cornwallis. After halting nine days in Williamsburg, on the 4th of July his lordship prepared to cross the James, having selected Jamestown Island as the proper point. During the 5th and 6th he sent over wheel-carriages of every sort, baggage, bat-horses, every thing in short *except troops*; his army in full force remained on the north side of the river. Now Lafayette narrowly escaped ruin; inexperienced spies had informed him of the movements at the Island, and assured him that the army itself was crossing. Believing that a feeble rear-guard only was left on the northern side, he determined to attack it. General Wayne, with his wonted eagerness for battle, seconded his views. At about three o'clock on the afternoon of the 6th, the riflemen, under Call and Willis, advanced across a causeway leading from Greenspring towards Williamsburg, and commenced the assault; the cavalry, under Armand and Mercer, came next; then followed the Continentals, under Wayne, and Baron Steuben with the militia formed a corps de reserve. With consummate art, Cornwallis took advantage of Lafayette's error, drew his troops into a compact mass, and ordered his pickets to suffer themselves to be driven in, as if in confusion. Suddenly the British displayed in strength; Yorke attacked on the right, and Dundas on the left; the

riflemen, after a fierce contest, gave way; the cavalry were broken; two field-pieces were captured, and the Continentals under Wayne were left to sustain the conflict. By this time Lafayette had discovered his mistake, and finding Wayne outflanked, directed a retreat. The darkness of the night favoured them; the causeway was gained and secured, and Cornwallis, content with his advantage, withdrew his troops.<sup>a</sup> In a few hours he crossed over to Jamestown Island, and soon afterwards proceeded to Portsmouth.

Various movements and intercepted orders of Washington, had led Sir Henry Clinton to suppose that New York was soon to be the object of a combined attack by land and sea, to be made by the French and American forces. Alarmed for his safety, he had instructed Lord Cornwallis to send him such troops as he could spare, and then to take a convenient position on Chesapeake Bay, from which he might either communicate with the sea, or send war into the heart of Virginia, as might be expedient. Subsequently the order for a detachment to New York was recalled; but Cornwallis, in obedience to remaining instructions, selected York and Gloucester Points, and by the 22d of August had occupied them with his army, and thrown up strong intrenchments. Here was to be enacted the last scene of the Revolutionary drama.

It has been supposed by some that all of Washington's demonstrations against New York, were parts of an ingenious stratagem, intended to con-

<sup>a</sup> Stedman, ii. 394, 395; Girardin, 512, 513.

centrate Clinton's thoughts on himself, and to lull Cornwallis into security. But this was not so; New York was verily his object; yet with that expansion of purpose which made him formidable even with inadequate means, he watched the southern army, ready, if expedient, to shift his line of attack.<sup>a</sup> Learning that the Count De Grasse with his heavy fleet was in condition to co-operate with him on the Chesapeake, he now resolved to invest Cornwallis in his posts; and turning south with the French and American armies, from the Jerseys he conducted that celebrated march which was the forerunner of his country's triumph. Before he joined Lafayette, he learned with joy that De Grasse had entered the Chesapeake with twenty-five sail of the line, and with nearly three thousand soldiers aboard his ships. Not a moment was lost in drawing the combined forces around the enemy, in landing mortars and munitions, and in making preparation for a regular siege. Cornwallis could not conceal from himself the danger that threatened him; but trusting to Sir Henry Clinton's promises, he resolved on an obstinate resistance. His army consisted of seven thousand fine troops; a sufficient guard protected Gloucester Point, but the larger part were assembled within the intrenchments of Yorktown.

In the memorable siege that followed, every event of which has become familiar to Englishmen and Americans, nothing strikes us more forcibly than the incessant vigour with which the besiegers

<sup>a</sup> See Girardin, 521; Gordon, iii. 216, 217.



pressed their work. From the night of the 7th of October, when the first line of trenches was completed, the besieged knew not a moment's repose. Mortars poured a storm of shells upon the out-works and the town, tearing down the defences, and often throwing the bodies of artillerists into the air;<sup>a</sup> heavy cannon pierced the houses with balls, and dismounted the guns in the British batteries. The fire of the engineers was astonishingly accurate and effective. Often their shells struck within three feet of the point at which they were aimed, and exploded within a few seconds of the intended time; at one discharge during the night, a red-hot shell from the French battery passed entirely over the town, and fell amid the rigging of the *Charon*, a British forty-four gun ship lying in the harbour; instantly masts, shrouds, and running-gear were a sheet of flame, and threw a brilliant light over the whole port; two other ships near the *Charon* caught fire, and like her were burned to the water's edge. Even from the first parallel the fire was so destructive that the enemy's batteries were nearly silenced, and much of the town was reduced to ruin.<sup>b</sup>

General Nelson, the Governor of Virginia, had joined the army with his militia, eager to lend his aid to the patriot cause. Seeing that the gunners did not aim at his own house in Yorktown, and knowing that it was occupied by British officers, he earnestly remonstrated; at his request two can-

<sup>a</sup> Dr. Thatcher's Account.

<sup>b</sup> Girardin, 527; Dr. Thatcher's Account; Howe, 525.

non were trained upon the building ; the first balls pierced its side and killed two officers then at table, and in a short time the house was cut to pieces by the fire.<sup>a</sup> The tenable part of the town was rapidly narrowed ; the besiegers were soon ready to open their second parallel, within three hundred yards of the outworks ; in approaching it, they had been severely annoyed by two redoubts thrown in advance of the intrenchments, and Washington resolved to carry them by storm.

To capture the redoubt on the right was the task of the Americans ; they were under Lafayette, and were led to the assault by Colonel Hamilton, the gallant aid of the Commander-in-chief. The French advanced upon the other, under the Baron De Viomesnil. Nothing could exceed the emulation of these two parties, and the heroism of their attack ; they rushed forward with unloaded muskets, trusting to the bayonet. Hamilton and his men drove the garrison before them, and took possession of their prize with small loss ; but on the left, a bloody conflict took place ; the English were dislodged, but not until the French had lost one hundred and twenty of their number. Hardly had these works been carried, before they were included in the second line of trenches, and mortars and battering-pieces were pouring destruction upon the town.<sup>b</sup>

It was evident that this fire must soon decide the contest ; Cornwallis had directed a bold sortie, but its effect was temporary. Finding that the place

<sup>a</sup> Note in Girardin, 534, 535.

<sup>b</sup> Otis's Botta, ii. 399 ; Girardin, 529.

would speedily be battered down upon him, and despairing of relief from Clinton, he began with reluctance to contemplate a surrender. Yet it was hard for that proud spirit to bend; the scourge of the South, the conqueror of Gates, the pursuer of Greene and Lafayette, could not, without the keenest anguish, think of laying down his arms. He looked around him on every side for an avenue of escape. A desperate expedient suggested itself; he might leave his sick, wounded, and weak; his baggage and heavy artillery, and, crossing with the rest of his army to the Gloucester shore, might annihilate the besiegers there, seize horses, mount his men, and burst away towards the North, like a lion escaped from the toils of the hunter. On the night of the 16th, boats were made ready, troops were embarked, the first division had crossed; hope once more dawned upon the British chieftain. But Heaven fought against him. A furious storm of wind and rain arose, and beat him back to the southern shore; with difficulty the men in the boats saved their lives. When daylight appeared, the attempt was discovered, and the fire from the batteries became more violent than ever.<sup>a</sup> The last resource of Cornwallis had been tried and had failed.

It would have been unworthy of a brave man longer to have resisted. On the 18th of October, the articles of capitulation, the heads of which had previously been agreed upon, were signed by Cornwallis, and on the memorable 19th, one of the finest British armies ever employed in America,

<sup>a</sup> Otis's Botta, ii. 401.

marched out from Yorktown, and grounded its arms. His lordship could not face the event; he remained in the town, overwhelmed with grief and vexation. General O'Hara led out the troops, and surrendered his sword to Lincoln. It is said that many of the soldiers were seen to throw their arms violently on the pile, as though they were unable to conceal their rage; and when Colonel Abercrombie's corps laid down their muskets, he covered his face and turned aside, biting the hilt of his sword!<sup>a</sup> We cannot be surprised at these evidences of intense mortification. Americans had been so long despised by this proud army, that each soldier felt his surrender as an individual disgrace.

By express agreement, Cornwallis was permitted to send the Bonetta sloop of war, *unsearched*, to New York; he was thus enabled to provide for the safety of many loyalists, who deserved the fate of traitors from their countrymen. On her return, the Bonetta was to be surrendered to the French, who were to have the whole naval force and munitions captured in the harbour of York. The Americans had the field artillery for their portion. They gained eight mortars, and one hundred and sixty pieces of cannon, most of which were of brass. The seamen were prisoners to France, and the soldiers to America. More than seven thousand officers and men composed the military force surrendered to Washington.

But physical gains, brass cannon and British muskets, ammunition and stores, ships and pri-

<sup>a</sup> Dr. Thatcher, in Howe, 528.



soners, will sink into insignificance when compared with the *moral* effect produced by the surrender of Cornwallis. The news spread through America as though carried by electric sympathy; every heart bounded with joy; the desponding hoped, and the hopeful triumphed. It became evident to all, that Great Britain could not conquer, and that her efforts would only weaken herself, without reducing America. It will not be necessary further to trace the events of a war which might now be considered as virtually decided. On the 20th January, 1783, the preliminaries of peace between England and France were signed at Versailles, and on the 3d of September following, a definitive treaty, in which America was formally included, was entered into between the belligerents. The independence of the United States was acknowledged. Their boundaries, though not perfectly defined, were not narrowed, and clauses were introduced favourable to trade between two countries, who were now to deal with each other as free and sovereign nations.<sup>a</sup>

<sup>a</sup> Gordon, iii. 382, 383; Otis's Botta, ii. 451. With the siege of York closes the History of Louis Hue Girardin. He was a Frenchman by birth, but taught school a long time in Virginia. His disposition was amiable, and his habits were studious. He undertook to continue Burk, and having taken up his abode near Monticello, Mr. Jefferson supplied him with a large amount of MS. matter, which great-

ly enriched his volume. Yet the work is prolix and uninviting: it has been read by few, and will be sought by none who look merely for entertainment. He has fallen into the error of introducing a complete history of the Revolutionary War, into a work intended to be confined to Virginia. His admiration for Mr. Jefferson sometimes approaches the ludicrous. See Jefferson's Works, i. 41; Henry Lee, 146.

Thus ended the War of the Revolution. No state of the Union had more cherished its principles and improved its advantages than Virginia. If she had not witnessed so many of its battles as had others, she had at least not shrunk from the contest. Her sons had ever been active in the council chamber and the field. Patrick Henry had "set the ball in motion," and afterwards had driven it forward by the breath of his eloquence. Thomas Jefferson had written the Charter around which every state was to rally in the hour of danger. Richard Henry Lee had supported Independence at the critical moment. Randolph, Pendleton, Mason, Wythe, Carr, Harrison, all had borne their part in encouraging the soul of freedom. And in arms, Virginia had not been less distinguished: George Washington had gone from her bosom to lead the armies of America to triumph; Morgan had left his home in the Valley, to penetrate the forests of Maine, to head the forlorn hope at Quebec, to drive the enemy before him at Saratoga, and to overwhelm Tarleton at the Cowpens; Mercer had fought and bled at Princeton; Stevens had battled even in defeat at Camden, and gathered fresh laurels at Guilford; George Rogers Clarke had entered the wilderness, and conquered a new empire for his country. The first voice of warning had been raised in Virginia, and the last great scene of battle had been viewed on her soil. Her sister states have not denied her claims; when peace returned, she was still looked to as the leader in the unknown course that opened before America.

## CHAPTER V.

Peace has its dangers—Virginia's generosity—Charters of King James I.—Domain of Virginia narrowed by charters to other states, and by Treaty of Paris in 1763—Validity of her claim—Land Companies—Virginia's claim disputed in Congress—Objections to it considered—Maryland and the Confederation—Virginia's dignified protest—She finally cedes her lands northwest of the Ohio—Extent of this gift—Patrick Henry—British Refugees—Proposed law to encourage intermarriage between Whites and Indians—Resolution to incorporate all religious societies who should apply—Act to incorporate the Protestant Episcopal Church—General assessment to support Religion proposed—Mr. Madison's memorial against it—It is rejected—Bill of Religious Liberty—Mr. Jefferson—Memorials of Hanover Presbytery—Bill adopted by the Legislature—Act incorporating the Episcopal Church repealed—Capitol—Statue of Washington—Houdon the statuary—Edmund Randolph Governor—Vices of the Confederacy—Necessity for a new government—Forms of Civil Government considered—Ancient debate on the subject—Mixed character of British Constitution—The conduct of America in 1787-'88 peculiar—Incipient measures to secure a change in plan of Confederation—Federal Convention in 1787—Constitution proposed—Debate in Virginia Convention—Edmund Pendleton—Governor Randolph—George Nicholas—Henry Lee—Francis Corbin—John Marshall—James Innes—James Madison—Opposition to proposed Government—Patrick Henry—George Mason—James Monroe—William Grayson—Constitution adopted by Virginia—Amendments finally secured.

It has been said, that the history of Virginia after the opening of the Revolution, will be found to turn principally upon two points—civil and religious freedom; and we have seen the skilful measures adopted to secure them. It might be supposed, that now when the struggle of war was over,

and the mother country no longer pretended to claim jurisdiction, these great blessings were safe, and that the people of the Commonwealth would enjoy them in full. But peace had its dangers as well as war. The pressure of peril had kept together a system which had little innate tendency to cohesion. At no time during the actual struggle for Independence, was America in so much danger of anarchy, as she was after its close. And as true liberty is as far removed from licentiousness as from despotism, so the nation without government is as miserable as that governed by a tyrant. We shall see that the patriots of Virginia had yet much to accomplish, before she could consider her freedom as secure.

Her people may be pardoned for indulging in feelings of pride, in reviewing the liberal spirit which impelled her to sacrifice self to the common good. From the time when she first became a member of the American league, it is evident that she considered her own interests as bound up in those of the Union. Her conduct was directed not merely by fraternal love to the other states, but by a calm exercise of judgment, which taught her that a wound in the hand affects the nerves of the whole body, and that the comfort of each member depends on the general health. The action of Congress made the cession of her public lands the first subject for her thoughts after the Revolution.

The charters of King James the First had granted to Virginia a vast territory on the American continent. The Charter of 1609, in particular, had



conveyed a huge belt of country, running from the Atlantic to the Pacific Ocean.<sup>a</sup> It had long been conceded, that the dissolution of the London Company in 1624, had not deprived the Colony of a right to her lands. These were still retained under her control, subject to the final decision of the King; and the regular mode of obtaining title to them was by a grant under the seal of the Provincial authorities.<sup>b</sup> By successive charters to the states of Carolina, Maryland, and Pennsylvania, the domain of Virginia had been much reduced, and by operation of the Treaty of Paris, in 1763, between Great Britain, France and Spain, the territory west of the Mississippi was taken from the British Colonies.<sup>c</sup> Yet after these reductions, Virginia retained title to the country on her west and northwest, running from latitude thirty-six and a half to a line touching the southern margins of the Lakes Erie and Michigan. To this she had solemnly asserted her right in the Constitution adopted in 1776, and to prevent all improper interference, she had declared void every purchase made from the Indians, unless by authority of her General Assembly.<sup>d</sup>

Had any thing been necessary to complete the equity of her claim, it might have been found in the conquest achieved by Colonel Clarke, in '78 and '79. A native born Virginian commanding volunteer troops from the soil of the State, raised by authority of her Assembly, paid by her grants,

<sup>a</sup> Henning, i. 80-98; 1 R. C. 37.

<sup>c</sup> Grahame, iv. 91.

<sup>b</sup> See vol. i. 270.

<sup>d</sup> Constitution, cl. 21; R. C. i. 37.

commissioned under the seal of her executive, acting in her name, and receiving the allegiance of the conquered to her sovereignty, had penetrated this western region, and reduced it to submission. We have seen the importance attached to this conquest in the treaty of peace, and in a recent judicial decision, it has been vouched as the crown of the Virginia title.<sup>a</sup> Under these guarantees, none of her statesmen doubted her right, and it was regarded by her as resting on the firmest ground of law and conscience.

But it was to be disputed. During the Revolution, certain speculators in land had formed themselves into compact bodies in order to increase their strength, and had obtained from divers states acts of incorporation. The principal of these were known as the Indiana and Vandalia Companies. Their policy consisted in sending keen agents to treat with the native chiefs, and the wild white men who might occupy western lands; to dazzle simple minds with glittering ornaments, or to entrap the more wary with hatchets, rifles, and powder, offered in trade; to obtain grants of unoccupied tracts, and then to insist, before Congress, upon the validity of these purchases. It is strange that such claims ever should have found favour. Even before the Constitution of '76, the State had exclusive control over her waste lands, and no

<sup>a</sup> This is the celebrated case of *Commonwealth vs. Garnett et al.*, has not yet been reported, but I have read the printed sheets; see also, in the General Court of Virginia, argument of the Hon. John M. Patton, in the same case. decided December Term, 1846.—It

grant from the Indians could have been valid without her concurrence. But many circumstances induced Congress to look with unfriendly eye upon the title of Virginia, and to hear patiently all that could be said against it.<sup>a</sup>

In addition to individual corporations, the other *states* of the Confederacy interposed a claim. It was contended that when the yoke of the British Government was thrown off, the waste lands within the limits of each colony, and over which the British sovereign claimed full control, became the common property of the American Union,—that the states in their federate capacity succeeded to the rights of the Crown,—that this territory had been defended by the blood and treasure of all, and should therefore be applied to the benefit of all. The weakness of these arguments may be seen at a glance; for with as much propriety might it have been insisted that the Confederacy succeeded to all other rights claimed by the King of England, as to the control of the colonial lands. On such a principle, the Union would have had the right to appoint governors, deputies, and even petty officers for the states; to veto their laws, and to interfere in many respects with their internal police. It is true that when the government of the mother country was discarded, a sovereignty succeeded to the rights of the Crown, but it was the sovereignty of Virginia alone, and not that of the states in union. Nevertheless this claim was sufficiently plausible to meet with many advocates in Congress.

<sup>a</sup> Girardin, 372; Madison Papers, i. 92.

The "Articles of Confederacy" contained nothing which could be construed to impair, or in any manner to affect the title of Virginia. The question of western lands formed a great obstacle to the full adoption of these articles, even to the year 1781. Maryland was inflexible, and refused to become a party until the claims of the states should be on a satisfactory basis.

Finding that Congress was disposed to favour adverse pretensions, the Assembly of Virginia prepared a remonstrance during its session of 1779. This paper is clear, calm, dignified,—strong in reasoning, generous in spirit, but firm in assertion of right.\* It declares the attachment of the state to the common interest; expresses her "surprise and concern" that Congress should have listened to the claims of the Land Companies, and should have attempted to assume jurisdiction, which threatened to subvert the sovereignty of the individual states, and to degenerate "into an intolerable despotism;" clearly defines the rights of Virginia under charters, treaties, constitutional terms; declares her willingness to appropriate part of her lands for the benefit of the Continental troops, and to make other sacrifices for the general good; but concludes with a most solemn protest against any action of Congress "subversive of the internal policy, civil government, or sovereignty, of this, or any of the United American States, or unwarranted by the Articles of Confederation." After this remonstrance, it must have been evident, that

\* It is in Girardin, 373-375.



any law of the federal government, trenching upon her domain, would have led to a rupture with Virginia; and that an appeal to her liberality was the only mode in which the wishes of the other states could be attained.

This appeal was made, and was effectual. Congress urged all the states claiming unsettled lands to cede them for the general benefit, in order that the Articles of Union might be carried out, and that America might present an undivided front against the enemy. We have seen, that in January, 1781, Virginia responded to the application, by an act declaring her readiness to cede to Congress her northwestern domain, provided they could agree upon the terms of cession. The effect of this act was in accordance with the hopes of its advocates. Maryland became a party to the Confederation, and the government was complete as far as its own powers could avail for any purpose.

But in Congress much difficulty was experienced before the terms of final cession could be agreed upon. The delegates from Virginia looked watchfully upon the progress of the debate, and always sought to interpose when it assumed a countenance unfavourable to her rights. It is, however, to be deplored that sometimes these delegates disagreed among themselves, and nothing but a spirit of mutual compromise, could have prevented their conflicts of opinion from injuring their state. James Madison had now risen to eminence, and his spotless character, his undoubted patriotism, his clear intellect, and expanded knowledge, made him, of

all others, the man best fitted to guard the interests of Virginia upon this delicate question. Yet his differences with his colleagues were sometimes so serious that he feared the worst results; and writing to a friend at home in October, 1781, he asks with anxious irony, "Is not my situation an enviable one?"<sup>a</sup> Finally, on the 13th September, 1783, Congress declared the terms on which the cession would be accepted, and though they were not precisely those which Virginia thought most reasonable, yet, with true liberality, she waived all farther objection, and prepared to authorize the ultimate grant. On the 20th December following, her Assembly passed an act empowering any three of her delegates in Congress to execute a deed of cession, conveying the whole territory within the Virginia Charter, "situate, lying, and being to the northwest of the River Ohio."<sup>b</sup> This grant was on condition that the territory so conveyed should be laid out and formed into states of a certain size, which should have republican governments, and all state privileges; that the Union should reimburse to Virginia her expenses incurred in subduing British posts, conquering and defending the country; that the French and Canadian inhabitants who had acknowledged their allegiance to Virginia, should be protected in their rights of citizenship; that a quantity of land not exceeding one hundred and fifty thousand acres, should be reserved for General George Rogers Clarke, and the officers and soldiers of his regiment, wherever a

<sup>a</sup> Madison Papers, i. 92-100.

<sup>b</sup> 1 R. C. 40.

majority of them might prefer to have such land ; that, if necessary, other lands between the Scioto and Little Miami should be reserved for the Virginia troops of the Continental line ; and, at last, that all the territory ceded and not reserved, or, by the cession, otherwise appropriated, should be considered as a common fund, for the use and benefit of the states existing or to exist, as members of the American Union, (Virginia inclusive,) “ *according to their usual respective proportions in the general charge and expenditure,*” and should be disposed of for that purpose, and “ *for no other use or purpose whatsoever.*”<sup>a</sup> In accordance with these terms, during the following year, a deed of cession was duly executed by delegates from Virginia to the American Congress.<sup>b</sup>

Such was the magnificent gift bestowed by the “ Old Dominion” upon her sisters and daughters of the Union. We may form some idea of its value, if we will consider not merely what it then was, but what it has since become. Without speaking of Indiana and Illinois, we will take a single state nearer to the mother’s side. Ohio, with her fertile soil, her well-cultured fields, her grain poured out each year in millions of bushels, her thousand miles of railroad and canal, her cities springing into existence like the palace of Aladdin,—Ohio has already gone beyond her parent in wealth and population.<sup>c</sup> And every part of the Union derives

<sup>a</sup> This act in full is in R. C. i. 39–41. about 1,200,000 ; Ohio of 1,500,000.

<sup>b</sup> The deed of cession is in Hening, Virginia has 19 persons to a square mile ; Ohio has about 38. Morse’s xi. 471, &c.

<sup>c</sup> Virginia has a population of Geography, 27, 33.

renewed life from the impulses which have produced results so astonishing. If the new states of America shall ever be disposed to unite with any of the old, in seeking to undermine the institutions, and to endanger the peace of Virginia, they may be reminded that such a course will involve ingratitude even more than impolicy. For conduct so unworthy of the just and the generous, Shakspeare has furnished an appropriate illustration, and one able to appreciate his genius has pointed to King Lear, who, after stripping himself of his broad lands, and bestowing them on his daughters, was driven out in old age to feel the pangs that can be inflicted by "a thankless child."<sup>a</sup>

Since the time of this cession, the public lands have always been a subject of high interest and importance to the United States. Nice questions have from time to time arisen concerning them, and in late years, the proper mode of disposing of their proceeds, has drawn much anxious thought from Congress. Great minds have differed in opinion on this question; some have contended, that as the lands were originally granted for purposes common and federal, their proceeds could not be distributed among the individual states; others have argued, that this would be the most appropriate disposition, and that such was the fair inference from the clause "according to their usual respective proportions in the general charge and expenditure," which occurs in the Act of Cession.<sup>b</sup>

<sup>a</sup> Argument of Hon. John M. Pat-  
ton, in Gen. Court Va., Dec. 1845.

<sup>b</sup> In favour of distribution to the  
states, see Henry Clay's Speeches,



The latter views have prevailed in Congress. It would not be consistent with the purpose of this work, to dwell farther upon these questions, but it is believed that in the detail which has been given, will be found the basis of every argument that can be applied to the subject.

(1784.) Early in the sessions of this year, the Assembly was called to decide whether foreigners should be invited to Virginia, and particularly whether British refugees should be permitted to return to her soil. Popular prejudice ran strongly against the latter, and many enlightened men in the Legislature thought it hazardous policy to admit them. But Patrick Henry came forward to plead for them, not because he approved their conduct, or found any excuse for their infidelity to their country, but because he believed they had been sufficiently punished, and that now they would make useful citizens. Their condition abroad had indeed been pitiable; without property, and generally with luxurious habits, they had found all things adverse to them in the cold, selfish society of a crowded kingdom. They had petitioned in vain for help; worn down by disappointment and hope deferred, many of them had sunk in utter degradation, some had become insane, and more than one had put an end to their lives by suicide, rather than endure their misery!<sup>a</sup> Patrick Henry

ii. 56-85, 437-431. Against it, see May 5, 1786; Petition to Parliament, from agents of American J. C. Calhoun's Speech, January 23, 1841, 417-429, Harper's Edit., 1843. Loyalists.

<sup>a</sup> Virginia Independent Chronicle,

found a congenial theme for his eloquence in arguing for these unhappy men. He pointed to the fertile lands, the rich wastes, the undeveloped resources of Virginia, and begged that her ports might be thrown open and all might be admitted. He ridiculed the idea of danger from British influence. What! he asked, shall we who have laid the proud British *lion* at our feet, now be afraid of his *whelps*?<sup>a</sup> His appeals wrought the desired effect: all obstacles to the return of the refugees were gradually removed.

Nearly at the same time, Mr. Henry presented another proposal, which is so novel, and opens so inviting a field of speculation, that, though finally abortive, it deserves to be recorded. We have seen that white settlements were gradually encroaching on the red men of the wilderness, and that though the parties became constantly more like to each other in habits both of war and peace, yet they never formed relations of amity. Patrick Henry wished if possible to destroy this hereditary enmity of the races, and he believed that for this end no plan would be more effectual than intermarriages between them. Therefore he introduced a bill into the Legislature, providing, that if any free white male citizen of Virginia would be joined in bonds matrimonial to an Indian lady of competent age, he should receive a bounty of ten pounds, and on the birth of each child from such marriage, he should receive five pounds, and that he should be exempt from all taxes on person or property.

<sup>a</sup> Wirt's Henry, 169.

Also, that if any free white *female* citizen would take an Indian husband, they should have ten pounds bounty, and every year thereafter the husband should have three pounds, to be expended for the benefit of his family; that every male child proceeding from such marriage, should at the age of *ten years* be sent to some public seminary of learning, and educated at the expense of the state, until he should be twenty-one years old. Families so formed were to be free from taxes, and entitled to all the privileges of citizenship.<sup>a</sup>

This bill passed its first and second readings, and there was every prospect that it would become a law. But just at the critical time Patrick Henry was elected Governor of the state for a second series of years. His bill, thus left without his aid, was read a third time, and rejected. We can only indulge in conjecture as to its effect. Although whites have not shown the same repugnance to the Indian as to the African race, yet regular marriages between native and European Americans have been very rare. White men have seldom been willing to admit Indian women to full privileges as wives, and any other connexion would have been abhorrent to the sound moralist. And few, indeed, have been the cases in which women of European descent, have accepted husbands from the red men of America. The experiment, therefore, would probably not have produced even the primary effect for which it was intended. But, had such marriages taken place, it is by no means certain they

<sup>a</sup> Wirt, 172, 173. The bounties and years were settled at the third reading of the bill.

would have established amicable relations between the races. There would have been much in the circumstances attending such ties to feed jealousy, and make keen a sense of mutual wrong. Yet we may feel regret that the project was not tried, for had it done nothing else, it might at least have shown whether any scheme that the wit of man could devise, would mould Indians as a people to the refinements of civilized life.

At this time the Established Church, which had been stunned by the blows previously inflicted, began again to exhibit signs of life, and peculiar influences aided its struggles. During the session of the Assembly, petitions from several counties prayed that a "general assessment" should be laid on the people of the state for the support of religion. This question had never been decided, and now the plan found favour. Patrick Henry was an Episcopalian by preference;<sup>a</sup> we have reason to believe that he was truly a pious man, and that in religion, as in all other things, his professions were sincere. He had, indeed, dealt a terrible blow upon the clergy in the great tobacco case, and he had eloquently defended Baptist ministers when they were persecuted in Spotsylvania; but, unless the Church came in violent contact with his ideas of liberty, he was ready to uphold her in all her wishes. He gave his cordial support to the plan for an assessment. At the same time he urged with vigour a resolution which declared that "acts ought to pass for the *incorporation of all societies of*

<sup>a</sup> Compare Hawks, 160, with Wirt, 175, 176.



*the Christian religion* which may apply for the same." This resolution was adopted on the 17th November, by a vote of sixty-two to twenty-three.<sup>a</sup>

Instantly the Protestant Episcopal Church applied for incorporation, and an act was passed accordingly. It provided that the minister and vestry of each parish in being, or thereafter to exist, should be a body corporate, with power to purchase, have, and hold property, and to sue and be sued in relation thereto. To these corporations were transferred all the glebes, lands, parsonages, churches, chapels, books, plate, ornaments, every thing, in fact, that had been considered as the property of the late Establishment. They were farther empowered to purchase, use, and enjoy other property, provided its income did not exceed eight hundred pounds a year. Vestries were to be elected once in three years by the people; but no person was to vote unless he was a member of the Episcopal Church, and contributed to its support. The vestries were required, once in three years, to render a statement of the amount of their property to the County Court.

A Convention was to be established, consisting of forty members at least, which was to have authority to make rules for the regulation of the Church.<sup>b</sup> Other provisions were introduced, fitted to complete the corporate system; but it will not be necessary to detail them. Enough has been presented to show that Government had once more formed close connexion with a Church, and that an approach

<sup>a</sup> Wirt, 174.

<sup>b</sup> Hening, xi. 532-537.

had been made to the *principle* of Establishment. For the Episcopal Church would now be confirmed by law in the possession of property, the great body of which had been taken from the people under the requirements of the old system. And farther, its ministers and vestries were furnished with a *legal* energy which would incessantly prompt them to measures for acquiring property and gaining temporal power. The experience of centuries had proved how dangerous were such motives, and how impotent were legislative restrictions to control the amount obtained by men whose ingenuity had been sharpened and directed by the pretext of religious zeal.

The friends of freedom took the alarm. No other church except the Episcopal, made application for the benefit of the law; and one ecclesiastical body had sent a solemn protest against its passage, because it was believed to be adverse to religious liberty.\* This body expressly declined to take advantage of its provisions. The question of assessment had now become prominent, and its friends and opponents were equally active. The Legislature determined not to decide it immediately; but having prepared a bill for the purpose, they caused it to be engrossed, and then sent it out among the people of Virginia, in order that by the next session, the popular feeling respecting it might be known. This bill required that all taxable persons should, at the time of giving in a

\* Memorial of Hanover Presby. 38; and see Seiple's Va. Baptists, tery, ix.; Lit. and Evan. Mag. 35- 70, 72, 73.

list of their tithes, declare to what religious society they wished their assessments appropriated; and if they failed so to declare, the sums assessed on them were to be appropriated to seminaries of learning in their counties.<sup>a</sup> Such was the plan submitted to the judgment of the people.

(1785.) Exciting debates occurred in many counties, but the result was not long uncertain. A memorial against the bill was prepared by James Madison, which is one of the best compositions ever produced, even by his great mind. Transparent in style, moderate yet firm in temper, graceful in proportion, strong in argument, it treats its subject with a power not to be resisted.<sup>b</sup> It urged that the system of assessment was vicious, because it gave civil government control in religion; because it verged to a union of church and state; because it violated equality, in requiring men to support that to which they might not have assented; because it made the civil magistrate a judge in matters of faith; because it was unnecessary for the support of Christianity, who lives best upon the free love of her children; because it tended to produce indolence and vice, rather than purity and zeal. The memorial was carried among the people, and before the session of Assembly, many signatures were appended to its various copies.

Early in November, the Legislature took up the subject. Besides the memorial of Mr. Madison, one was presented from Hanover Presbytery, which

<sup>a</sup> Wirt, 175; Semple's Va. Baptists, 33.

<sup>b</sup> It may be seen in Appendix to Semple's Va. Baptists, 435-444.

argued forcibly against the bill.<sup>a</sup> It said that, "if the Assembly have a right to determine the preference between Christianity and the other systems of religion that prevail in the world, they may also at a convenient time give a preference to some favoured sect among Christians." In order to obtain light from all proper sources to aid in their counsels, the Assembly permitted the Rev. John B. Smith, a Presbyterian minister, to argue the question at the bar of the House of Delegates, and he was heard for three successive days.<sup>b</sup> Finally the vote was taken, and the bill was rejected<sup>c</sup> by a small majority. We have reason to rejoice at this result. Christianity needs no legal taxes to sustain her life, and liberty is weakened by any contact between church and state.

While their minds were heated with the subject, the patriots of Virginia resolved to place religious freedom upon a firm foundation. (Dec. 26.) It was at this time that the celebrated bill was adopted which has drawn attention throughout the Christian world, and which, in its composition and progress, offers some phases of thought too singular to be passed in silence. During the revisal of the legal code heretofore noticed, Mr. Jefferson had drawn this bill,<sup>d</sup> and it was printed in the report of the revisors, but like many other clauses, had not yet been acted upon. Thomas Jefferson was not a believer in Christianity as divine, or in Christ as

<sup>a</sup> This memorial is in the *Evan. and Lit. Mag.*, ix. 43-47.

<sup>c</sup> *Hawks*, 159 ; *Wirt*, 176.

<sup>d</sup> *Jefferson's Works*, i. 36, 37.

<sup>b</sup> *Evan. and Lit. Mag.*, ix. 47.



God. It is doubtful whether he was a simple Deist, or a Unitarian. If he admitted the existence of Jesus, it was to ascribe to him weakness, imprudence, fanaticism,—to degrade him into a self-deceiver ; to reject his atonement, and only to admit the excellence of his morality, because it was too plain to be denied.<sup>a</sup> But though infidel in his opinions, Mr. Jefferson followed the highest reason in his views of religious liberty. Reason and Religion are never contradictory, the one to the other ; the first is inferior to the last, and needs to be instructed ; but the deductions of the first, when legitimately made, are always consistent with the teachings of the last. Reason declares that it is wrong in civil government to seek to control the conscience, and Revelation approves the judgment. Thus may it happen that the most learned of infidels, and the most enlightened of Christians, may attain to the same conclusions as to religious liberty. At the very time when Jefferson was embodying his views in definite form, a number of consecrated minds were at work on the same subject ; and it is instructive to mark the result. Between the years 1775 and '86, the Presbytery of Hanover sent to the General Assembly five memorials, in which the relations of church and state are fully discussed ;<sup>b</sup> and a careful analysis of these documents will draw from them every material argument and

<sup>a</sup> See his letter to Peter Carr, Works, ii. 216-219 ; letter to Dr. Rush, iii. 506-509 ; to Dr. Waterhouse, iv. 349.      <sup>b</sup> These memorials are all in the Lit. and Evan. Mag., ix. 30-47.

principle, that will be found embodied in the "Act for establishing Religious Freedom," written by Mr. Jefferson, and adopted by the Legislature for the Commonwealth of Virginia.

The preamble to this act<sup>a</sup> is long and argumentative, and penned in a style peculiar to its author. Without giving all its recitals, it will be sufficient to say that it declares that "to compel a man to furnish contributions of money for the propagation of opinions which he disbelieves, is sinful and tyrannical;" that "to suffer the civil magistrate to intrude his powers into the field of opinion, is a dangerous fallacy, which at once destroys all religious liberty;" and that "truth is great and will prevail if left to herself; that she is the proper and sufficient antagonist to error, and has nothing to fear from the conflict, unless by human interposition disarmed of her natural weapons, free argument and debate: errors ceasing to be dangerous when it is permitted freely to contradict them." Then, it is enacted, "That no man shall be compelled to frequent or support any religious worship, place, or ministry whatsoever, nor shall be enforced, restrained, molested, or burdened, in his body or goods, nor shall otherwise suffer on account of his religious opinions or belief; but that all men shall be free to profess, and by argument to maintain, their opinions in matters of religion, and that the same shall in no wise diminish, enlarge, or affect their civil capacities." The remaining clause in substance declares, that these are the natural rights

<sup>a</sup> The Act is in 1 R. C., 77, 78, and in Lit. and Evan. Mag. ix. 48, 49.

of mankind, and that no act of a subsequent Legislature could impair them.

This law, with its preamble, has not escaped censure,<sup>a</sup> but all who love liberty have admired it, and will support it unto the end. Had such a law always prevailed throughout Christendom, what an amount of human suffering would have been prevented! Rome would never have seen Christians torn by wild beasts in her amphitheatres; the iron chair would not have consumed the tortured body; the fagot, the stake, the halter, would have lost numberless victims. And Papal Rome would not have incurred deeper guilt than her parent by her cruelties; the valleys of France would not have streamed with the blood of murdered men, and rung with the shrieks of violated women; the fires of the Inquisition would never have been kindled; Saint Bartholomew would never have become a name of horror; Cranmer, Latimer, Ridley, might all have lived. And England would have been spared the disgrace of her Protestant persecutors; John Bunyan might have written his *Pilgrim* in a cottage rather than in a jail; Richard Baxter would have been saved from the insults of Jeffries. But above all, the soul would have been free; the heart would have escaped the nameless tortures of devotion suppressed, of irreligion feigned, of injustice unproved. It may be true, that the God of providence can bring good out of evil, and make "the blood of martyrs the seed of the church;" but this can never justify man in sanctioning religious

<sup>a</sup> See Dr. Hawks, 173-179.

tyranny. He is no true friend to his country, who would wish to see the "Act of Religious Freedom" narrowed in its operation, or who would favour any measure tending to such result.

After having gone so far, the Assembly would not stop in its reform. Convinced that the act authorizing incorporations was inconsistent with true policy, they prepared to repeal it. A bill for the purpose was introduced at the October Session of the next year, and on the 9th of January, 1787, the late law incorporating the Protestant Episcopal Church was repealed, and the property it claimed was confided simply to trustees.<sup>a</sup> Thus a false step hastily taken was withdrawn. As we advance in her history, we shall see that the statesmen of Virginia again turned to this subject, and gradually removed every vestige of a privileged church.

While seeking to secure the advantages of the Revolution, the state did not forget the great leader who had been chief in effecting it. She determined to adorn her capital city with a State House, and to place in it a statue of George Washington. Mr. Jefferson was now in Paris, as Minister to France from the United States, and his taste in the fine arts was so exquisite, that he was well fitted to aid his state in accomplishing her object. For the Capitol, he selected the "Maison quarrée" of Nismes as a model; it was simple, elegant, majestic, "yielding to no one of the beautiful monuments of Greece, Rome, Palmyra, and Balbec."<sup>b</sup>

<sup>a</sup> Hening, xii. 266, 267; Hawks, 194.

<sup>b</sup> Letter to James Madison, Works, i. 316.



Learning, with horror, that the first bricks of the Capitol were soon to be laid, and that the directors were proceeding on a plan of their own, he hastened to arrest a work which must inevitably have entailed a mass of architectural infamy upon the state. His views prevailed, and in due time the building arose. Its position is elevated, and the grounds encircling it are full of the picturesque; the Capitol itself charms by its massive grace, and gains more and more upon the beholder as he looks upon it; but it has been strangely deformed by a departure from the model. A noble flight of steps, that ought to have descended from the portico to the ground, has been omitted; hence, one approaching on that side, feels as though he were sternly repulsed; and if he walks in the portico, he has fear of a fall, which Lucius Cæsar and Louis XIV. would fain have prevented.

To make the statue, Mr. Jefferson employed Houdon, a French statuary, distinguished in his art, perhaps, beyond any then in the world.<sup>a</sup> He was “disinterested, generous, candid, and panting after glory;”<sup>a</sup> nevertheless, he could not live upon glory, and, therefore, he was to receive a thousand English guineas for the figure and pedestal, to have his expenses to, in, and from America paid, and in case of his death during his absence from France, his family were to receive ten thousand livres.<sup>b</sup> To make this last sum secure, the great sculptor’s life was insured when he sailed for America. In three

<sup>a</sup> Jefferson’s Works, i. 248–253.

<sup>b</sup> About four hundred guineas, Jefferson, i. 250.

years the work was complete, and it now adorns the central hall of the Capitol. The Father of his country is represented standing in an easy and graceful position; the majestic form is clothed in the military costume of his age; the right hand rests upon a cane; the head is bare and the expanded brow is seen in full; a sword hangs near his side; and the only departure from the modern is found in the Roman "fasces," emblematic of authority. To the uninitiated, at least, this statue is more pleasing than the taste which has enveloped George Washington in a flowing toga, covered his feet with sandals, and placed a short Roman sword in his hand.

In the same hall, and near the figure of Washington, is a bust of Lafayette, voted by the Legislature in 1781. While in life they were often united, and now that each has ceased to live, it is meet that the "silent marble" should recall both together, to the eye and heart of the beholder.

(December, 1786.) Edmund Randolph was elected to succeed Patrick Henry as Governor of the Commonwealth. He was nephew to Peyton Randolph, so favourably known as the friend of the people, even when he was the King's Attorney-General, and as the conservative advocate for freedom in the early stages of the Revolution. The new chief magistrate was an eminent lawyer; he had long filled the office of Attorney for the state, and his great skill had attracted to him an amount of practice which would have interfered materially with the discharge of executive

duties. He thought himself bound to withdraw from the active part of his profession, and therefore, through the papers, informed his clients of his design, and requested them to transfer their business to John Marshall, to whom he had consigned his dockets.<sup>a</sup> However great in the law Mr. Randolph may have been, it is presumed that few suitors could have suffered by confiding their interests to the man whose fame as a jurist, is now wide as the bounds of civilization.

With the progress of the new Executive, we open a subject which must receive careful thought; for of all others it most deeply affected the interests of Virginia, and will continue to affect them, while the FEDERAL CONSTITUTION endures. It is always interesting to watch the phenomena attending the changes in human governments; the bringing in of a single new principle, or the loss of any one feature, will often mould the fortunes of a people for centuries. But in the peaceful revolution which the statesmen of America accomplished, when they discarded one system of rule, and deliberately assumed another, there are some things which cause it to differ from every prior change in government the world had ever known. That we may appreciate this singular action, it will be necessary to unfold the motives which induced it.

The "Articles of Confederacy" had been prepared by men patriotic and wise, yet inexperienced in the practical workings of the American system.

<sup>a</sup> Mr. Randolph's advertisements are in the Virginia Indep. Chronicle for December, 1786.

They could not possibly have known what could only be developed by events unlike any that had occurred in past ages. Hence this union never gave satisfaction; it was watched with jealousy, and adopted with reluctance. While the war lasted, its defects were little felt, because necessity compelled the states to exert themselves, and to sacrifice selfish views for the common defence. But in each year, from the close of the Revolution to 1787, the vices of the system became more glaring, and its results more disastrous.

We have already seen that the public lands had been a subject on which several states had based their unwillingness to adopt the Articles. This difficulty had been happily removed; but permanent evils of far greater importance yet remained. The control of Congress in matters of trade and commerce was inefficient, and as each state sought to guard her own interests, ceaseless murmurings were heard. Some states had seaports and others had not; those having ports of course demanded duties on goods imported, which were always paid by consumers at last, and thus the interior states thought themselves unjustly taxed. New Jersey, between New York and Philadelphia, was compared to "a cask tapped at both ends;" and North Carolina, between Virginia and South Carolina, was likened to "a patient bleeding at both arms."<sup>a</sup> The want of a general power of supervision, led to many irregularities: some states claimed standing armies; some violated contracts by making depreciated

<sup>a</sup> Madison Papers, ii. 692.



paper a legal tender; and others declared that property under certain circumstances should be taken for money.<sup>a</sup>

But the fatal defect in the Government was the want of power in Congress to force a payment of the public dues. The federal body had no right even to lay duties on imports; it must humbly ask permission of the states before this could be done, and though in two instances most of them granted such permission, yet their compliance was reluctant, and fettered by so many terms that it produced very little revenue.<sup>b</sup> Whenever money was to be raised, the regular mode was that Congress should send a polite request or "requisition" to the states, setting forth the urgency of the case, and praying that it might be promptly met. These appeals, though loud and earnest, were heard by the states generally with indifference, sometimes with impatience; seldom with a disposition to comply. The demands of Congress were evaded as eagerly as a proud debtor escapes from a dun, or rather as a penurious citizen turns from the importunity of a beggar in the streets. The result was soon apparent. At the close of the war, the Federal Government owed forty-three millions of dollars, and the states nearly one half that sum. The public debt was due to three classes of creditors: first, to individuals at home, old soldiers who had fought, and capitalists who had advanced funds for their country; secondly, to individuals abroad, men who were willing to help freedom by lending their money to its supporters; thirdly, to foreign powers,

<sup>a</sup> Madison Papers, ii. 710-712.

<sup>b</sup> Jefferson, i. 408.

as France and Holland. All these expected to be paid, if not the principal, at least the interest of their debts; but Congress had no power to raise money; the states had the power but not the will; and the effect was national disgrace and humiliation. The republic, from which so much had been hoped, became contemptible in the eyes of the old world, and of her own most virtuous citizens. If there was no positive *repudiation* of debts at this time, there occurred what was equivalent,—a refusal to take any steps to meet payments which were justly due. None of the states complied with the entreaties of Congress; Rhode Island was specially intractable, and New Jersey at one time passed an act *expressly* refusing the aid demanded.\*

The Federal Government sought by every means within its reach to sustain the national character; but it was impotent; its arms were pinioned. France looked on in sorrow and doubt. Holland began to fear she would lose her money. English monopolists secretly rejoiced in the failure of the great republican experiment, and were already busy in seeking gain from its downfall. Under these circumstances, the wise men of America could no longer doubt that a change was necessary if they would avert ruin. All believed that the “Articles of Confederacy” needed revising, and many thought that the proper remedy could be found in the adoption of a new and well-digested Constitution. A happy concurrence of events led

\* Madison Papers, ii. 711–713; Virginia Debates, 1788, page 32.

to the last, and it must now, for a season, engross our thoughts.

It is unfortunate that man should have found it necessary to yield himself at all to the dominion of his fellow-mortals. There is but one perfect government in existence, and that is the government of God. This is a pure monarchy. The Sovereign unites in himself all powers, and infinite perfections. He is all-wise to conceive proper laws, all-benevolent to enact them, and almighty to enforce them. And had his moral creatures on earth retained the purity originally bestowed upon them, his dominion would have been the only rule they would have needed. There would have been no necessity for subordinate jurisdictions, for all men would have pursued the path of virtue. No unholy passion, no selfish motive, no craving appetite, would have seduced them from their duty. In every thought and feeling, and therefore in every word and act, they would have been perfectly conformed to Divine law. Not the slightest inequality would have disturbed the moral mechanism. But man has become depraved, and his very depravity compels him to submit to human government. The Deity is no longer obeyed; he does not directly interpose; he reserves the enforcement of his law for the retributions of the future. And as men have forgotten God, they need a government which shall come in immediate contact with them, and restrain, in some measure, their wickedness; otherwise society could not long subsist. The existence of kings, rulers, magistrates, law-makers, and statute-

books, courts of justice, and executive officers, are all so many illustrations of the great revealed doctrine of human depravity. The infidel sees this as well as the believer, and in admitting it, unconsciously bears testimony to the truth.<sup>a</sup>

But though man is now compelled to establish government on earth, it does not follow that it should be a system of pure monarchy, like the government of God. The same innate wickedness which requires the establishment of human sovereignty, will make dangerous its exercise by any single man. In order to secure the happiness of its subjects, government must have the three qualities of wisdom, goodness, power. Wisdom to suggest the best means of promoting the public welfare, goodness to impel to their adoption, and power to make them efficacious. It must have a head to direct, a heart to feel, and a hand to execute. And the only reason why the Divine Government is perfect, is because it at once unites, in their fulness, all these qualities. But it will be impossible to find them in any one of the three principal forms of sovereignty that have been known on earth. An absolute king may be powerful, but he may be a Sardanapalus in folly, or a Nero in depravity; an oligarchy may have wisdom, but it may be corrupt and impotent like that of Venice; a simple democracy may put forth some signs of virtue, but it

<sup>a</sup> "Society is produced by our wants, and government by our evil; in its best state, is but a necessary evil; in its worst state, an intolerable one." Paine's Common Sense, is a blessing; but government, even Polit. Works, i. 19.



will have neither wisdom nor strength. Therefore a mixed government, combining in proper proportions the incidents of the three great forms, has been found to be the best, perhaps the only system that promises to secure the welfare of the human race.

Two thousand three hundred and sixty-eight years ago, a debate on government took place, which proved that the distinctions between the three prevalent forms were then well known, and yet neither at that time, nor for twenty-one centuries thereafter, did speculations on the subject lead to results of practical value. The "father of history" tells us, that after the death of Cambyses, King of Persia, and of Smerdis, the Magus, who by fraud had obtained the throne, a meeting of seven of the highest chiefs of the kingdom was held to discuss public affairs. They were first to decide the question of government. Otanes opened the debate, and in a set speech urged the claims of democracy; he reminded them of the insolence, the injustice, the debauchery and cruelty of kings, how often they had violated the chastity of women, and put to death innocent men; he told them that if the magistrates were elected by the people, they would serve them faithfully, and always be moderate in their conduct.<sup>a</sup>

Then followed Megabyzus, who was in favour of aristocracy. Like Otanes, he disapproved of monarchy, but he equally distrusted the people; he thought the multitude would always be stupid and

<sup>a</sup> Herodotus, edit. Lipsiæ, 1839, lib. iii. cap. 80.

insolent; a blind monster, governed by nothing but its appetites and passions. He urged them to adopt a government conducted by a few virtuous men, who would by their wisdom provide for the public happiness.<sup>a</sup>

Next came Darius, an open advocate for monarchy. He agreed with Megabyzus, that the people at large could not be trusted; but he feared also the factions of an oligarchy. He contended that a king could keep his own counsel, but that among several, emulation would prevail, jealousies would arise, sedition would creep in; hence murder, and at last a necessity for a monarch.<sup>b</sup>

This last counsel prevailed. By a vote of four to three, monarchy was selected as the form of their government; and after this wise decision, they adopted even a wiser mode of choosing the king to whom their liberties were to be entrusted! They resolved that all should assemble the next morning at a certain spot, and that he whose horse neighed first should be their monarch! As a closing commentary, we may add that Darius, triumphant in debate, was victor also in the equine contest. Taking learned counsel of his groom, he brought the charms of a young mare to act upon his steed, who on reaching the spot in the morning, forthwith neighed aloud!<sup>c</sup> Thus was made the King of Persia.

Until the American Revolution had wrought out

<sup>a</sup> Herodotus, lib. iii. cap. 81.

Nat. and Polit. Law, ii. 64-66, edit.

<sup>b</sup> Herodotus, lib. iii. cap. 82, pages 279-283; see also Burlamaqui's

1823; Nugent's Trans.

<sup>c</sup> Herodotus, lib. iii. cap. 85, page 283.

its principles, men had never learned so to combine the elements of "the three forms," as to obtain at once strength for the government and liberty for the people. The British Constitution had unquestionably approached more nearly to this than any other, and there were many on each side of the Atlantic, who believed it to embody all that the wisdom of man could accomplish for human sovereignty. This Constitution was not written—that is, it was not drawn out on paper in articles, and sections, and clauses,—but it was written in the history of five centuries,—in the charter wrested from John, in the blood which ran from the scaffold of Charles the First, in the compact between William of Orange and the people who received him. Yet this government was a monarchy, and it could never have been fitted to the wants of the American nation.

When the defects of the Confederacy became apparent, the change required was one which would, of necessity, give *greater strength* to government; and it was this fact that placed the conduct of America in bold relief, and caused it to differ from all the experience of the past. The sovereignties of the Old World had been apparently built up by accident, but whenever a change did occur, it always involved a struggle of the government *against* the people. The government sought to increase or to retain its powers; the people sought to weaken them. It is believed that the measures of 1787 and '88, in the United States, present the first instance in which a nation of four millions of

people prepared to reject a *weak*, and to assume a *strong* government. To do this immediately after emerging from a bloody war, waged for liberty, and to accomplish it not in enthusiasm or passion, but by a written constitution, definite in all points, and bearing perpetual testimony that their conduct was deliberate ! such a scene exhibits the highest triumph of reason ; it is a standing proof that the people, in a proper sense, are capable of self-government. It merited the reward it has actually gained, in producing a system of sovereignty, beautiful in its very complication, and happily combining the essentials of wisdom, virtue, and power.

In this work, we have so long been viewing Virginia alone, first as a Colony and then as a State, that we shall be the better able to understand the relation she bears to the Federal Government, which was soon to be adopted. During the colonial period, she had been governed by her Assemblies, subject to the negative of the King, and to the general control of the British Parliament. But the moment the dominion of England was thrown off, she became sovereign, possessing within herself every power that can belong to an independent nation. She had a right to erect such a government as she pleased, and exercised it by adopting a Bill of Rights and Constitution, in which her people first reserved certain privileges and immunities to themselves, and then vested the residue of sovereignty in their rulers. And her people and her government *together* form the complex idea



which, in this work, we express by the word "State." If after this, she deemed it expedient to unite with other states, and to form a Federal Government, it is evident that, as to herself, such government would have only the powers she delegated to it, and that she would lose only the powers she consented to resign. For the federal system would have no natural existence ; it would derive its being and its power entirely from the people and the state governments ; from the people, who had reserved to themselves some of the incidents of sovereignty, and from the state governments, which held the remainder. Therefore, prior to the adoption of a Federal Constitution, her people and her government together, held all the powers of sovereignty that could be exercised within the limits of Virginia. The paper containing this Constitution, if it gained her assent, would define the extent to which these powers were to be affected for the future. If she granted a power to the general government, and denied it to herself, then that government could exercise the power, and she could not ; if she granted a power, and yet did not deny it to herself, then the general government might exercise the power, and she might also ; their powers would be concurrent. If on any subject of legislation she granted *no* power to the Federal Government, then from no other source could that government possibly obtain it, and an attempt to exercise it would be vain. A most delicate task, therefore, was the making of this Constitution. Virginia saw not the full results

of her course, when she introduced the measures which led to the new government.

In March, 1785, the Legislature had appointed Commissioners to meet similar delegates from Maryland, at Alexandria, and to form, if possible, a compact between the two states, as to the navigation of the Potomac and Pocomoke rivers, and as to trade in the upper part of Chesapeake Bay. While at Mount Vernon, the Commissioners resolved to recommend the appointment of deputies from all the states, to meet at some convenient time and place, and suggest measures as to trade and commerce for the benefit of the Union.<sup>a</sup> On the 21st January, 1786, Virginia met this suggestion by appointing deputies, and in September, Edmund Randolph, St. George Tucker, and James Madison, joined Commissioners from four other states at Annapolis. They had not long debated, ere they found that improvement in trade was beyond their reach, while the federate government remained as it was; accordingly, they recommended that the states should appoint Commissioners to form a Convention in Philadelphia, in May, 1787, and there to devise and suggest such changes and improvements as might be necessary for the Articles of Union.<sup>b</sup> Acting in accordance with this advice, on the 4th of December, Virginia elected seven deputies, to meet those appointed by the other states, for the purpose of “devising and discussing all such alterations and farther provisions as may be neces-

<sup>a</sup> Marshall's Washington, edit. 1832, ii. 105.

<sup>b</sup> Marshall, ii. 122, 123; Madison Papers, ii. 697.

sary to render the Federal Constitution adequate to the exigencies of the Union.”<sup>a</sup>

(1787, May 25.) At the appointed time the Convention assembled in Philadelphia. Deputies were present from all the states except Rhode Island; with her wonted intractability, she had refused to concur. From Virginia, the Commissioners were George Washington, Edmund Randolph, John Blair, James Madison, George Mason, George Wythe, and James McClurg. General Washington was elected President of the body. Mr. Madison had determined to preserve notes of a debate, which he foresaw would be one of the most important that men had ever conducted. He took his seat in a suitable place in front of the President's chair, and losing no time either in or out of the meetings, he wrote a clear record of the discussion, which, since his death, has been given to the public.

It would be foreign to our purpose, to give even a rapid sketch of these celebrated debates, but a single allusion may show, that the wisest of statesmen cannot look into futurity. From the whole course of reasoning adopted by the speakers on state interests, it is evident that they believed that the small states were in danger of being devoured by the large. Hence the struggles to obtain for all the states an equal representation, which finally resulted in the judicious clause which made the Senate the peculiar guardian of state rights. What

<sup>a</sup> Madison Papers, ii. 706. Mr. Madison was himself the author of this resolution.

conflict of interest would have induced the large states to prey upon their small neighbours, it is not easy to discover, but this fear filled the minds of many delegates from Connecticut and New Jersey, Maryland and Delaware. Luther Martin, of Maryland, spoke two days on the subject, and exhausted all appeals from law and conscience in maintaining the rights of the little members.<sup>a</sup> Subsequent experience has shown, that the conflict has been not between the large and the small states, but between the northern and the southern, the free and the slave, the manufacturing and the producing. Mr. Madison alone seems to have apprehended this tendency.<sup>b</sup>

On the 17th September, the labours of the Convention closed; they had prepared a Form of Government which was now to be submitted to the people. Of the Virginia delegates, only George Washington, James Madison, and John Blair, signed the Constitution. The others all disapproved of it on points concerning which they could admit no compromise, though afterwards two of them at least became advocates for its adoption.<sup>c</sup>

The Form of Government having been engrossed and duly authenticated, was to be debated in Conventions elected by the people of the individual states, and by them ratified or rejected. In Virginia, the highest excitement and anxiety prevailed; we may judge from the division among the dele-

<sup>a</sup> Madison Papers, ii. 974-977.

Wythe, Virginia Debates, 1788, 419,

<sup>b</sup> Ibid, ii. 978-983.

420, and passim.

<sup>c</sup> Governor Randolph and Mr.



gates, how serious would probably be the conflict of opinion in the masses of society from which they came. Preparations were immediately made to elect delegates from the several counties to serve in the State Convention, which was to decide upon the new government. Deep feelings were roused; the people were stirred to the soul; meetings were held in all parts of the state, and every where the one great theme was the Plan of Union. It is said that even in the churchyard, and on the Sabbath, the absorbing subject could not be suppressed; at home and abroad, in public and private, men thought, spoke, contended concerning little save the States and the Confederacy; the checks and the balances; the executive; the legislative; the judiciary.\* In America the people have long gloried in the privilege of meeting in popular assemblies, and hearing debated before them all matters affecting their interests; but we have reason to believe that the discussions of 1787 and '88 were the first general displays of the kind that Virginia had known, and thus, in addition to their other charms, they had the zest of novelty. Orators travelled abroad, sending messages before them to call the people together, and to invite a contest with some opponent. Thousands assembled at the day and place appointed, and when we remember what minds were then in the state, we readily believe that these mental tournaments were equal in brilliancy to the shock of steel-clad man and horse, in the days of knight-errantry.

\* Wirt, 186.

(1788.) On the 2d day of June, the Convention assembled at the public buildings in Richmond, and prepared to enter upon its high duties. When fully organized, this body contained one hundred and sixty-eight members, and its character for talents and patriotism has become a part of our proverbial knowledge. It will not be necessary to give a preliminary sketch even of the more prominent individuals who composed it, inasmuch as they have often been under our notice in years through which we have passed, and as they will successively present themselves upon the stage in the debate that is to follow. Edmund Pendleton, venerable in years, yet still unclouded in mind, was unanimously elected President, John Beckley was made Secretary, and Rev. Abner Waugh was appointed Chaplain, to read morning prayers.<sup>a</sup>

Then, after some preliminaries, commenced the struggle. In its very threshold, Patrick Henry insisted that the Federal Convention had exceeded its powers: appointed merely to revise the old system, it had concocted one perfectly new; but Mr. Pendleton answered, that from whatever source the proposed form had come, the people had sent them to decide upon it, and that if it had "dropt from one of the planets," it was yet competent for them to accept it.<sup>b</sup> With great propriety it was resolved, in the beginning of the debate, that the Constitution should be discussed regularly, article by article, and clause by clause, but this rule was wholly disregarded in practice, and more than half the session

<sup>a</sup> Virginia Debates, 1788, page 13.

<sup>b</sup> Ibid. 17, 38.

passed before the parts were taken up in natural order. The minds of members were too full of the whole subject to be confined for debate to an isolated clause. They sought to grapple with each other throughout the length and breadth of the field; those who defended the Constitution, presented it as a system beautifully adapted to their wants, and well fitted to cover the chasm left by the Confederation; those who opposed it, declaimed against it as a monster, dangerous in his single traits, and in his full developement.

This free mode of discussion made their conflicts animated and keen. The combatants darted from point to point with the quickness of thought; they used every weapon that the laws of honourable warfare would admit,—the pointed sarcasm, the witty jest, the vivid flash of repartee, the trenchant blade of argument, the thunder of declamation. From time to time the battle grew hot, and passion rose high. Mr. Henry bore down with vigour upon Edmund Randolph, criticised his expressions with severity, and attributed to him inconsistency in opposing the government in Philadelphia, and yet supporting it at home. To this the Governor replied with deep feeling, and retorting the charge, used the words, “If our friendship must fall, *let it fall like Lucifer, never to rise again.*”<sup>a</sup> Yet mutual concessions soon restored peace between them; great minds cannot long cherish malice against those they are compelled to respect.

The large liberty allowed in the first part of the

<sup>a</sup> Virginia Debates, 1788, p. 140.

debate, soon brought the whole body of the Constitution, in detached members, to the view of the House. They debated in a committee of all, and George Wythe was generally in the chair. The disputants passed, quick as lightning, from standing armies to militia trainings, from taxes to treaties, from disunion to consolidation, from the "ten miles square" to the mouth of the Mississippi. But gradually, as the first overflow of feeling and argument exhausted itself, the debate assumed a more regular form; thought was condensed, logic was triumphant, and truth was unfolded.

George Nicholas had opened the argument of the general subject, in a speech of high order for clearness of detail, and strength of reasoning. He maintained that the democratic feature of the Constitution was all that could be desired; that the basis of the people was broad and permanent. He showed an intimate acquaintance with the British representative system, and drew a happy contrast between the delusive democracy which *apparently* elects the House of Commons, and the real republicanism of Congress.<sup>a</sup> Through the whole contest he was the calm advocate for the government, and did much for its adoption.

Governor Randolph held a position peculiar, and not a little embarrassing. He had been so much displeased with some parts of the Constitution, that he had refused to sign it; nevertheless, when he found that eight states had adopted it, and that party spirit threatened to rend asunder the Union, he threw

<sup>a</sup> Debates, 18, 26-28.



aside minor objections, and lent his powers to the support of the plan. In his speeches he exposed the defects of the "Confederacy" with searching skill, and after becoming warmed in the cause, he seemed to lose sight even of the difficulties which had before pressed upon him. It is certain that his arguments were among the best for the entire system that were delivered during the debate, and at its close he had a right to claim from posterity a verdict affirming the soundness of his motives.<sup>a</sup>

General Henry Lee, of Westmoreland, was prominent in supporting the plan. He was the well-known "Legion Harry," of Revolutionary times; he had often led his dragoons to the charge, and crossed sabres with tories and Englishmen; yet he was withal a fine scholar, and a competent statesman. His speeches sometimes exhibited the spirit of the camp and the battle-ground; he was fond of personal encounter, and took special delight in throwing himself before the breach made by the great guns of Patrick Henry.<sup>b</sup> His firm sense, and military knowledge, made him a valuable ally to those who possessed only civic talents.

Francis Corbin sustained the plan. Without the genius and the eloquence of others, he had a well-balanced mind, and habits of industry which brought masses of historic facts to his aid. He spoke strongly of the derangement of finance, and reminded the House of a motion introduced into the Legislature in 1784, to compel the states *by*

<sup>a</sup> Debates, 466.

<sup>b</sup> Ibid., 41, 197, 238.

*force of arms*, to pay their dues.<sup>a</sup> Surely such a course would be more adverse to freedom than the adoption of a strong government, which would raise money by regular process! He prophesied that increase of trade would make imports alone sufficient to pay the expenses of the system, if it were allowed to act, and his prophecy has been fulfilled. Mr. Corbin's name deserves honourable notice for his labours, though he has not been reckoned among the brilliant and the great.

John Marshall spoke but little, yet always with signal success, for the new government. His was a rare mind. He has been thought to have been without imagination, and deficient in the higher sensibilities, which give power to words. But he reasoned with resistless force; he seized upon the attention, and carrying it captive with him, pressed into the centre of opposing arguments, until they were undermined and destroyed. He kept before him the point to be proved, and having laid his premises, he built upon them until the truth was forced into the mind of the hearer, with a certainty approaching the theorems of exact science. In the balances of the Constitution he found appropriate matter for an exercise of his analysis, and he unfolded them with a clearness and skill which made doubt irrational, and faith secure.<sup>b</sup>

James Innes was eloquent in behalf of the government proposed. He was Attorney-General of the State, and had been so closely employed in the Court of "Oyer and Terminer," that he could not

<sup>a</sup> Debates, 84.

<sup>b</sup> Ibid., 163-172, 297-299.

attend the early stages of the debate. He did not utter a word until the very last day of the argument, but he then made a speech of great strength and beauty. Deprecating local prejudices, he asked, "Had we this political jealousy in 1775? If we had, it would have damped our ardour and intrepidity, and prevented that unanimous resistance which enabled us to triumph over our enemies. It is not a *Virginian*, *Carolinian*, or *Pennsylvanian*, but the glorious name of an *American*, that extended from one end of the continent to the other, that was then beloved and confided in."<sup>a</sup> Colonel Innes was an orator in every sense of the word; if he erred in any respect, it was in continuing too long the march of mind; he never descended from the "car of triumph" when once it was gained; Patrick Henry bore high testimony to his powers, when he declared him "to be endowed with great eloquence; eloquence splendid, magnificent, and sufficient to shake the human mind!"<sup>b</sup>

But beyond all others, James Madison was the successful champion of the Constitution. He knew it in all its parts, from the most expanded to the most minute; he had been the author of many of its provisions, and had studied its character with the eye of a philosophic patriot. He was ready to meet every objection brought against it, and did in fact, during the debate, defend it first as a whole, and then clause by clause, to the end. He showed the mixed nature of the scheme. Some objected because it was a government of the people: it *con-*

<sup>a</sup> Debates, 451, 452.

<sup>b</sup> Ibid. 465; Wirt, 206.

*solidated* instead of confederating, and melted the states into one popular mass; yet were there others who thought the states would have too much contact with Congress, and the people too little. Mr. Madison proved that the Government was in some respects popular, in some respects federal. It was to be ratified by the people in conventions: in this it was popular; but by the people divided into thirteen sovereignties: in this it was federal. The House of Representatives were to be elected by the people: in this it was popular; but the Senate was to be equally filled from the states: in this it was federal. Congress was to have power to lay taxes on individuals: in this the Government was consolidated; but the states might effect amendments: in this it was confederate. The President was to be commander-in-chief of army and navy: this was a feature of consolidation; but the states might arm and train the militia: this preserved the confederacy.<sup>a</sup> So ingenious a system was worthy of so able an advocate.

The ranks of the opposers were marshalled and led on by Patrick Henry. We have seen enough of his past displays to know, that now when a subject was before him which enlisted his strongest feelings, he would not sink beneath it. Some of the most powerful speeches he ever delivered, were made during this debate. He felt alarm, apprehension for his country; the new government seemed to him to threaten her liberties; he feared its consolidating tendencies. He asked why the Consti-

<sup>a</sup> Debates, 76.



tution had dared to say, "We, the people," instead of "We, the states." The powers of the President seemed to him enormous, ruinous. "This Constitution is said to have beautiful features, but when I come to examine these features, sir, they appear to me horribly frightful. Among other deformities, it has an awful squinting: *it squints towards monarchy!*"<sup>a</sup> The federal judiciary encountered his warm opposition. He could not separate from it the ideas of injustice, of expense, of hazard, to the people. As the time for a final vote approached, Mr. Henry's anxiety increased, and his eloquence grew more impressive. While he was once speaking, and when he had wrought his hearers to a paroxysm of feeling, a furious storm arose; lightnings flashed, thunder pealed, and rain poured down in torrents. At the same time the spirit of the orator had soared to "etherial mansions," and invoked celestial witnesses to view the crisis of his country. The effect could not be borne; the members rose in confusion, and the meeting was dissolved.<sup>b</sup>

Yet the attentive reader of the "Debates," will find in Mr. Henry's speeches, more of declamation than of argument; more appeals to passion, than addresses to reason. It was indeed found by the reporter, impossible to follow him in his loftiest flights, yet it is believed that all of sound logic that he presented, has been preserved, and it bears but a small proportion to his glowing remonstrances and passionate harangues. He entered the body

<sup>a</sup> Debates, 52; Wirt, 198.

<sup>b</sup> Debates, 446; Wirt, 210.

determined to oppose the new government to the last, and this spirit made him indiscriminating. He found nothing to approve in the Constitution. Assuredly it could not have been expected that the wisest men in America should have debated four months, and yet produced nothing good; but it would be hard to find a single clause in the Constitution, which was received with favour by Patrick Henry.

George Mason waged war upon the system. He had opposed it in Philadelphia, and now carried his struggle to the final vote in Virginia. He urged that it was not a federal but a national government; that the power to collect taxes directly from the people proved its character, and that no republic could long endure in a country as extensive as America.<sup>a</sup> He thought the power of the President overwhelming, and strongly inveighed against the extensive jurisdiction of the Supreme Court, which was to cover "law and fact." Once he crossed swords violently with Mr. Madison, but before their colloquy was closed, all bitter feeling was removed.<sup>b</sup>

James Monroe opposed the government, at the head of which his country was afterwards to place him. He loved the Union, and believed that the states loved the Union; but he thought their government ought to be strictly a union of the states, and not a melting together of the people. He believed democratic independencies might safely confederate. The great leagues of the world passed in review before him: the Amphyctionic, the

<sup>a</sup> Debates, 32, 33, 69.

<sup>b</sup> Ibid. 370-376.

Achaean, the Germanic, the Swiss Cantons. Polybius furnished him with passages to prove the happy structure of the Achaean League, but the German principedoms were only kept together by danger and the Emperor. He compared the Confederation and the Constitution: add to the first absolute power over commerce, and he would approve it; take away from the last the power of direct taxes, and he would approve it.<sup>a</sup> This right to tax the people was the point he dreaded: how could a few representatives from a country covering nearly a million of square miles, tell what would be most suitable subjects of taxation; what would least oppress, what would best be endured?<sup>b</sup>

Among the ablest opponents of the system, was William Grayson, from the county of Prince William. He was always heard with attention, and he poured out streams of legal and historical light upon his subject. Yet one of his objections would now fall harshly upon the ear of America. "It would be dangerous to have a fleet in our present weak, dispersed, and defenceless situation. The powers of Europe, who have West India possessions, would be alarmed at any extraordinary maritime exertions; and knowing the danger of our arrival at manhood, would crush us in our infancy."<sup>c</sup> Views like these would not long have suited the people that could send forth such frigates as the Constitution and the United States, and such naval chiefs as Hull and Bainbridge, Decatur, Lawrence, Perry and MacDonough.

<sup>a</sup> Debates, 153-158.

<sup>b</sup> Ibid. 159.

<sup>c</sup> Ibid. 208.

Of the powers given to the Legislature of the General Government, none was regarded with more jealousy than that providing that Congress should be authorized to make all laws "necessary and proper" for carrying out its own powers or any powers given by the Constitution to the Government, or to any of its departments.<sup>a</sup> This was familiarly called the "sweeping clause," and was viewed in very different lights by the contending parties. The friends of the plan insisted that this clause conveyed no *new* power to Congress; that it was provided simply to make efficacious the powers already given; that it was only the *means* to enable the government to meet its prescribed *ends*. But on the other hand, it was insisted that the clause was broad enough to include any and every power that Congress might choose to claim; that, by construction and implication, it would authorize an infringement of the liberty of the press, and of the right of jury trial; that, in truth, it was the germ from which might grow powers of undefined magnitude, and destructive of freedom.

Another objection to the plan strongly urged by its opponents was the want of a "Bill of Rights."<sup>b</sup> The advocates of the system urged that this was not necessary; that the proper office of a Bill of Rights was to limit the general sovereignty of government, and reserve certain immunities to the

<sup>a</sup> Constitution U. S., art. i., sec. viii. cl. 18.

<sup>b</sup> This was Mr. Jefferson's leading objection. He was in Paris at the

time, but he wrote a letter about the New Government to James Madison, which will be found in the "Works," ii. 272, 274, 277.



people; that this had been its ascertained meaning in English history; that such precaution was not required in the government proposed, because its sovereignty was not *general* but *special*, because its powers were few and clearly defined, and because beyond them it could not act. But many were not satisfied with this reasoning; they looked to the "sweeping clause" with apprehension, and wished to see farther barriers erected around their liberties.

We will not dwell farther upon the objections to the plan, urged in this celebrated debate. Those most prominent have been set forth in the views already given, and it will be the less necessary to display them in full, because they are reflected in the Amendments to the Constitution, which Virginia advised, and to which we must now attend. As the struggle approached its close, it became evident that the plan would be adopted; but it was equally evident that a large majority of members wished for additions and changes in order to make the Government acceptable to them. The question then arose whether these amendments should be *previous* or *subsequent*, that is, whether they should be insisted on before the Constitution was ratified at all, or whether it should first be ratified and then efforts be made to amend it. Patrick Henry fought bravely for previous amendments, and introduced a scheme of his own for the purpose;<sup>a</sup> but he was opposed with equal vigour, and was at length defeated.

On the 25th day of June the final vote was taken

<sup>a</sup> Debates, 424.

on the question of ratification. Eighty-nine members voted in the affirmative, and seventy-nine in the negative. Thus *ten voices* made Virginia a party to the Federal Union under the New Constitution. Immediately after this vote, two committees were appointed, one<sup>a</sup> to prepare and report a proper form for ratifying the system adopted; the other<sup>b</sup> to prepare and report such amendments as, in their opinion, ought to be recommended for the new Government. The first committee soon reported a form, which was adopted without delay. It is cautiously worded, and though, in a spirit of high patriotism, it ratifies the Constitution in full, yet, in behalf of the people of Virginia, it declares the limits of Federal power, and the inviolability of the rights of conscience and of the press.<sup>c</sup>

The other committee reported on the 27th of June. They had prepared a Bill of Rights and a list of amendments, which they wished added to the Constitution. These were nearly identical with those previously offered by Patrick Henry, in his effort to obtain a conditional ratification.<sup>d</sup> It will not be necessary to detail them in full;<sup>e</sup> but it will be highly proper to show how far they finally prevailed, in order that we may see to what extent

<sup>a</sup> Consisting of Governor Randolph, Mr. Nicholas, Mr. Madison, Mr. Marshall, and Mr. Corbin.

<sup>b</sup> Consisting of Hon. George Wythe, Paul Carrington, and John Blair, Governor Randolph, Messrs. Harrison, Mathews, Henry, George Mason, Nicholas, Grayson, Madison,

Tyler, John Marshall, Monroe, Ronald, Bland, Meriwether Smith, and Simms.—Debates, 469.

<sup>c</sup> The form is in the "Debates," 469, 470.

<sup>d</sup> Debates, 424.

<sup>e</sup> They are in the Debates, 471—475.

Virginia has been instrumental in securing liberty for America. Immediately after the new Government went into effect, amendments were proposed, and having been duly ratified by the Legislatures of nine states, were made parts of the Constitution. Nearly every material change suggested by Virginia was adopted. For, one article of amendment provided for freedom in religion, and of speech, and of the press, and for the right of the people peaceably to assemble and petition for redress of grievances.<sup>a</sup> Others declared that the people should have a right to have and bear arms, that soldiers should not be improperly quartered in private houses; that no unreasonable searches and seizures should take place; that excessive bail, and excessive fines, and cruel and unusual punishments should not be.<sup>b</sup> Others secured a fair trial by jury in criminal *and civil* cases, and took away the jurisdiction of the Federal courts in all cases where individuals sought to sue a state.<sup>c</sup> And another said that, "the powers not delegated to the United States by the Constitution, *nor prohibited by it to the states*, are reserved to the states respectively, or to the people."<sup>d</sup>

Thus we have conducted the "Old Dominion" from feeble beginnings, to her appropriate place in the most powerful and enlightened confederacy of

<sup>a</sup> Collate Amend. art. iii. with Virginia proposed Bill of Rights, art. 15, 16, 20.

<sup>b</sup> Collate Am. iv. v. vi. x. with Virginia prop. bill, 13, 14, 17, 18.

<sup>c</sup> Compare Am. vii. viii. ix. xiii. with Virginia prop. bill, 8, 9, 10, 11, and prop. am. 15.

<sup>d</sup> Compare Am. xii. with Virginia prop. amend. i. 11, 17.

states that the world has ever known. We have seen that when she first became independent of the mother country, she adopted, with singular directness of purpose, measures necessary to secure civil and religious freedom within her own borders. We have seen that when the proposed Union was presented, she examined it with jealous eyes, and subjected it to the ordeal of minds keen, brilliant, learned, and ardently in love with liberty. We have marked her care in debating, and her caution in adopting it. We have seen that even in the act of receiving it, she sought, and sought with success, to infuse into its soul some of her own healthful qualities; that she procured amendments guaranteeing the natural rights and the first interests of man. And now it might be supposed that, as she had become incorporated in a Union which will, we hope, endure to the end of time, at this point her individual history would properly close. Most true it is, that henceforth in the American heavens, the great system absorbs the thoughts, and Virginia is but a single planet, revolving in this system. Yet her very change of position had presented phases interesting to behold; and if she was no longer paramount in dignity, she had at least not lost her power to maintain the equilibrium of other planets, or to develop the rich resources hid in her own bosom.



PART IV.



## CHAPTER VI.

Subsequent course of Virginia—Sometimes adverse to that of the Federal Government—Admission of Kentucky to the Union—Memorial of Quakers—Rise and progress of parties—Federalists—Republicans—Foreign element—French Revolution—Its excesses—Conflict of feeling in America—Popular sentiment in Virginia—President Adams—His leading measures—Virginia's jealousy—Founding of the armory at Richmond—Muskets—Cannon—Passage of the Alien and Sedition Laws—Indignation of the Republican party in Virginia—Legislature of 1798-'99—Resolutions written by Mr. Madison, and offered by John Taylor, of Caroline—Animated debate—George Keith Taylor—General Lee—Mr. Mercer—Mr. Daniel—Mr. Pope, from Prince William—James Barbour—William B. Giles—Resolutions amended and adopted—Kentucky Resolutions—George Washington's letter to Patrick Henry—Mr. Henry is elected to the Legislature from Charlotte—He prepares to defend the Alien and Sedition Laws—His death—Death of Washington—Session of 1799-1800—Mr. Madison's celebrated Report—Brief review of its doctrines as subsequently explained—Their illustration in Virginia—James Thompson Callender—His libellous pamphlet—Judge Samuel Chase—Holds a Federal Court in Richmond—Callender's indictment, trial, conviction, and punishment—Virginia offers no resistance—Election of Mr. Jefferson to the Presidency.

IN the progress of this work, we have kept steadily in view the design of presenting *Virginia alone* to the thoughts of the reader. Now that she has become united with the General Government, it will be more difficult to follow her fortunes as a state with distinctness, but this very difficulty will make the task more important. Intimately connected as she was with her sisters, she yet retained her identity, and continued in her new relations,

to act out the same principles that had been announced by her statesmen early in the Revolution. Whenever her course was coincident with that of the Federal Government, the history of the two may be considered as so interwoven, that no attempt should be made to separate them. But this was not always the case. There were to be times of conflict, verging even to dissolution. Therefore our office in continuing the history of the state, will be to tell, not merely of her internal interests and changes, but of the seasons when she was obliged to reassert her sovereignty, and remind the Congress that their powers were limited. In these aspects, she will still appear in bold relief.

The opening events, under which the new government commenced its career, could not but be interesting to Virginia. She saw, with pride, her best and greatest son raised to the head of the Union, by the vote of his country, and in the first years of his administration, several Virginians of eminent talents, were successively assigned to offices of honour and responsibility. Neither could she be indifferent to the change which stilled discord, restored public credit, and raised America to her proper dignity in the eyes of the world.

(1792.) Among the earliest acts of the Government, was the admission of Kentucky as a state, to the privileges of the Union. She was the daughter of Virginia. We have already noted her birth and infancy. As she budded into girlhood, her mother took special delight in looking upon her charms, and developing them to greatest advantage. Unlike



the jealous matrons of artificial society, Virginia never sought to keep back her fair child for fear she should eclipse her in beauty. Whether she was too proudly conscious of her own attractions to shrink from comparison, or too generous even to think of competition, we do not know, but it is certain that she introduced Kentucky to her friends of the Union, while the daughter was yet very young. In 1785, the Legislature passed an act declaring on what terms, and in what mode, the "District" might be erected into a state.<sup>a</sup> In 1788, another act was passed on the subject, but it having been found that its provisions were incompatible with the real views of Virginia, and injurious to the district, a final bill became law on the 18th December, 1789.<sup>b</sup> This gave to the free male inhabitants of Kentucky, who were over twenty-one years of age, a right to elect from their respective counties, members, to meet in a convention at Danville, and decide upon the terms offered by Virginia. They were, in substance, that the boundaries between the states should remain as before; that the new state should take upon herself a due proportion of the public debt, and the payment of sums expended for her defence against the Indians; that private rights and interest in lands should be secured; that the navigation of the river Ohio should be free to all the citizens of the Union, and that the authority and jurisdiction of Virginia might be determined for ever, at any time subsequent to the 1st November, 1791, as to the Convention might ap-

<sup>a</sup> Hening, xii. 37.

<sup>b</sup> 1 R. C., 57-60.

pear expedient. Under these arrangements, Kentucky gradually assumed all the incidents of a sovereign state, and in 1792, she was admitted to the Federal Union.

In the same year we note, as a fact illustrating the manners and spirit of the times, a petition to the Assembly from sundry societies of Quakers through the state. It seems that for many sessions past, the House of Delegates had adopted the praiseworthy practice of having a chaplain to conduct morning prayers, and invoke Divine favours in behalf of their proceedings. It is hard to conceive a valid argument against this practice. It infringed not religious liberty, for each member voted for whom he pleased; and the duties of the minister were too humble, too purely spiritual, to gratify a worldly ambition. But the Quakers protested against this rule, and urged its repeal;<sup>a</sup> at the same time demanding full freedom in religion, they asked that they might not be compelled to take off their hats before men in authority! How far these petitions immediately acted we do not know, but it is certain that for nearly half a century, the Legislature of Virginia have discarded a chaplain, and that Quakers, within her borders, may wear their hats when and where they please.

While the early years of the new government were passing away, Virginia was often an actor in, and always an attentive witness of, its most exciting scenes. The germ of party spirit had been planted in America a very short time after the

<sup>a</sup> Journal of House of Delegates, 1792, 25, 26.

Revolution, but it did not develop itself in might until the governing policy of the first administration began to appear. Then the names of "Federalist" and of "Republican," became familiar; the first was the distinctive title of those who thought most favourably of the General Government, and who were willing so to construe its charter as to extend rather than restrict its powers. Believing that upon this government would depend the real permanency and success of American interests, they viewed it with sincere admiration, and supported it with patriotic zeal. Whatever may have been their errors, the Federalists of old embraced in their ranks some of the purest and most intellectual men the world has ever known. The other title of "Republican," was applied to those who looked with jealousy upon the Federal Government, who confined its powers by the most rigid construction of the Constitution, of which the words would admit, and who sought to repress it by a frequent recurrence to the "reserved rights" of the state governments, and the people. This party was generally predominant in Virginia. It was led by men of splendid talents, of warm feelings, popular in debate, and high in the confidence of masses of the social system.

Had the spirit of party operated merely on the questions springing from the politics of America, it might not have produced the effect exhibited at the close of the eighteenth century; but there were foreign elements intermingling with the domestic views of the parties, and adding intense bitterness

to their feuds. This subject has a bearing upon the fortunes of Virginia so direct that it will be proper to unfold it.

In the very year in which the United States assumed a stable government, France commenced her Revolution. Heated minds within her bosom had watched eagerly the progress of liberty in the New World. Centuries of pressure had prepared her people for an outburst of feeling when first it could come forth. A luxurious court, which had fed its own pleasures on the property of its subjects; taxes, accumulated until they could no longer be borne; a vast ecclesiastical system living in ease, and holding the richest possessions of the land; and a government responsible only to itself for its measures; these had been the continued causes urging to rebellion. The final success of America was an example too tempting to be resisted. How much her teachings and her sympathy affected France, history has long since conceded. On the 14th of July, 1789, the Bastille was torn down, its governor fell a victim to the rage of the populace, and sovereign and nobles were finally awakened to know the power of the "third estate."

Could France have been content to stop when it was in her power to obtain a limited government, and every guarantee for rational freedom, she might have secured her own welfare, and spared the world the most horrible page of its history. But a spirit of wild innovation had arisen,—the bonds of society had been loosened by pernicious doctrines



of which Voltaire was the chief author. Men learned to deny their duty to the Supreme, and by necessary consequence, they forgot their duty to one another. The stream of revolution, which, at first, had been but slightly tinged, grew darker in hue, until it was all blood. King and queen, guards of the palace, prisoners of state, the titled, the obscure, the innocent, the guilty, the philosophic Girondist and the brutal Jacobin, bled in succession to supply this stream. From a despotic but brilliant monarchy, France passed into a democracy of madmen; and from convulsions which would have ended in death, she was only relieved by the stern rule of the MAN OF DESTINY.

When her struggle for freedom commenced, there were few in America who did not look on her with solicitude. All wished that she should be free, and many thought that for this purpose violence must be used. Through the states, enthusiasm was kindled in her favour; meetings were held; addresses were delivered; toasts were drunk expressive of popular opinion. We have yet on record a series of sentiments uttered on the fourth anniversary of the day when the Bastile was destroyed, and one bore special reference to that event: "May the Bastile of Despotism throughout the earth be crumbled into dust, and the Phoenix of Freedom grow out of its ashes."<sup>a</sup> France was still regarded as the ally of America. But as the appalling phe-

<sup>a</sup> Appendix in Marshall's Washington, v. note viii. 20. All the toasts here given are worthy of attention.

nomena of her Revolution succeeded one another,—each rising in horror above its predecessor,—a great change occurred in public feeling in the United States. The prudent doubted; the moderate censured; the virtuous recoiled. There was nothing in her course that assimilated it to the steady adherence to principle which had gained rational freedom for the republics of the New World. None were more firm in reproving her conduct, than the men who had been first in achieving American Independence. Washington, as chief magistrate of his country, resisted all attempts to involve her in French interests. Louis, the sovereign who had aided America in the critical hour, had been put to death, and with him fell many of the generous men who had advised his policy. Washington saw in the misshapen thing called a “Directory,” no responsibility to trust, and no virtue to respect. He treated Genet, the French minister, with decision; and, finding him persevering in efforts to tamper with the people, and destroy the neutrality of the United States, he demanded his recall.

Yet, even to the last, there were many in the Union who sympathized with France, and thought her entitled to full countenance from their country. In Virginia, nearly all of the Republican party held these views; they believed that the revolution of the new republic was founded on a firm basis, and though they blamed her excesses, they thought them but the throes of a moment, which would pass and leave her safe. There were not wanting men of great mental strength in the state, who had

imbibed some of the religious, or rather irreligious philosophy of France. Atheism indeed they rejected; but simple Deism had charms for minds that loved not the humbling doctrines of Christ. These men would naturally see all the vices of the new *régime* with lenient eyes, would defend her course, and would denounce, as a British spirit, every disposition to check her influence in America.

(1797.) Thus had a foreign element intermingled with the politics of the Union, when on the 4th of March of this year, John Adams of Massachusetts was raised to the presidential chair. He was a tried friend of liberty; he had been among the first to speak for independence; he was an honest man; in the language of his great political opponent, "A man more perfectly honest never issued from the hands of his Creator."<sup>a</sup> But his manner was not gracious, his temper not compromising. He was a Federalist of the strictest sect; a living embodiment of the principles of his party, when urged to their extreme results. In no point did he more heartily concur in the policy of the preceding administration, than in its views of French politics, and when he became chief magistrate, he was ready to go beyond all before him on this subject. He had served his country in Europe, in several high offices; and all that he had there seen and heard confirmed his judgments against France. There can be little doubt that he carried his opposition to

<sup>a</sup> Thomas Jefferson. See Lincoln's Lives of the Presidents, 90.

an unreasonable extent ;<sup>a</sup> it caused him to see other subjects of national interest through a deceptive medium, and finally led him to assent to measures which shook the Union to its centre.

In Virginia, the Republican party were ever active, and many circumstances now concurred to draw into its ranks the learning, the talent, and much of the patriotism of the state. Some of the earliest supporters of the Constitution saw with regret that this sacred instrument was in danger of being made subservient to purposes fatal to freedom. Taking advantage of certain general expressions and clauses in the eighth section of the first article, Congress had exercised powers which, by no sound exegesis, could be claimed, and the President had approved. There was a virulence of feeling entertained towards the chief magistrate of the country, which was much to be deplored ; but he had, unhappily, given some occasion for it by words used in his published letters, in which he had expressed preference for aristocracy, and had spoken of a "faction" in Virginia which ought to be "ground into dust and ashes."<sup>b</sup> His leading measures were regarded with alarm, and though good in themselves, they were then considered as part of a system destructive of the independence of the states. He increased the "standing army," gave it compactness, and earnestly sought to organize its officers and men ; he expanded the policy

<sup>a</sup> Lincoln, 89.

and Debates, Richmond edit. 1835,

<sup>b</sup> Compare James Barbour's pages 116, 119, 207.  
speech with Henry Lee's. Resol.



of Washington as to the navy; built sloops, corvettes, frigates, and made strong this arm of national power.

(1798.) When all the causes operating upon the public mind in Virginia are weighed, we may be prepared to understand the course she pursued in the memorable events of '98 and '99. The first measure she adopted is one around which a cloud of mystery has been thrown that is not dispelled by cotemporary records. But the ominous silence observed at the time will, in itself, furnish evidence tending to solve the mystery. On the 23d of January the Legislature, after a preamble studiously brief, enacted a law greatly extending the means for state defence. Two arsenals were to be provided in addition to that already existing at the Point of Fork. An armory was to be speedily built at Richmond, and vigorous means were to be used for the manufacture of arms. The building was itself to be large enough for storing in safety ten thousand stand of muskets; and pistols, holsters, and swords were to be prepared for troops of cavalry.\* No delay occurred in carrying out these provisions. The building arose, which has ever since excited the interest of visitors to the metropolis of the Old Dominion. Artificers were soon at work, and the result of their labours has been apparent.

Sixty thousand muskets have been committed to the hands of the state militia, or else are retained in

\* Statutes at large, (new series,) ii. 87, 88.

condition to make them serviceable at short notice.<sup>a</sup> Two hundred and twelve pieces of cannon are ranged around the upper and lower platforms of the armory yard, most of them are of small calibre, but some are very heavy. With these, have been placed six beautiful brass siege-pieces, and two mortars, concerning which a singular obscurity prevails in our records. The opinion best sustained is that they were landed from a French ship of war during the siege of Yorktown, and that they were a gift from the sovereign of France to the "unterrified commonwealth."<sup>b</sup>

- Why this warlike preparation, these bright bayonets, this formidable array of cannon? We will not pretend to answer by referring to the printed witnesses of the times; they are cautious, more than cautious,—they are silent. But, in subsequent years, gray-haired citizens have had the seal taken from their lips, and have told us that surrounding events had much to do with this war spirit. And her own instructions soon afterwards delivered to her senators and delegates in Congress, will show how much the state apprehended from the standing army, the growing navy, the gradual advances of the General Government.<sup>c</sup> Had she been compelled

<sup>a</sup> The following statement has been politely furnished to me by Mr. John H. Knowles, foreman of the armory :

35,000 muskets, either now in the armory, or in the hands of the militia; 10,000 rifles, pistols, &c., do. do. ; 30,000 muskets at the Military Academy in Lexington, Virginia; total, 75,000 stand of arms.

<sup>b</sup> See S. and W. Lit. Messenger, for April, 1847.

<sup>c</sup> MS. Journal of H. of D. for 1799. By the kindness of George Wythe Munford, Esq., Clerk of the Virginia House of Delegates, I have been permitted to examine this precious original. See, also, Resol. and Debates, 15-20.

to fight for her sovereignty, Virginia would have been prepared. But the Constitution and its guarantees were stronger for good than she had supposed. Happy indeed was the change which accomplished her object by the ballot-box and not by the sword!

Her fears of federal usurpation were not premature. There was every thing in the aspect of America, at this period, to provoke the President and his friends into precipitate action. Foreigners, chiefly French, in numbers, pervaded the country, canvassing the course of government, promulgating ultra doctrines as to the social system, and urging to extreme the "propagandism" which was the great lever of the Directory. And the press, in its daily issues, then exhibited a bitterness, a concentrated rancour, to which nothing of subsequent years can be compared. But these were evils which, in time, would either work their own cure, or be checked by the conservative powers of the state governments. And whether they were checked or not, they could never justify Congress and the President in violating the charter of the Union. To this point they were now approaching.

At the summer session of 1798, were enacted the celebrated "Alien and Sedition Laws." The first was entitled "An Act concerning Aliens," and was approved on the 25th of June. It provided that it should be lawful for the President of the United States "to order all such aliens as he shall judge dangerous to the peace and safety of the United States, or shall have reasonable grounds to suspect

are concerned in any treasonable or secret machinations against the government thereof, to depart out of the territory of the United States, within such time as shall be expressed in such order." Under certain circumstances and conditions, the President was authorized to grant a *license* enabling an alien to remain; but if any alien, not having such license, was found in the country after having been ordered to depart, he was, on conviction, to be imprisoned for a term not exceeding three years. And the President was empowered, if in his opinion the public safety required a speedy removal, to cause any alien ordered to depart, to be arrested and sent out of the country. Other clauses of the same tendency completed the act, and it was to be in force for two years from its passage.<sup>a</sup> The Sedition Act was approved on the 14th of July. It first forbade any combination or conspiracy to oppose or impede the government of the United States, or to intimidate its officers. But the principal clause was one providing that if any person should write, print, utter, or publish, or cause to be written, printed, uttered, or published, any "false, scandalous, and malicious" writing against the General Government or Congress, or the President, with intent to defame them, or to bring them into contempt or disrepute, or to excite against them the hatred of the "good people" of the United States, or to stir up sedition, such person, on conviction in a United States Court, should be punished by a fine not exceeding two thousand dollars, and by imprisonment not ex-

<sup>a</sup> It may be seen in the Resol. and Debates, 214, 215.



ceeding two years. On the trial, however, the defendant might give in evidence as a defence, *the truth* of the matter in his publication. The act was to continue in force until the 3d of March, 1801.<sup>a</sup>

Hardly had these laws gone into force, ere they roused high excitement throughout America. While many approved, and believed them required by the events of the times, a great body of the people considered them as involving a breach of the Constitution, and as opening the way to despotism. In Virginia, the Republicans were aghast! They had, indeed, listened for sounds of deep-toned federalism from the government, but they were not prepared for such trumpet notes as these. With one accord they rallied for battle, and the real emergency of the case drew into their ranks some great men who had been strenuous advocates for the adoption of the Federal Sovereignty. The same scenes of popular debate occurred which had preceded the meeting of the Convention in 1788, and it was easily foreseen that at the next session of the Legislature, the storm would open.

These expectations were not groundless. A short time after the Assembly met, John Taylor, of Caroline, introduced nine resolutions,<sup>b</sup> having reference to the course of the Federal Government, and particularly to the passage of the Alien and

<sup>a</sup> It is entitled "An act in addition to the act entitled 'An act for the punishment of certain crimes against the United States.'" See Resol. and Debates, 215, 216.

<sup>b</sup> As originally presented, they are in the "Resol. and Debates," 202, 203.

Sedition Laws. These well-known resolutions were from the pen of James Madison, but they expressed Mr. Taylor's sentiments, and were most ably supported by him in the debate that ensued. On the 13th of December, the House of Delegates resolved itself into a committee of the whole on the state of the Commonwealth; and Mr. Brackenridge took the chair. Then John Taylor opened his subject; he believed that liberty was in danger, and that the occasion was "an awful one." He considered the obnoxious laws, first as to their constitutionality, secondly, as to their correspondence with natural rights. That they were not constitutional he contended, because power was nowhere delegated to Congress to make such laws as to alien *friends*; because aliens had rights under the common law which these acts took away; because they were deprived of trial by jury; because the "three powers" of government were by these acts united in one hand, the President being authorized to make the rule, to judge the accused, and to execute the sentence; and because the Sedition Law took away the freedom of the press, which Congress had not only no power, but was expressly prohibited to do. In proving that the laws were against natural right, Mr. Taylor had a wide field, in which he exercised himself at pleasure.\*

In favour of the laws, George Keith Taylor, of Prince George, was most prominent. He was a member of the Federal party, and much attached to John Marshall, whose sister he married. He

\* Resol. and Debates, 75-80.

was a man of high character, acute in argument, and powerful in declamation. Virginia owes to him her penitentiary system, and his efforts to ameliorate her criminal code made him a public benefactor. In the first part of the debate he confined himself to the defence of the Alien Law, urging that the admission of aliens into a country was matter of *favour*, and not of *right*; that the country must protect herself against dangers arising from them; that Congress had power under the Constitution to insure domestic tranquillity; to define and punish offences against the laws of nations; to protect against invasion, and to pass all laws "necessary and proper" for these purposes; that this law was required by the state of the country; and he concluded his first speech by depicting in eloquent terms the horrors of the French dominion, and the hazard that they might be extended to America.<sup>a</sup> In his next effort he defended the Sedition Law, on the ground that the common law punished the licentiousness of the press, but did not stop its issues by a "censorship;" that this was really what was meant by the freedom of the press, and that Congress had done nothing more than this in their late action.<sup>b</sup>

General Henry Lee aided Mr. Taylor in defending the course of the Federal Government. He insisted that the Constitution was a compact, not of the states, but of the people; that therefore the proposed resolutions were "radically erroneous;" that the Alien Law was intended to *prevent* injury,

<sup>a</sup> Resol. and Debates, 81-89.

<sup>b</sup> Ibid. 185-193.

not to *punish* offenders; that Congress had this power; that the Sedition Law was sanctioned by high authority, for in 1776, the General Assembly of Virginia had itself passed a similar enactment, punishing any one who by word, deed, or publication, should maintain and defend the authority of the King and Parliament; and that no man in his senses could consider the "freedom of speech" as abridged, by the punishment of false, scandalous, and malicious libels.<sup>a</sup>

The Laws were farther upheld with ability and research, by Mr. Magill, Mr. Cowan, and Mr. Cureton. Edmund Brooke, of Prince William, opposed the resolutions, because they interfered with the legitimate powers of the General Government. He said the people had two organs, the Federal Government and the State Legislature; and that the first was certainly to be preferred, because its representation was purest. He declared that if his constituents should instruct him to vote for resolutions "having so alarming and dangerous a tendency, he would go in mourning for them; he would bid adieu to legislation, and seek an asylum in some other region of the globe, among a race of men who had more respect for peace and order, and who set a higher value upon the blessings of good government!"<sup>b</sup>

All who supported the "Laws" opposed the "Resolutions;" and on the other hand, all favourable to the latter, made war upon the first. The

<sup>a</sup> Resol. and Debates, 157-162.

<sup>b</sup> Ibid. 133.



issues involved in the two, were so complete, and so sharply defined, that neutrality was impossible.

To aid John Taylor, of Caroline, many brilliant debaters came forward. Mr. Mercer and Mr. Daniel argued against the Laws, urging that though the admission of aliens might be matter of favour, yet after they were admitted, they acquired rights which these laws violated; that if there was any power to send them out of the country, it was in the state Legislatures; that the sacred trial by jury must be given to them; that Congress had no more power over the freedom of speech than of conscience: that is, had no right to touch either;<sup>a</sup> that to punish *opinions*, as to public men and measures, was the very worst form of violating the freedom of the press, and that this was done by the Sedition Law.<sup>b</sup> Wilson Carey Nicholas spoke but little, yet always with effect. In answer to General Lee's argument, that the Alien Law was *preventive* only, he insisted that it was *punitive*. For could there be a more severe punishment than to banish a man from the country; to order him to depart; to arrest him violently if he refused, and to tear him from ties which he might have formed in the home of his adoption?<sup>c</sup>

William Pope, from Prince William, was a singular character. Although possessed of the soundest practical sense, he had a vein of humour in his composition, which was continually flowing out in keen

<sup>a</sup> See Amend. iii. Const. U. S.

<sup>c</sup> Resol. and Debates, 151, 15

<sup>b</sup> Resol. and Debates, 91-102, 136 and see Madison's Report, 35, 36.  
-151.

repartee and ludicrous remarks. He replied to George Keith Taylor's views upon the danger of French influence, and in ridiculous style, rang the changes on Volney and Talleyrand, Genet, Porcupine, and Goodloe Harper. He said, "the gentleman from Prince George has introduced a damsel, and that is the damsel of liberty. When he had done so, I confess I was seized with an ecstasy; but when, at the same time, that gentleman would not permit her to remain within these walls, I acknowledge my feelings were very much wounded. For I am fond of all damsels, but particularly so of the damsel of liberty." He was willing to modify the resolutions, provided it was still clearly declared that the Laws were unconstitutional.<sup>a</sup>

In this debate, James Barbour, of Orange, made his first appearance in the arena of public life. He was but twenty-two years of age. His mind was capacious, and stored with liberal learning. He rose, in the committee, on the 17th December, and spoke several hours amid deep interest from all who heard. He was full of thought, and poured it forth without a moment's hesitation, in words sonorous and expressive. From time to time, his enthusiasm betrayed him into forms of language, which would not bear the test of a refined criticism, as when he said, "the thirteen United States, then the Colonies of America, after having been *lacerated to the midriff* by the vulture fangs of British persecution, threw off their colonial subjugation."<sup>b</sup> And occasionally a more unhappy error

<sup>a</sup> Resol. and Debates, 102, 103.

<sup>b</sup> Ibid. 108.

was shown, in expressions proving that he had tasted, with high relish, the infidel philosophy of France: "As to *Mr. Volney*, the cause of truth and virtue required he should speak more at large. He had the pleasure of seeing that meritorious character whilst in America, but he knew him better by history than from personal acquaintance. He from maturity had been influenced by the benevolent desire of ameliorating the condition of mankind, by illuminating the mind and *dispelling superstition*. It was for this sublime purpose we saw him traversing Asia, and sitting in meditative silence amidst the ruins of Palmyra, drawing wisdom from experience, and developing the causes which contribute to the dissolution of the elements of society, and the overthrow of empires;" and (the orator might have added) thus preparing to hurl "The Ruins" at Christianity. Mr. Barbour attacked John Adams and his government with vigour, and argued against the "laws" in a strain of mingled reasoning and declamation, which strongly moved his hearers.<sup>a</sup> No speech, during the debate, produced a more manifest effect.

Near the close of the discussion, William B. Giles spoke against the obnoxious laws. He too was severe upon the government; commented upon the President's letter to the people of Bath, in which he had spoken of the faction in Virginia which ought to be crushed; and opposed his leading measures.<sup>b</sup> It is to be feared, that at this time, scepticism in religion, and admiration of all that

<sup>a</sup> Resol. and Debates, 105-123.

<sup>b</sup> Ibid. 197-201.

was French, were closely united with the character of leader in the Republican party of Virginia. There were indeed bright exceptions, and to these the state is chiefly indebted for the triumph of order and peace within her bosom.

Before the resolutions were reported by the committee, two amendments were adopted. The third resolution said the powers of the Federal Government resulted from the compact "to which the states *alone* are parties." On motion of Mr. Giles, the word "alone" was stricken out. The accuracy of this amendment is to be determined by the definition we apply to the word "state." If, as we have preferred to use it in this work, it includes both the people and the government within certain geographical bounds, then the amendment was hardly necessary; but if "state" means "state government" alone, then the amendment was proper. The other change was in the seventh resolution; it declared that the Alien and Sedition Laws, "the acts aforesaid, are unconstitutional, *and not law, but utterly null, void, and of no force or effect.*" On motion of John Taylor himself, the words in italics were stricken out.<sup>a</sup> Then the resolutions as amended were reported to the House, and after several abortive efforts to vary them, on Friday the 21st of December, they were adopted by a vote of one hundred in the affirmative, and sixty-three in the negative. On the succeeding Monday, the Senate concurred by a vote of fourteen to three.<sup>b</sup>

A more searching ordeal has seldom been applied

<sup>a</sup> Ibid. 201, 202, 203.

<sup>b</sup> Resol. and Debates, 212, 213.



to any work of the human mind than to the "Resolutions of '98-'99," passed by the Virginia Assembly; and it may be added, few compositions have stood the test so well. They were penned by James Madison, and exhibit in perfection the peculiarities of his style. The first expresses the resolve of the Assembly to maintain and defend the Constitution of the United States, and of the State, against all aggression; the second declares their warm attachment to the Union, and hence their duty to watch over and oppose any infraction of its principles; the third declares that the powers of the Federal Government result from the compact to which the states are parties, and are limited by the plain sense and intention of the instrument constituting that compact, and to that extent only, are valid, and that in case of a "deliberate, palpable, and dangerous," exercise of other powers, the states have the right, and are bound to interpose; the fourth expresses the regret of the Assembly that the Federal Government had shown a willingness to enlarge its powers by forced constructions, and by so interpreting general clauses, as to destroy the meaning and effect of the particular enumeration, the obvious tendency of which course was to consolidation, and at last to monarchy; the fifth particularly assails the "Alien and Sedition Laws," of which the former involved a power not delegated, and also blended legislative and judicial functions with executive, and the latter involved a power not only not delegated, but expressly forbidden, and was also the more alarming, because it

was "levelled against the right of freely examining public characters and measures, and of free communication among the people thereon;" the sixth referred to the terms in which Virginia had ratified the Constitution, to her care in guarding liberty of conscience, and of the press, and to her efforts in gaining an amendment for the purpose, and said it would "mark a reproachful inconsistency and criminal degeneracy" if she were now indifferent; the seventh made a solemn appeal to their brethren of the other states, "in confidence that they will concur with this Commonwealth in declaring, as it does hereby declare, that the acts aforesaid are unconstitutional, and that the necessary and proper measures will be taken by each, for co-operating with this state, in maintaining unimpaired the authorities, rights, and liberties reserved to the states respectively, or to the people;" the eighth and ninth provided simply for transmitting a copy of these resolutions to the Legislature of each of the other states, and to the Virginia senators and representatives in Congress.<sup>a</sup>

Kentucky had preceded her mother by adopting, during the month of November, resolutions penned by Thomas Jefferson, which went beyond those afterwards approved by Virginia. For one of Mr. Jefferson's protests declared that the Sedition Act, "which does abridge the freedom of the press, *is not law, but is altogether void and of no effect.*"<sup>b</sup> And in

<sup>a</sup> The Resolutions are in the Statutes at Large (N. S.), ii. 192, 193; and Resol. and Debates, 209, 210.

<sup>b</sup> Resol. and Debates, 64-69.

this form it was adopted by Kentucky. But, besides the "Old Dominion" and her daughter, no other state spoke openly against the Federal Government. And there were many citizens of America, unblemished in character and high in public confidence, who regarded the "resolutions" with unmingled regret.

(1799.) George Washington had retired to Mount Vernon, to enjoy the repose to which long years of faithful service had entitled him. Yet he could not view unmoved the crisis of his country. He believed he saw in the Republican party of Virginia, materials which threatened to rend asunder the bonds of the Union. And there was another patriot then in retirement who looked with equal fear upon the progress of French influence in America. Patrick Henry had opposed the adoption of the Constitution, but after it was adopted, he was its steady friend. He thought that most of the individuals composing the contending factions might be sincere, but that some leaders meditated a change in the government.<sup>a</sup> He recoiled from contact with France. "Her conduct has made it the interest of the great family of mankind to wish the downfall of her present government." He was alarmed lest she should destroy the pillars of national welfare, "virtue, morality, and religion;" "this is the armour, and this alone, that renders us invincible; these are the tactics we should study; if we lose these, we are fallen indeed." He wished

<sup>a</sup> P. Henry's letter to Arch. Blair, 1799, in Sparks' Washington, dated Red Hill, Charlotte, 8th Janu- xi. Appen. No. 18, 556-559.

to see John Marshall elected to Congress from Virginia, believing that "he felt and acted as a republican, as an American."<sup>a</sup>

(January 15.) It was at this juncture that Washington addressed to Mr. Henry a confidential letter, urging him to come forward as a candidate for the General Assembly. He reminds him of the "endeavours of a certain party among us to disquiet the public mind with unfounded alarms, to arraign every act of the administration, to set the people at variance with the government, and to embarrass all its measures." He deeply regrets that in this course the State of Virginia had taken the lead, for her Legislature had acted, and the chief leaders of the opposition dwelt within her bosom. He expresses his conviction that the great mass of the people of the state were well affected towards the government, and believes that one reason why this did not appear, was that "the most respectable and best qualified characters among us, will not come forward." He speaks of a party that hung "upon the wheels of government as a dead weight, opposing every measure that is calculated for defence and self-preservation," and "abetting the nefarious views of another nation upon our rights," and makes a serious appeal to Mr. Henry to throw his weight into the scale of the national government, by acting in the Assembly of Virginia.<sup>b</sup>

The effect of this appeal and of his own views of duty upon Patrick Henry is well known. He appeared before the people of Charlotte as a candidate

<sup>a</sup> Sparks' Washington, xi. 559.

<sup>b</sup> Sparks, xi. 387-391.



for their suffrages. He gained the hearts of all by the "setting splendours" of a sun of eloquence which in its zenith, had burned with intolerable glory. He was elected "by his usual commanding majority," and prepared at the next session of the Legislature, to defend the Alien and Sedition Laws. But Providence did not design that his generous heart should be torn by a contest in which his powers would not have made good his cause, and his efforts would only have added bitterness to the opposition. He died on the 6th day of June.<sup>a</sup> Simple in manner, pure in morals, dignified in public, affable in private, the great orator of the world, the friend of liberty, the humble Christian, passed away from strife to a land "where the wicked cease from troubling, and the weary are at rest."

And even a greater than he was destined to fall during the same year. At half past eleven o'clock, on the night of Saturday, the 14th of December, GEORGE WASHINGTON breathed his last. When this event became known, for a time the hearts of all men were still,—passion grew calm, prejudice confessed her guilt, party spirit seemed extinguished. All felt that the world had lost her best inhabitant. A despotic sovereign, and a historian in love with privileged order, have alike rejoiced to do honour to the memory of the Liberator of the human race.<sup>b</sup>

But the progress of other events soon recalled the

<sup>a</sup> Wirt, 275–276.

nation, 1800, and Alison, Hist. Eu-

<sup>b</sup> Napoleon, Address to the French

rope, i. 445, 446.

minds of men from mourning to conflict. When the Resolutions of the Virginia Assembly were made known to the other states, they excited varied action. Some may have approved them, but none took open measures to co-operate. Some decidedly disapproved, and taking up the matter seriously, sent their views in solemn form to the intractable Commonwealth. Massachusetts adopted a dignified remonstrance, arguing that if the Constitution was violated, the remedy was in the Supreme Court, or in amendments; that the states were not judges in the matter; that the Alien and Sedition Laws were both constitutional and expedient, and that therefore she must oppose Virginia.<sup>a</sup> New Hampshire, Vermont, Connecticut, and Rhode Island and Providence Plantations, all adopted the same general course, with varieties of manner and skill; the Senate of New York, in a preamble and two resolutions, rebuked Virginia and Kentucky, and little Delaware declared that the conduct of her eldest sister was "a very unjustifiable interference with the General Government and constituted authorities of the United States, and of dangerous tendency, and therefore not a fit subject for the further consideration of" the said little Delaware.<sup>b</sup> During the legislative session of Virginia for 1799-1800, these several remonstrances were read, and were referred to a committee, together with the resolutions which had called them forth.<sup>c</sup>

(1800.) This gave rise to the celebrated "Re-

<sup>a</sup> Resol. and Debates, 7-11.

<sup>c</sup> MS. Journal of H. of D. for

<sup>b</sup> Ibid. 5, &c.

1799-1800.

port" of Mr. Madison. It was prepared, offered, amended in committee, and finally presented to the House. Here, on the 7th of January, it was approved by a vote of one hundred in the affirmative, to sixty in the negative.<sup>a</sup> This paper has ever since been regarded with marked reverence by the people of Virginia. It is clear and searching: its eloquence (for it *has* eloquence) is not that of feeling, but of reason; it shows a power of analysis which has seldom been equalled: it takes up the Resolutions of '98 one by one; it puts each section, each clause, even each word, into the crucible, and tries it with fire. And in doing this, it reviews the powers of the Federal Government with the mind of a master. Taken in union with subsequent commentaries and restrictions, which Mr. Madison himself applied to it, this Report may still be regarded as a repository of safe principles; a faithful guide for the citizen and the constitutional lawyer.

Instead of giving an extended review of a work which ought to be in the hands of every American, it will be proper that an attempt shall here be made to extract from this Report, and the commentaries that have followed it, the rules that may be applicable to Virginia and to the United States, in the contingencies of their being. These will not be mere "abstractions," for if the opinions of men concerning a written instrument, have been so controlling as to stop the course of law on the one side, and to send armed ships and soldiers to enforce it on the other, these opinions have a practical weight

<sup>a</sup> MS. Journal of H. of D., Jan. 7, 1800.

that may justify every candid attempt to guide them.

First, then, as to the powers of Congress. These are expressed in a particular enumeration, and in certain general clauses. In one or the other of these, every power must be found, and if it be found in neither, it does not exist. The general clauses are: "The Congress shall have power to lay and collect taxes, duties, imposts, and excises, to pay the debts, and provide for the common defence and general welfare of the United States,"<sup>a</sup> and "to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or any department or officer thereof."<sup>b</sup> By some it had been contended, that the first of these clauses gave Congress indefinite powers of legislation; whatever they might regard as for the common defence and general welfare, that might they do. By others, a meaning somewhat more restricted was approved; in whatever subject an appropriation of money was required, in that subject Congress had indefinite power of legislation for the common defence and general welfare. But Mr. Madison showed that each of these modes of construction was false; that the clause had been copied from a similar one in the old "Articles of Confederation," and must be construed as that had been; and that the expressions "common defence and general welfare," were to be limited and explained by the par-

<sup>a</sup> Constit., sec. viii., cl. 1.

<sup>b</sup> Constit., sec. viii., cl. 18.



ticular enumeration that followed. For if not, why was that particular enumeration made at all? and how was the Government limited at all in its powers? This reasoning seems too cogent to be resisted. To tell what measures for the common defence and general welfare they may adopt, and to what they may appropriate money, Congress must look to the "enumerated powers."

As to the other general clause, it had been greatly feared in the Virginia debate on the Constitution, and it had been much handled in the attempts to justify the Sedition Law. But a proper caution taught that it was not intended to increase the number of the positive powers of Congress; it was only intended to furnish "all the incidental and instrumental powers" required for carrying into effect the express powers. When a question should arise, have Congress a certain power, it was to be answered by inquiring: is the power expressly given? and if not, then is it "properly an incident to an express power, and necessary to its exercise?"<sup>a</sup> If it be, Congress may exercise it; if it be not, Congress should not claim it.

But while these rules of limited construction seem safe and reasonable, they are not to be urged to excess; the cords of the Constitution must not be drawn so tightly as to strangle the government. "The letter killeth" in politics as well as in religion.<sup>b</sup> "Qui hæret in literâ hæret in cortice," is a maxim as applicable to constitutional as to statute law. In this subject as in others, there is a

<sup>a</sup> Report, 49.

<sup>b</sup> 2 Corinthians, iii. 6.

medium,—a golden mean,—between the extremes of a rigour which would compress the Constitution to its dead letter, and deprive it of health, and the licentiousness of interpretation, which would find all powers in its general clauses. This golden mean may not be stationary, but where it shall be found may be safely decided by caution, patriotism, statesmanship.<sup>a</sup> Language is imperfect; something must be confided to the discretion of law-makers whom a free people would choose; and it is believed that against abuses of this confidence, the Constitution of the United States has as many safeguards as a human system can erect. Even the word “necessary” itself has a plastic meaning, that will expand from the “physical necessity,” made absolute by the laws of matter, to the “moral necessity” controlled by the varied passions, appetites and motives, which go to determine the human will. And thus the powers of Congress have, without violence, been held to include subjects not within the letter of the charter. Mr. Madison himself approved the view which extended them to a bank.<sup>b</sup> Subsequently, a great mind, that was ever watchful for state rights, has found power to authorize Congress to improve the navigation of the Mississippi River, and another lover of strict construction has drawn out of the clause making the President commander-in-chief of the army of the United States, power to enable that high func-

<sup>a</sup> “*Lex non exacte definit sed arbitrio boni viri committit.*”—*Grotius* and *Debates*, 226–228.  
<sup>b</sup> Letter to Mr. Ingersoll; *Resolutions* in *Blackstone*, i. book i. 42.

tionary to establish provisional governments in a conquered territory. Whether or not these two last views be approved in all their length and breadth, it will remain certain, that men who have loved their country, and loved liberty, and loved the Union, and loved the states, have held that Congress have power, under the Constitution, to charter a bank for national purposes, to improve rivers, roads, and harbours, for the good of commerce between the several states, and so to adjust customs on imports, as to foster domestic industry.

Next, as to real and palpable violations of the Constitution by Congress, what is the remedy? Congress may go beyond their powers, may infringe the charter which gives them being, and may do this so evidently, that doubt would be unreasonable. But there are remedies; first, the federal judiciary will review the laws, and if they be unconstitutional, will pronounce them void. This is the office of the judiciary under the state governments, and there are higher guarantees for a pure administration of fundamental law under the general, than under the state governments. The judges are selected with more care, and are less liable to local influences. Secondly, free elections will remedy the evil; the delinquent Congress will be displaced; better men will be substituted; the obnoxious laws will be repealed. Thirdly, the states may secure amendments; two-thirds may propose, and three-fourths consummate an amendment which would cut up spurious powers by the roots. And beyond these three constitutional re-

medies, it is not reasonable to suppose that any illegal action of the Federal Government can generally extend.

But there *may be* mischief beyond them all. It may happen under the influence of polluting causes, not lightly to be anticipated, that Congress shall exercise unconstitutional powers oppressive to a state, and at the same time the federal judiciary shall be so corrupted that they will not declare these powers void, and at the same time the ballot-box shall be so prostituted that it will not displace the authors of these powers, and at the same time a majority of the states shall be so degraded by self-interest or fanaticism, that they will not provide amendments to destroy these powers: is there then any remedy for the suffering state? There is, but it is not under the Constitution. It does not consist in declaring the law null and void within her limits, and in refusing to permit it to be enforced until three fourths of the states shall pronounce in its favour, while all the time the nullifying state shall remain in the Union, claiming its protection, sharing its benefits, and sending representatives to its government.<sup>a</sup> In the Constitution there is absolutely nothing from which, either by expression or implication, such power could be derived, and its exercise would run counter to the principles on which government is founded. It would enable one state "to give the law and even the Constitution" to nineteen states;<sup>b</sup> for the one state,

<sup>a</sup> Madison's Letter to Everett;      <sup>b</sup> Letter to Everett, 222.  
Resol. and Debates, 221; Hon. H. S.  
Tucker's Lect. on Const. Law, 192.



while yet enjoying the benefits of the Union, would be exempt from an act of Congress to which the others would be subjected; and the very necessity for nullifying, presupposes that nineteen states would not consent to the remedy by amendment. Therefore, the nineteen must either submit their judgments to the decision of the one, or else must allow her to enjoy an exemption from which they are themselves wholly debarred. Virginia has never held a doctrine so inconsistent with the principles of government. In 1798, she pretended not to *nullify*. She struck out of her seventh resolution words which would have had that tendency. She expressed only her *opinion*, and invited her sister states to join with her in adopting necessary and proper measures for "maintaining unimpaired the authorities, rights, and liberties reserved to the states respectively, or to the people."<sup>a</sup>

The remedy for the aggravated mischief of which we have spoken, is found in the sacred right of revolution. It is not under but above the charter of government. When any people shall be able no longer to bear the tyranny of their rulers, they have a right given by the law of nature, to overthrow the government, and re-establish it on a basis that shall secure their welfare. And the same doctrine will apply to a state under the federal system of America. If the Constitution be so long and so deliberately violated

<sup>a</sup> Resol. and Debates, 203-210; 224; Tucker's Lectures on Constit. Mr. Madison to Mr. Everett, 223, Law, 191, 192.

that all ordinary remedies are found to be ineffective, then the state will be released from her fealty to the government. She will have the revolutionary right to throw off all remaining shackles, and, rejecting alike the privileges and the claims of the Union, to arrest its laws within her territory, and declare herself perfectly independent. If the other states shall assent, and shall permit her quietly to withdraw, then a *peaceful* revolution will have been effected; but if they shall attempt to force her to submit to the federal dominion, she will have no alternative except an appeal to arms, and to the God of battles.

But while this final resort is left to every state, the highest reason will suggest that its exercise is not even to be thought of, except in the last necessity. Nothing has ever yet occurred in America that would approach to its justification; and as the patriot watches the workings of the federal system in the light of the nineteenth century, he finds growing evidences that its remedies are more potent than its abuses, and that its most dangerous trials have been borne. During the past two hundred and ten years, the examples of England, of France, and of America, have, to some extent, furnished rules for construing the doctrine of revolution. The violations of the federal charter which would justify a state in armed resistance, must be not merely "deliberate, palpable, and dangerous," but long-continued and tyrannical. They must attain a point at which the evils of submission would be worse than the horrors of civil war.

When this point shall be attained, the principles of the charter of American freedom<sup>a</sup> will apply, and resistance will become duty. It is believed that there is but one subject connected with the interests of the United States, which, by any proximate possibility, can lead to such result.

From this attempt to explain the principles by which, we believe, Virginia is guided in her contact with the Federal Government, we turn again to her history, and find, within the compass of a single year, beautiful illustrations of their soundness. A law which she then believed to be, and which a vast majority of American statesmen have since believed to have been, unconstitutional, was actually to be enforced on her soil; an effort was to be made to interpose the remedy of the federal judiciary, and it was to fail; Virginia was to submit, and then by the operation of the ballot-box, the law, its authors and its progeny were to be swept from power.

At this time there lived in Petersburg, one James Thompson Callender, whose name would merit no notice in history, had he not been the occasion of drawing forth one of her most instructive lessons. He seems to have been a man in whose breast vindictive passion raged without control. He was not a native of America, but had for some time resided in Virginia, where his warmth of party feeling, and real talent, had procured for him employment in various capacities. That he was degraded in character and in public

<sup>a</sup> Declaration of Independence in 1776.

esteem, may be inferred from the fact that he was once apprehended under the Vagrant Law.<sup>a</sup> But he was capable of expressing bitter thought in bitter words, and this made him a fit actor for the part he was to play in the contest between the two factions.

He wrote a pamphlet, which he entitled "The Prospect before Us," and caused it to be published in Richmond, on the 1st of February. Had he carefully studied to violate the letter and the spirit of the Sedition Law in as many points as possible, he could hardly have effected his object more completely than by this pamphlet. It was an attack upon the administration, coarse, virulent, profligate. The author rioted in abuse; and not content with assailing Mr. Adams, he sought to desecrate the tomb which had but just closed over the remains of Washington. That we may form a correct idea of this libel, it will be necessary to give extracts from it, although it would be more grateful to let it rest for ever in the oblivion of infamy to which it has been consigned.

He says, "the reign of Mr. Adams has hitherto been one continued tempest of malignant passions. As President, he has never opened his lips or lifted his pen, without threatening and scolding." "The grand object of his administration has been to exasperate the rage of contending parties, to calumniate and destroy every man who differs from his opinions." "Mr. Adams has laboured, and with melancholy success, to break up the bonds of so-

<sup>a</sup> James Triplett's testimony, Trial of Judge Chase, 44.



cial affection, and under the ruins of confidence and friendship to extinguish the only beam of happiness that glimmers through the dark and despicable farce of life." He speaks of the "presidential system, that is, a French war, an American navy, a large standing army, an additional load of taxes, and all the other symptoms and consequences of debt and despotism;" "the same system of persecution has been extended all over the continent. Every person holding an office must either quit it, or think and vote exactly with Mr. Adams." "Adams and Washington have since been shaping a series of these paper-jobbers into judges and ambassadors. As their whole courage lies in want of shame, these poltroons, without risking a manly and intelligible defence of their own measures, raise an affected yelp against the corruption of the French Directory, as if any corruption could be more venal, more notorious, more execrated than their own."<sup>a</sup> He attributes to Mr. Adams measures used "for the sake of yoking us into an alliance with the British tyrant." "While such numbers of the effective agents of the Revolution languish in obscurity or shiver in want, ask Mr. Adams whether it was proper to heap so many myriads of dollars upon \* \* \* ; upon a paper-jobber, who, next

<sup>a</sup> I have copied all of these clauses verbatim from the MS. indictment, among the papers in *U. S. v. Callender*, in Office of the Federal Court, Richmond. See, also, *Trial of Judge Chase*, 82-88. Before his own trial, Callender said that he intended the

passage "As their whole courage," &c., to apply *not* to Adams and Washington, but to the officers appointed by them. Meriwether Jones's testimony in *D. Robertson's* report of the case. *Trial of Judge Chase*, 78.

to Hamilton and himself, is perhaps the most detested character on the continent." He addresses the people: "You will choose between that man whose life is unspotted by a crime, and *that* man whose hands are reeking with the blood of the poor, friendless Connecticut sailor!" I see the tear of indignation starting on your cheeks. You anticipate the name of John Adams!" "Mr. Adams has only completed the scene of ignominy which Mr. Washington began." Alluding to one of Mr. Adams's public letters, he says, "In that paper, with all the cowardly insolence arising from his assurance of personal safety, with all the fury, but without the propriety or sublimity of Homer's Achilles, this hoary-headed incendiary, this libeller of the Governor of Virginia, bawls out, To arms! then, to arms! It was floating upon the same bladder of popularity that Mr. Adams threatened to make this city the central point of a bonfire!"

We need not go farther. Enough has been given to show the character of "The Prospect before Us." Libellous as were the extracts copied into the papers of the day, they were exceeded by the general tenor of the pamphlet itself,<sup>b</sup> and it contained some assaults upon Washington, which are so infamous, that American types would now recoil from printing them.<sup>c</sup> The time seemed to have come when the Sedition Law might take its course, sustained by the public conscience.

<sup>a</sup> To explain this allusion, see Amer. State Papers, 2d edition, Boston, 1817, vol. iv. 302-307.

<sup>b</sup> John Basset's testimony, Trial of Judge Chase, 46.

<sup>c</sup> Appendix to Trial, 55, 56.

Not long after its publication, Luther Martin of Maryland, found some copies for sale at Greenleaf's printing office, in New York, bought one, read it, underscored the striking passages, and carried it with him to Annapolis. Here he met Samuel Chase, one of the Associate Justices of the Supreme Court of the United States. Judge Chase is well known as one of the immortal signers of the Declaration of Independence. He loved his country, and enjoyed the confidence of Washington, who appointed him to the bench of the Supreme Court in 1796. He was learned in the law, and indefatigable in his labours. His temper was quick, his will unbending. He was a thorough Federalist, and approved with all his heart of the measures of the administration. It may be that his political prepossessions were too strong, that they sometimes warped a judgment otherwise perfectly upright; but all the vigilance and energy of party zeal employed against him in his trial before the Senate of the United States, did not convict him of using his office to corrupt or to oppress.

He was soon to hold a Circuit Court for the United States in Richmond, and on receiving from Luther Martin the pamphlet of Callender, his attention was forcibly drawn to it. He said he would carry it with him, and that "if the Commonwealth of Virginia was not utterly depraved, or if a jury of honest men could be found there, he would punish Callender. He would teach the lawyers of Virginia the difference between the liberty and the

licentiousness of the press.”<sup>a</sup> These remarks may have been partly jocular, but they were accompanied by a firm resolve to carry his purpose into effect.

He arrived in Richmond, and on the 22d of May opened his court. He charged the grand jury specially as to the Sedition Law, and on Saturday, the 24th, they made a presentment of Callender for writing and publishing the libellous pamphlet. On this presentment, Thomas Nelson, the District Attorney, immediately drew an indictment in due form, which was sent to the grand jury, and found without delay. In the mean time the judge directed a *capias* to issue against the accused, and though this was a more rigorous process than was customary in Virginia, in cases not capital, yet the Senate of the United States afterwards vindicated the court in using it.<sup>b</sup> The marshal went forthwith to Petersburg, and on the 27th returned, bringing in his custody the renowned author, greatly frightened, and not a little concerned at “the prospect before” him.<sup>c</sup> He was admitted to bail, but preparations for his trial were commenced.

William Wirt, George Hay, and Philip Norborne Nicholas, volunteered to defend the accused; the first had already become distinguished for those brilliant qualities which afterwards placed him among the best advocates of America; the second was a lawyer of high standing, ardent in tempera-

<sup>a</sup> Compare John Thompson Mason with Judge Winchester, Trial, 43, 63, 64.

<sup>b</sup> MS. papers in U. S. v. Callender; Trial, 42, 64, 268; Appen. 32.

<sup>c</sup> Trial of Judge Chase, 40, 64.



ment, and honourable in bearing ; and the last was a brother of George and Wilson Carey Nicholas, and though very young, was the Attorney-General of Virginia.<sup>a</sup> They appeared in court, and earnestly pressed for a continuance of the case, on the ground that Callender was not prepared for his defence, needed witnesses and documents, and that they needed preparation. But the Judge refused to continue ; he told them he would give them two weeks, a month, nay, six weeks, to procure their testimony.<sup>b</sup> He directed summonses to issue for Mr. Giles, General Mason, and John Taylor, all of whom Callender swore to be material witnesses for him. The process was all executed by the 2d day of June, but of the three witnesses summoned, only Colonel Taylor attended. By him the counsel for the defence proposed to prove *the truth* of certain of the allegations in the pamphlet, which were charged in the indictment, and thus, as to those allegations, bring Callender within the protecting clause of the Sedition Law. But Judge Chase required them to reduce their questions to writing, and because Colonel Taylor could not prove the truth of *all* the allegations of the pamphlet charged as libellous in the indictment, he refused to permit his evidence to go to the jury !<sup>c</sup> He even intimated that the counsel for the accused knew this evidence

<sup>a</sup> He is now Judge of the Superior Court of Law, for the Richmond Circuit.

<sup>b</sup> William Marshall's testimony, Trial, 65.

<sup>c</sup> Trial, 34, 35, 42, 65, 67. At the time when this decision was made, Judge Cyrus Griffin was on the bench, and assented. He took his seat May 30th.

to be inadmissible, and that their design was to affect and mislead the populace! It was in this part of the trial that Judge Chase's conduct was most reprehensible, and the vote of the Senate upon it, proved how much they disapproved it. He seemed afterwards conscious of the impropriety, and feebly proposed to the District Attorney that Colonel Taylor's evidence should be admitted, but Mr. Nelson, insisting that it was illegal, refused it.<sup>a</sup>

When the marshal called a jury for the trial, he summoned several members of the Republican party, but, for various causes, they declined to serve, and the jury, as finally sworn, consisted entirely of Federalists.<sup>b</sup> Mr. Nicholas proposed to challenge "the array," (that is the whole jury,) on the ground that one juror had expressed an opinion adverse to the accused, and he supported his proposition by authority; but the Judge said challenges to the array would only be for partiality in the sheriff or marshal,<sup>c</sup> and that if they had any objections, they must apply them to the jurors individually. When the first juror was called to the book, Judge Chase asked him, "Have you ever formed and delivered an opinion upon the charges contained in the indictment?" Never having seen or heard the indictment, the man of course answered in the negative. Mr. Hay earnestly insisted that the proper question was, "Have you ever formed and delivered an opinion on the book entitled 'The Prospect before Us,' from which the charges

<sup>a</sup> Trial, 39.<sup>b</sup> Ibid. 66, 67.<sup>c</sup> Ibid. 40, 75.

in the indictment are extracted?" But the court said no, and the juror was sworn. The eighth juror who presented himself was John Basset: he was a friend of the administration, and a man of honour and delicacy; he begged that he might be excused from serving, and said that though he had not seen or heard the indictment, yet he had seen in a newspaper what purported to be extracts from the "Prospect before Us," and if they were genuine, he had formed an unequivocal opinion that the pamphlet came under the Sedition Law.<sup>a</sup> Nevertheless, the Judge decided that he was a good juror, and he was sworn accordingly. In this proceeding the reader may fear that he detects an improper leaning against the accused on the part of Judge Chase. Yet his defence of the *principles* on which this part of his conduct was based is so conclusive, that it not merely satisfied a majority of the Senate, but has been adopted as law by a well-trained legal mind in Virginia.<sup>b</sup>

After the evidence for the prosecution was closed, Thomas Nelson, the District Attorney, addressed the jury. He belonged to the Republican party, yet he spared not Callender or his pamphlet. He opened the libellous passages, one after another, and disclosed the motives that suggested them with a clearness which forbade doubt in the minds of hearers. On the part of the defence, the evidence of Colonel Taylor being excluded, the counsel had

<sup>a</sup> Trial, 45, 46, 76.

Robinson's Virginia Practice, iii.

<sup>b</sup> Answer and Pleas, Trial, Appen. 164-166.  
pen. 19-21; Vote, 268, and Conway

no resource but to address the jury on the general subject. And here a curious scene presented itself.

William Wirt rose first. He told the jury that the position of the defence was embarrassing, because they were not fully prepared for trial. He then boldly took the ground that in *a criminal case* the jury were to decide both the law and the fact; that they were therefore to consider the character of the Sedition Act; that that act was *not law*, because unconstitutional. At this point Judge Chase called out, "Take your seat sir! if you please." Mr. Wirt complied. The Judge then said that the jury could not decide the constitutionality of the Sedition Law, and that it must not be argued for them, but for the court, and he read part of a long written opinion to the effect, that the province of the jury in a criminal case was to interpret a law in existence; that the Sedition Law had been duly enacted and was in existence; that whether it accorded with the Constitution was a question to be decided exclusively by the Federal Judiciary; that this was evident from the Constitution itself, and the laws of Congress providing for the judicial department; and that to permit such a question to be decided by a "petit jury," would be highly imprudent.<sup>a</sup> Mr. Wirt again rose, and a sharp dialogue ensued. Mr. Wirt. "Since the jury have a right to consider the law, and since the Constitution is law, the conclusion is certainly syllogistic, that the jury have a right to consider the Constitution." Judge Chase. "*A non sequitur*, sir," (with

<sup>a</sup> Trial, 91; Judge Chase's Opin. Appen. 65-68.



a bow.) Mr. Wirt sat down, and did not rise again during the trial.

Whatever weight may be attributed to Judge Chase's opinion, it is difficult to evade the force of Mr. Wirt's argument on the subject. By an Act of Congress, the rules of proceeding in the State Courts had been adopted, wherever they were applicable, for the Federal Courts. The common law rule for criminal trials has long been recognised in Virginia. In favour of life and liberty, the jury may decide both law and fact, even against the most positive instruction from the bench. If they acquit, their verdict cannot be set aside or reviewed by appeal. Therefore in truth they may decide the constitutionality of a law, for if they believe an Act of Congress unconstitutional, they may acquit the accused, however plainly he may have violated it. If then, in fact, they may decide this question, why shall it not be argued before them?

Mr. Nicholas followed Mr. Wirt, and notwithstanding the Judge's view, he pursued nearly the same course of argument, urging that the jury had a right to find a general verdict, and that therefore they must of necessity pass upon the constitutionality of the law. He was sometimes interrupted, but was at last permitted to proceed to his conclusion. Mr. Hay spoke last for the defence; he had already come in contact with the court with some violence, and neither had forgotten it. Mr. Hay said, "The arguments which I shall urge I shall address to the court, not wishing to be heard by

the jury, or to be attended to *by the numerous auditory now present.*" But he had not proceeded far before the Judge interrupted him; a colloquy ensued, and when Mr. Hay resumed his argument, he was again interrupted. He immediately stopped, folded up his papers, and prepared to leave the court. The Judge called, urged him to proceed, and told him "there was no occasion to be capitious." The counsel for Callender all left the room and did not return.<sup>a</sup>

The conduct of Judge Chase to the three advocates who had volunteered to defend rather the Constitution than the accused, was made a special item of charge against him, in the ordeal through which he passed before the Senate of the United States. And there can be no doubt that his course was stern beyond propriety, and irritating beyond judicial politeness. But there was an amusing correspondence between his treatment of these several gentlemen, and their own peculiar traits and dispositions. In the words of the Apostle, the judge became "all things to all men." "To the logical Mr. Wirt, he was logical; to the polite Mr. Nicholas, he was polite; to the zealous and pertinacious Mr. Hay, he was warm and determined."<sup>b</sup>

When the argument before the jury was closed, Judge Chase read to them in full his opinion against their right to determine the constitutionality of the Sedition Law. He then explained the case before them; told them the fact of publication

<sup>a</sup> Trial, 36, 41, 94.

<sup>b</sup> Charles Lee's argument, Trial, 172.

must be proved, and that they must be satisfied the writing was "false, scandalous, and malicious." He spoke of Mr. Adams's long and faithful service to his country, and declared that he was rejoiced that Callender was not a native American. (June 3d.) The jury retired, carrying with them "The Prospect before Us," and in two hours they returned into court with a verdict of "Guilty."<sup>a</sup> On the 4th of June, Callender was brought in, and the court pronounced sentence. He was to be fined two hundred dollars, to be imprisoned nine months, and to give security for his future good behaviour. He was immediately committed to the custody of the marshal, to be kept until the fine should be paid, and the security given.<sup>b</sup>

Thus, one of the laws which had excited the fears of Virginia, against which she protested in 1798, which she again deliberately condemned in 1799, and which she continued to the last to regard as unconstitutional, was carried into force upon her soil. We may readily suppose that party feeling ran high in Richmond, and that the events of the trial were not calculated to allay it. Yet there was so much that was really disgusting in Callender's pamphlet, and he was personally so little respected, that public sympathy did not make him its object. The law and its results were submitted to. No effort was made to arrest them by violence.

<sup>a</sup> MS. Order Book, Fed. Ct. 1800. Matthew Hawes, John Basset, William Mayo, James Hays, Henry S. Robert Gamble, Bernard Markham, Shore, and John Fryor," page 412.  
<sup>b</sup> Order Book, MS., page 413.

John Barrett, William Austin, William Richardson, Thomas Tinsley,

But as the elections of the fall approached, the Republicans of Virginia were ceaseless in their efforts. The sequel of the contest throughout the United States, is well known. Thomas Jefferson and Aaron Burr, received a majority of electoral votes over John Adams. But as Mr. Jefferson and Mr. Burr had precisely the same number of votes, and the Constitution did not then require voters to specify which candidate they wished to be President, and which Vice-President, the election at last devolved upon the House of Representatives. Here the Federalists voted for Mr. Burr; and not until after thirty-five ballots, and imminent danger of a dissolution of the Government, did some of the less inflexible give way, and thus secure the election of Mr. Jefferson.<sup>a</sup> But the popular voice had been heard; the people had declared against the Alien and Sedition Laws; the object of Virginia was accomplished without either nullifying the law, or overturning the government. Not long after the success of the new administration became apparent, these unconstitutional acts were repealed. It was decided that America might be saved without making her President at once lawgiver, judge, and executioner, upon the *alien*; and that sedition might be quelled without fettering the press, and proscribing opinions.

And yet, though the triumph of liberty, and that of law and order, had been achieved, and had gone hand and hand together, they had not been won without a sacrifice. Stormy passions had been

<sup>a</sup> Jefferson's Letter to Madison, Works, iii. 453; Lincoln, 122.



roused, which did not subside until they had rent asunder many ties; characters had been assailed which were once regarded with a nation's reverence. Men had learned to think lightly of past services, when covered with present obloquy; and minds once devout had been taught to listen with patience, and even with pleasure, to infidel philosophy. There had been evil in both parties, and there had been good wrought, not as the immediate object of either, but as the work of the Power that can bring light out of darkness, and order out of chaos. Virginia has little cause to wish renewed the scenes of a struggle which arrayed her noblest sons in battle against each other, and infused a bitterness into her spirit that will, perhaps, in some measure, endure with her existence.

## CHAPTER VII.

Internal interests of Virginia—Slaves—Insurrection headed by Gabriel—Happily defeated—Establishment of the Public Guard—Incipient steps for the sale of the glebe lands—Act of 1799—Its character explained—Memorials asking a sale of the glebes for the benefit of the public—Act passed for the purpose—Its leading provisions considered—Its effect and abuses—Constitutionality of the act disputed by the Protestant Episcopal Church—Manchester Parish case—Death of Judge Pendleton—Argument in the Court of Appeals—Court divided—Chancellor's decision that the law was constitutional, affirmed—Subsequent case—Chancellor Tucker—Court of Appeals, unanimous in sustaining the law—Complete establishment of religious liberty—Bank of Virginia chartered—Trial of Aaron Burr—Burning of the Richmond Theatre, in 1811—Late war with England—Virginia invaded—Admiral Cockburn—Mr. Jefferson's gun-boats—Heroic defence of Craney Island—Hampton attacked and taken—Horrible outrages there committed by the enemy—Excitement in Richmond—Preparations for defence—Withdrawal of the enemy—Peace in 1815—University of Virginia—Its obligations to Mr. Jefferson—Its career—Members elected to a Convention to amend the Constitution of the State—Their labours—Amended Constitution adopted—Vote—Conflict of sentiment between the East and West—Explained—The Southampton insurrection of slaves—Crushed—Excitement throughout the state—Legislature of 1831–32—Case of Johnson, Smith, and Gansey—Controversy between the Executive of Virginia and that of New York—Governor Seward's conduct—Virginia Inspection Law—Protest—Case of Curry—Resignation of Governor Gilmer—His death and character—Retrocession of Alexandria ratified in 1847.

WHILE the Commonwealth was watching the course of the Federal Government, her internal condition needed her care. And her true interest must always be identified with the progress of events within her own borders, for the federal

system is but the creature of state will, its object is the general good, and it is only interesting to the states so far as it enables their *people* to become prosperous and happy. No attention to government, either general or local, will compensate for the want of domestic peace, of diffused intelligence, of industrious habits, of virtuous dispositions, all of which elements are necessary to the real welfare of every nation.

Since the year 1620, Virginia had held a species of population which deeply affected her character, and spread its influence through every part of her society. It is believed, that at no time during the colonial period, were a majority of her white inhabitants in favour of importing negro slaves; but the English government continued to sanction the trade, and English ships continued to bring Africans to the Colony. And it is certain that in 1778, by a solemn act of lustration, Virginia cleansed herself from the guilt of her mother. She forbade that slaves should any longer be imported; and if her people had ever been responsible for their admission, they were then justified in the eyes of Him who said to the penitent, "Go and sin no more!" But now the evil was fixed upon her; it is true, the number of slaves could not be augmented by importation, but it was liable to be swollen by the "irrepressible laws of human increase;" and experience has shown that the absence of care, and the certainty of subsistence enjoyed by this class in Virginia, have made them propagate with more rapidity than the white population.

Thus slavery continued to exist within her borders, and it was attended with the dangers to which, in every age of the world, the admixture of such an ingredient has exposed society.

Not far from Richmond, at this time, lived Thomas Prosser, who owned a number of slaves, and among them a man named Gabriel, distinguished for his intelligence, and his influence with his class. He was twenty-four years old; his stature was tall, and his bodily strength very great; he had "a gloomy, insidious brow," a long, stern visage, and previous conflicts had left several scars upon his person. There was, at the same time, in the neighbourhood, a slave named Jack, who, as usual, took his master's last name, and was commonly called "Jack Bowler." He was twenty-eight years old, a perfect giant in stature and strength, being six feet five inches high, and possessed of remarkable muscular power. His hair was long, and worn in a queue, in the style of the day.<sup>a</sup> These two men combined for a conspiracy. Gabriel was the leading mind, and so actively exerted himself, that in the subsequent scenes, he won the title of "General Gabriel," which was commonly given him both by whites and negroes.

With secrecy and skill a plot was organized. It is supposed to have embraced nearly one thousand slaves, yet so well was their counsel kept, that it did not escape until the very night on which their object was to be carried out. Their plan was such as might have been expected from brutal natures,

<sup>a</sup> Examiner, Sept. 30, 1800, Governor Monroe's Proclamation, Sept. 17.



impelled rather by lust and cruelty, than by real wrongs. They were to attack Richmond at night, when her people were asleep and defenceless, to kill all the white males who might be dangerous, to divide the women among themselves, to seize arms, ammunition, and other spoils, and to unite with brethren through the state, in making war of extermination upon the whites. A plot so diabolical was happily defeated by a providential warning.

On the evening of a day near the close of August, a number of the conspirators had assembled in the country, several miles from Richmond, where they prepared for an attack during the night. A tremendous summer storm came on, attended by torrents of rain, and while it was yet raging, a slave named Pharaoh, the property of William Mosby, escaped without being observed by his fellows, and hastened to Richmond. He swam an intervening creek which was then rising, arrived safely in the city, and communicated his information, which was regarded as so important that it was carried immediately to Governor Monroe. Forthwith the alarm was given, the drums beat, volunteer companies were called out, the militia were under arms, and all things were made ready to give the assailants a proper reception.\*

In the mean time, the rain poured down without ceasing, and the creek already noticed became so swollen, that it could not be crossed without danger.

\* These facts, with others connected with the conspiracy, were communicated to me by Mr. Obadiah Gathright, an aged and very intelligent citizen of Richmond.

A tradition, not printed, but well preserved, has told us that the chief rendezvous of the slaves was near Mr. Thomas Prosser's house. He was warned by a servant woman, and with difficulty made his escape by a window. As he ran through the rain, he sometimes looked back, and every flash of lightning glanced from the bright scythe-blades, which were the principal arms of the conspirators. So eager were they to make their attack, that they marched in the midst of the storm, but coming to the creek, they found it nearly impassable. A number of the most daring plunged in, and attempted to swim to the other side; several were drowned in the attempt, and those who succeeded, had advanced but a little distance, before they discovered that their plot was known. Then the whole body of insurgents broke and dispersed in every direction; the ringleaders took refuge in places of concealment, and the private members, generally, returned to their homes.

Measures were promptly taken to arrest those who had been engaged in this plot, and bring them to trial. As fast as they were brought in, they were tried by a court of "Oyer and Terminer," composed of the justices of Henrico County. Several were acquitted for want of evidence; but many were found guilty, condemned, and successively executed by hanging.\* A reward of three hundred dollars each, was offered by the Governor for the apprehension of Gabriel and Jack; for seve-

\* MS. Order Book, No. 9, Henrico County Court Office. The records of the trials will there be found.

ral weeks they could not be found, but at length they were apprehended, and met the fate they deserved. Gabriel was tried on the 6th of October, convicted and condemned.<sup>a</sup> He is said to have lost all firmness as death approached, and to have shown, at the final scene, nothing but abject fear. To provide against danger, the volunteer companies under arms were ordered to attend the executions. As the number of victims gradually increased, public feeling reacted, and a merciful arrest of justice occurred, long before all the guilty had been punished.

(1801.) One of the most important results of this insurrection was the establishment of the public guard at Richmond. On the last day of the year 1800, the House of Delegates resolved that this step was expedient,<sup>b</sup> and on the 22d of January succeeding, an act was passed for the purpose.<sup>c</sup> It said that, "in the present crisis of affairs," it was proper to have an armed guard, and provided for the enlistment of sixty-eight privates, who were to be under a captain, a lieutenant, and an ensign. They were to have quarters at the armory, and their service and pay were all properly defined. Subsequent years have more and more confirmed Virginia in the policy of keeping up this guard; from time to time it has been reconsidered and improved; its numbers have not been much increased, but it has been rendered more efficient,<sup>d</sup> and has

<sup>a</sup> MS. Order Book, No. 9, 400-401.

<sup>c</sup> Stat. at Large (N.S.), ii. 295, 296.

<sup>b</sup> Journal, H. of D. for 1800, 47-

<sup>d</sup> See remarks in the "Virginian"

probably never been higher in public esteem, both as regards its officers and men, than it is at present. Intimations have sometimes been made, that this corps is in fact "a standing army" on a small scale, and that therefore it contravenes the letter and spirit of the Federal Constitution. But its origin, its design, its character, and duties, alike repel such construction. It has never yet drawn a disapproving look from the General Government, and Virginia would not yield it without a struggle.

We now approach a measure adopted by the General Assembly, which has been the subject of severe scrutiny and animadversion; but which, when fully understood, will be found to be the acting out of the principles of the Bill of Rights, and of religious freedom, and the final step necessary to sever Church and State in Virginia. That this subject might be at once, and clearly presented, we have reserved for this place, notice of an Act of Assembly, passed in 1799, and having an important bearing upon their subsequent action.

The act was passed on the 24th of January.<sup>a</sup> It recited that the Constitution of the State had pronounced the government of the King of England to be dissolved by the Revolution; had substituted for it a new civil government, and that the Bill of Rights had excepted from the powers of the government, any authority to revive any species of church government, *by referring the subject of religion to conscience*. It farther recited, that several Acts of Assembly had admitted the Established

<sup>a</sup> Statutes at Large, (N. S.) ii. 149; 1 R. C. 78, 79.



Church to have continued so subsequently to the Constitution ; had bestowed property upon that church ; had asserted a right to establish any religious sect, and *had incorporated religious sects*, “all of which is inconsistent with the principles of the Constitution, and of religious freedom, and *manifestly tends to the re-establishment of a national church.*” Therefore, to prevent these evils, this act first repealed several prior acts, viz., the act passed in 1776, for exempting Dissenters from contributing to the Established Church, and for other purposes ; the act in relation to the payment of the salaries of the ministers of the Church of England ; the act for incorporating the Protestant Episcopal Church ; the act to authorize the election of vestries ; the act repealing the incorporation of the Protestant Episcopal Church ; and the act giving powers to the Trustees of that Church ; and then this sweeping enactment declares, that the “Act for establishing religious freedom” is a true exposition of the principles of the Bill of Rights, and Constitution.

That the reader may not be confused by this complicated law, which seems to repeal some prior legislation which, when adopted, was regarded as highly liberal, he must be reminded of the object and the effect of this act of 1799. Its *object* was to strike down and cut away at once, every statute, which in any form, either expressly or impliedly, recognised a connexion between Church and State. It was a process like that of taking down a confused mass of architecture, some good, some bad,

and preparing to erect a graceful edifice, in which nothing should be found to offend an exact taste. It sought to repeal every enactment which spoke of an "Established Church" as still existing; which made mention of *Dissenters*, which talked of *Toleration*. Where all were free, there should be no such thing as an Established Church; no such persons as Dissenters; no such word as toleration. Its *effect* was to refer the religious rights of the people of Virginia to four sources of decision: first, the principles of the Revolution itself; secondly, the Bill of Rights; thirdly, the Constitution; fourthly, the Bill of Religious Freedom. Upon this fourfold base, liberty would be firm.

The exclusive claim of the Protestant Episcopal Church to the property which had accumulated during the Colonial period, under the laws supporting an Establishment, was not quietly acquiesced in by other denominations, or by the people at large. Every year, memorials poured in upon the Assembly, praying that this property might be restored to the public, from whom it had so long been diverted, and might be applied to purposes of general good. The Baptists were chiefly active in this work; the Presbyterians lent their aid; and in the struggles on the one side and on the other, it is to be feared the spirit of genuine piety suffered harm.<sup>a</sup> But the friends of freedom in the Legislature could not be blind to the justice of a claim which sought to remove the last *legal* advantage enjoyed by one church over the others. They

<sup>a</sup> Semple, 73; Evan. and Lit. Mag. 36-47; Hawks, 225-227.

acted not precipitately ; they had heretofore delayed to reclaim the glebe lands for the public, because such a step might have borne the appearance of rigour to incumbent ministers ; but at length the time seemed to have arrived when they might proceed without even the *semblance* of wrong.

(1802.) On the 12th of January was passed the law concerning glebe lands and churches in the Commonwealth of Virginia.<sup>a</sup> The preamble recites the law of 1799, under operation of which the principle was recognised, that all property formerly belonging to the “late Protestant Episcopal Church,” devolved on the people of the Commonwealth, on the dissolution of the British Government here, “in the same degree in which the right and interest of the said church was derived therein from them.” It farther recites, that although the Assembly might direct a sale of such property indiscriminately, yet wishing to reconcile “all the good people” of the Commonwealth, they deemed it inexpedient to disturb the existing incumbents. The act then authorizes the overseers of the poor, in any county where there were glebe lands vacant, or which should become vacant by the death or removal of the incumbent, to sell such lands and appurtenances, and all property incident thereto. If there were incumbents on any glebes, they were to be restrained by a proper legal process, from committing waste, and removing personal property. Out of the proceeds of the sales, the overseers were first to pay the debts of the parish, if any there were ; they were then to appropriate the balance

<sup>a</sup> Rev. Code, i. 79-81.

of money to the poor of the parish, or to any other objects that a majority of the freeholders and housekeepers therein might direct, provided that no appropriation should be made "to any religious purpose whatsoever." But it was expressly provided that this law should not authorize the sale of any church edifice, or of the property in it, or of any churchyard, and should not affect any property or money which, by private donation or subscription, should have been acquired by the Church since the first day of January, 1777.

In considering this act, the reader will specially observe the care with which the Assembly protected the feelings of the living, and the memory of the dead. No incumbent minister could by possibility be disturbed. No sacred building, hallowed by the recollections of the past, could be violated; no property within such building could be taken; no churchyard could be sold; no private gift, made within a quarter of a century, could be diverted from the end designed by the donor. Virginia introduced the innovations made necessary by the progress of free principles, with a caution, a ceaseless regard for human sympathies and frailties, which might furnish a model for the world. There was none of that horrible rending of hearts which accompanied the revolutionary measures of France, when the possessions of the Gallican Church were at one fell swoop, torn from her clergy.\* If ever the feelings of the worthy were

\* Read W. C. Rives's Discourse on but particularly on pages 42-47; the Uses and Importance of History, Alison's Europe, Am. edit. i. 95, 96. delivered 20th June, 1847, *passim*,



outraged in Virginia, under pretext of this law, it was the work of private ruffians, for which neither the Legislature nor the people should be held responsible. It has been said that after this act, not only glebes, but church edifices, and even communion-plate, were sold ; that a case has occurred in which a silver cup, often used to dispense the sacred emblem of a Redeemer's blood, became the instrument from which a profligate wretch supplied his guests for a morning debauch ! and that a marble baptismal font was converted into a watering-trough for horses.<sup>a</sup> These may be facts, and they may well cause human nature to blush for shame, but it will not be pretended that they find the slightest sanction in the law of 1802, which we have just detailed.

And if the clause forbidding money to be appropriated "to any religious purpose whatsoever," shall, to any reader, seem singular, almost infidel in its tendency, it will be easy to vindicate it. For to what religious purpose could it have been applied unconnected with some sectarian view ? Should it be appropriated under the guidance of the Episcopal Church, or of the Baptist, or of the Presbyterian, or of the Methodist ? Any such application of the fund would have defeated the very object of the law. And could any union of purpose be expected, even among the sects called *Christian* ? No such union has occurred ; probably none such ever will occur ; and even if it did, it would not satisfy the demands of religious freedom. The Jew, the Mahommedan, even the Pagan, all had a

<sup>a</sup> Hawks, 235, 236.

right to be heard; all had their "religious purposes." The policy of the clause was perfect.

But this law for the sale of the glebe lands was not to operate without resistance. The body known as the Protestant Episcopal Church, considered it as an invasion of their rights, and prepared to test the question by an appeal to the courts. In Manchester Parish, Chesterfield County, the Overseers of the Poor, were proceeding to sell glebe lands under the late act; the churchwardens and vestrymen of the parish sought to restrain the sale by a bill in chancery for an injunction. Chancellor Wythe heard the case, and dismissed the bill, and then the plaintiffs took an appeal to the highest civil tribunal, the Court of Appeals of Virginia.\*

Here we are called to note a marked intervention of Providence, but whether for unmingled good or for chastisement we will not attempt to decide. The Judges of the Court of Appeals at this time were Pendleton, President; Carrington, Lyons, Roane, and Flemming,—but Judge Flemming, considering himself interested in the case, did not sit. Judge Roane thought the law of 1802 constitutional, and would therefore have sustained the decision of the chancellor. Judges Carrington and Lyons were in favour of the claims of the Church, and the venerable Pendleton, true to the views he had always held as to the Establishment, had prepared an opinion supporting the appellants. Thus, had judgment been rendered, the Episcopal Church would have gained its object. But the very night

\* Turpin et al. v. Locket et al., 6 Call, 113; Hawks, 237.

before the judgment was to have been given, *Judge Pendleton died*.<sup>a</sup> The court was left without its head, and without all the members who had heard the argument. A reorganization became necessary; Judge St. George Tucker was appointed to succeed Judge Pendleton, and at the May Term, 1804, the whole cause was reconsidered.

In behalf of the appellants, who represented the Church, appeared Daniel Call, John Wickham, and Edmund Randolph. On the part of the overseers, appeared P. N. Nicholas, the Attorney-General, and George Hay. The case had excited much interest, and was argued with remarkable ability and research on both sides. The highly-wrought zeal of one of the counsel for the appellants, may be inferred from the words he used in argument, "Freedom of religion requires *only toleration*, and may exist with an Established Church."<sup>b</sup> Such doctrine, uttered in the nineteenth century, must have startled the ear of Virginia.

The principal arguments urged for the appellants were, that the law of 1802 was unconstitutional, because it destroyed the vested rights of the Protestant Episcopal Church; that the Church of England was the *prototype* of, but not identical with the Church of the Colony; that the laws of the Colony themselves had fixed the rights of its church; that these laws were valid when passed; that they vested the property in the glebes and their appurtenances, in the Church; that the Revolution did not destroy the Church,

<sup>a</sup> 6 Call, 187.

<sup>b</sup> Mr. Wickham, 6 Call, 124.

or divest its property; that an act of Assembly, passed the year after the Revolution commenced, had expressly confirmed to the Church its property in the glebes and their incidents "in all time coming;"<sup>a</sup> that several acts thereafter had recognised the same rights; that the Protestant Episcopal Church was identical with the Church of England, or with that modification of the Church of England which had existed in the Colony, and therefore held all the rights of the ancient Church unimpaired; and that the repeal (in 1799) of the prior laws recognising the rights of the Church in the property, could not destroy or affect those rights, because they were *vested*. It was farther argued that the "Bill of Rights" did not touch this case at all; its fourth clause, which declares that no man or set of men are entitled to exclusive emoluments or privileges from the community, referred only to the office of magistrate, legislator, or judge, afterwards mentioned; and its last clause, which refers religion to conscience, was not violated, because conscience was not affected by the claims of the Church to what she regarded as her property.

On the part of the appellees, and the law of 1802, the arguments were that the Church of England was, in fact, the Church of the Colony, having been established by the King's Articles of Instruction in 1606;<sup>b</sup> that the King was the head, and an integral part of the Church of England; that the Revolution destroyed the authority of the King in Virginia, and with it dissolved the Church which

<sup>a</sup> Act of 1776, Hening, ix. 164, 165.

<sup>b</sup> See vol. i. 84; Stith, 36-39.



previously existed ; that, admitting the Church of the Colony to have been separate from, and independent of the Church of England, yet it had never been made a corporation, and, therefore, could not take and hold property, except as the Colonial laws directed ; that, under those laws, *induction* by the Governor, of some minister recommended by the Bishop of London, was indispensable to vest a freehold right to the property ; that without this *induction*, the minister would have only an estate from year to year, the full property being in the public ; that induction was now, of course, impossible, the authority of Colonial Governors, and of the Bishop of London, having been alike swept away ; that all the laws of the Colony, under which this property had accumulated, had been unjust, and against natural right, because they compelled all persons to contribute, whatever might be their religious preferences, or their opposition to establishments ; that the fourth clause of the “ Bill of Rights ” forbade that any set of men should enjoy separate and exclusive emoluments and privileges, yet such would certainly be the case if the Episcopal Church should continue to enjoy this property ; that the clause was too broad to be restricted to magistrates, legislators, and judges, as was contended on the other side ; that the Episcopal Church rendered no such “ public services ” as gave them a right, under this clause, because other churches rendered as many, and more ; that the last clause of the “ Bill ” referred religion to conscience, and it was against conscience that one Church should be preferred by law to others ; that

if the act of 1776, and other acts, did confirm this property to the Episcopal Church, they were based on false principles, were contrary to the Bill of Rights, and had been properly repealed in 1799; that even admitting that the Church of England, or the ancient Colonial Church, had once a right to this property, the Protestant Episcopal Church could have none, because it was distinct and different from those churches; that it was distinct and different, both in its creed and its forms,<sup>a</sup> and that this difference had been recognised by the Protestant Episcopal Church itself, when it applied for incorporation in 1784, for why ask to be incorporated, if it was already a Church, having vested rights? And, therefore, on the whole, the law of 1802 violated no principle of justice, was moderate and generous in its provisions, constitutional and valid in its basis.

When the opinions of the judges were delivered, it was found that Judges Tucker and Roane thought the law constitutional, and sustained the appellees; Judges Carrington and Lyons thought the law void, and supported the appellants. Thus, the court being equally divided, the Chancellor's decision stood confirmed. From this time, for a long tract of years, the question was regarded as settled, and all parties, in general, acquiesced in the view which held the law to be constitutional; but as this point had never been determined by a

<sup>a</sup> See Hawks, 179-194. The first Convention of the same Church in America, was held in Philadelphia, during the month of September, May, 18, 1785. The first General 1785.

majority of the Court of Appeals, it was thought worthy of another struggle. This actually took place in 1830. The overseers of the poor in Loudon County, were proceeding to sell glebe lands and property, and vestrymen of the parish sought to restrain the sale by injunction. The cause was heard by Chancellor Henry St. George Tucker, who delivered an elaborate and searching opinion, on the 27th May, 1830, and sustaining the law of 1802, dismissed the bill, with costs.<sup>a</sup> The case was carried to the Court of Appeals, and, in April, 1840, it was admirably argued by Chapman Johnson, for the vestrymen, (the appellants,) and John Robertson,<sup>b</sup> for the overseers of the poor. The court consisted of five judges, Tucker, President, Brooke, Cabell, Parker and Stanard, and they were *unanimously* of opinion that the law of 1802 must be sustained.<sup>c</sup> Thus the Chancellor's decision was affirmed.

The sale of the glebes removed the last legal inequality between the religious denominations of the Commonwealth. The divorce between Church and State was complete. Virginia breathed the air of *perfect religious liberty*. The hope may be indulged that her policy on the subject is fixed for ever, and that she will not adopt any measures which will have a tendency to restore a connexion so unhappy in its origin, so disastrous during its

<sup>a</sup> The opinion is appended to 2 Tucker's Commentaries. Poor for Loudon, xi. Leigh, 132-136. —Judge Tucker did not sit in the

<sup>b</sup> Now Judge of the Chancery Court for the Richmond circuit, case in the Court of Appeals, having decided it as Chancellor.

<sup>c</sup> Selden et al. *vs.* Overseers of

continuance, and so painful in the remedies necessary to destroy it.

(January 30.) It was at this time that the Bank of Virginia was first chartered and established. The expediency of this step had long been discussed, and was generally admitted. The state had been flooded with bank notes from the North, and though their character was often more than doubtful, yet the want of gold and silver, and the advantages of these notes for currency, introduced them into general circulation. In December, 1785, the old Bank of the United States had been authorized to establish one or more offices in Virginia, and to charge six per cent. on its loans;<sup>a</sup> but its issues had not long supplied an acceptable currency. The evils arising from private bank notes had been so great, that the Legislature had positively forbidden them;<sup>b</sup> and the demands of trade required that Virginia should no longer be behind the age in providing a good investment for capital. The act originally establishing the Bank of Virginia,<sup>c</sup> provided that its stock should be one million five hundred thousand dollars, to be divided into fifteen thousand shares, of one hundred dollars each; but by an act passed ten years afterwards,<sup>d</sup> its stock was increased one million of dollars, in ten thousand shares, of one hundred dollars each. Under the first law, the state was to subscribe for three thousand shares, and the whole amount of

<sup>a</sup> Stat. at Large, (N. S.) i. 357.

<sup>b</sup> Henning, xii. 166.

<sup>c</sup> Stat. at Large, iii. 100-108; 2 R. C. 67-76.

<sup>d</sup> Jan. 24, 1814; 2 R. C. 76-80.



three hundred thousand dollars was to be loaned by the bank to the state, at four per cent. per annum interest. Under the last act, the state was to retain two thousand shares, and the bank pledged itself to loan to her, when required, three hundred and fifty thousand dollars, at seven per cent. interest. The bank was clothed with regular corporate powers, and was authorized to establish branches in sundry towns in Virginia. Though its notes could not be made a legal tender for debt, yet the state sought to give them every sanction in her power, by making them receivable for public dues, and by depositing all of her inactive funds in the vaults of the bank.

Thus the system went into operation, and the subsequent favour bestowed on it by the Legislature, induces us to suppose that it was well managed. Yet very few years had elapsed before we read complaints and remonstrances in the public prints. Writers over feigned signatures began to talk of partiality and intriguing, and injury to public manners and morals.<sup>a</sup> The salaries of the officers were said to be exorbitant, and were contrasted with those of the judges. Why should the president of the bank receive twenty-five hundred dollars, and the cashier three thousand, while a learned judge received but fifteen hundred? And these writers complained bitterly of inequality in discounts. They said the rich got all and the poor none. They drew a picture of a man coming from the country to live in the metropolis. "He is not

<sup>a</sup> Virginian, January, 1808.

long a resident of the city, before the most important traits in his character are strictly scrutinized. Is his paper good at the bank? says one; does he keep a carriage? says another; will he take a hand at *loo*? says the third. A stockholder says, No, he is an old soldier"<sup>a</sup> of the Revolution, and therefore poor, and not to have accommodation at bank. These public censors said further, that no discount would be granted, unless the maker or endorser of the note lived in Richmond; that the bank was despised, hated, cursed. "Excepting the murders in cold blood which have been perpetrated on the defenceless inhabitants of India, the rapacity of that monstrous mass of aristocracy, the East India Company, has been fully equalled by the management of the corporation of the bank."<sup>b</sup>

We have reason to believe that all of these complaints were founded either in ignorance or malice. It has long been conceded, that the salaries of the bank officers are meagre rather than exorbitant, when compared with the responsibility endured, and the services rendered; and that if these salaries contrasted disproportionately with those of judges, the remedy was in raising the latter, rather than reducing the first. And experience has farther proved, that there will always be found a certain class in society, ready to rail at a moneyed institution. No bank properly conducted, will lend its funds, unless upon the security of at least *one* man,

<sup>a</sup> *Virginian*, January 8, 1808; see letter in same to Abram B. Venable and William Moseley.

<sup>b</sup> *Virginian*, January 15 and 29; and *Agricola*, in same, February 2, 1808.

whose unincumbered property will more than repay the loan. To act otherwise, would be a departure from the only principles on which banking operations can be safely managed. But the industrious poor man will always obtain by his *character*, the aid of a name representing property, and will thus secure a loan. Men who have neither property nor character, neither deserve nor obtain loans; and hence complaints, slanders, and dark hints of intrigue, and pride, partiality and corruption.

As years now passed away, few events occurred either greatly to elevate or depress Virginia. She began to feel the spirit of the wonderful century upon which she had entered, and though her progress was by no means so rapid as that of some of her sister states, she did not then fall so much behind them as to excite the fears of her admirers. In the year 1807, took place, in Richmond, the celebrated trial of Aaron Burr and Herman Blennerhasset, charged with the crime of levying war against the United States, and with the misdemeanour of preparing and providing the means for a military expedition against the territories of a foreign prince, with whom the United States were at peace. It commenced on the 22d May, and was ended by the delivery of Chief Justice Marshall's opinion, on the 20th of October.<sup>a</sup> It has no farther connexion with the history of Virginia than that the adherents of Burr first assembled within

<sup>a</sup> A full report of this trial will be edit. Washington, 1834, Miscel. i. found in the American State Papers, 486, 645.

her borders, and that the trial took place in her metropolis; but the splendid displays of forensic eloquence which it drew from William Wirt and other counsel engaged in the cause, increased the already high reputation enjoyed by the lawyers of the Old Dominion.

It is not often that a domestic calamity is so mortal in its character, and so widespread in its influence, as to merit a place in general history; but one now presents itself, which has formed an era in the life of Virginia, never to be forgotten. (1811.) During the winter of this year, unwonted gaiety prevailed in Richmond; brilliant assemblies followed each other in quick succession; the theatre was open and sustained by uncommon histrionic talent; the fascinations of the season had drawn together, from every part of the state, the young, the beautiful, the gay. On Thursday night, the 26th of December, the theatre was crowded to excess. Six hundred persons had assembled within it, embracing the fashion, the wealth, and the honour of the state. A new drama was to be presented, for the benefit of Placide, a favourite actor; and it was to be followed by the pantomime of "The Bleeding Nun."<sup>a</sup> The wild legend on which this spectacle was founded, had lost none of its power under the pen of Monk Lewis, and, even in pantomime, it had awakened great interest. The regular piece had been played; the pantomime had commenced; already the curtain had risen upon its second act, when sparks of fire were seen to fall

<sup>a</sup> Niles' Weekly Register, i. 329; Virginia Patriot. Advert. Dec. 24, 1811.



from the scenery on the back part of the stage.<sup>a</sup> A moment after, Mr. Robertson, one of the actors, ran forward, and waving his hand towards the ceiling, called aloud, "The house is on fire!" His voice carried a thrill of horror through the assembly. All rose and pressed for the doors of the building.

The spectators in the pit escaped without difficulty; the passage leading from it to the outer exit was broad, and had those in the boxes descended by the pillars, many would have been saved. Some, who were thrown down by violence, were thus preserved. But the crowd from the boxes pressed into the lobbies, and it was here, among the refined and the lovely, that the scene became most appalling. The building was soon wrapped in flames; volumes of thick, black vapour penetrated every part, and produced suffocation; the fire approaching, caught those nearest to it; piercing shrieks rose above the sound of a mass of human beings struggling for life. The weak were trampled under foot, and strong men, frantic with fear, passed over the heads of all before them, in their way towards the doors or windows of the theatre. The windows even of the upper lobby were sought; many who sprang from them perished by the fall; many were seen with garments on fire as they descended, and died soon afterwards from their wounds; few who were saved by this means escaped entirely unhurt.

But, in the midst of terrors which roused the

<sup>a</sup> The fire is supposed to have improperly raised.—Virginia Standard, Dec. 27th, in Howe, 309.

selfishness of human nature to its utmost strength, there were displays of love in death, which make the heart bleed with pity. Fathers were seen rushing back into the flames to save their children; mothers were calling in frenzied tones for their daughters, and were with difficulty dragged from the building; husbands and wives refused to leave each other, and met death together; even friends lost life in endeavouring to save those under their care. George Smith, the Governor of Virginia, had brought with him to the theatre a young lady under his protection. Separated from her in the crowd, he had reached a place of safety, but, instantly turning back, himself and his young ward both became victims of the fire.<sup>a</sup> Benjamin Botts, a lawyer of great distinction, had gained the door; but his wife was left behind. He hastened to save her, and they perished together.

Seventy persons were the martyrs of this horrible night. Besides those already named, there perished Abram Venable, the President of the Bank of Virginia, and Lieutenant Gibbon,<sup>b</sup> who was destroyed in attempting to save Miss Conyers. Richmond was shrouded in mourning; hardly a family had escaped the visit of the destroying angel, and many had lost several loved ones. And the stroke was not felt only at home. It fell upon hearts far removed from the immediate scene of the disaster.

<sup>a</sup> Niles' Register, i. 329.

<sup>b</sup> The name of this officer, in connexion with the circumstances of his death, will recall to the minds of many, an incident in which the doc-

trine that dreams sometimes have prophetic power, finds strong support. The incident rests in tradition; but, by oral testimony, it is well authenticated.

On the day succeeding this night, a father in Richmond, who had lost a child by the fire, wrote a letter to Matthew Clay, then a member of the House of Representatives from Virginia, to tell him that he too was called to mourn. It would be hard to imagine circumstances more affecting than those disclosed by this touching letter. The writer says, "Yesterday a beloved daughter gladdened my heart by her innocent smiles; to-day she is in heaven. God gave her to me, and God—yes, it has pleased Almighty God to take her from me. O! sir, feel for me, and not for me only; arm yourself with fortitude, while I discharge the mournful duty of telling you that you have to feel also for yourself. Yes, for it must be told! You also were the father of an amiable daughter, now, like my beloved child, gone to join her mother in heaven." "The images of both my children were before me; but I was removed by an impassable crowd, from the dear sufferers; the youngest, (with gratitude to Heaven I write it,) sprang towards the voice of her father, reached my assisting hand, and was extricated; but . . . my dear, dear Margaret, and your sweet Mary, with her companions, Miss Gwathmey and Miss Gatewood, passed together, and at once, into a happier world." . . . "Oh! God! eternity cannot banish that spectacle of horror from my recollection. Some friendly, unknown hand, dragged me from the scene of flame and death."<sup>a</sup>

On the 30th December, intelligence of this calamity was communicated to the Senate of the United

<sup>a</sup> Niles' Weekly Register, i. 330.

States; and, on motion of Mr. Bradley, a resolution was adopted that the senators would wear crape on the left arm for a month. On the same day, a similar resolution was adopted by the House of Representatives, having been introduced in a short and feeling address, by Mr. Dawson of Virginia.<sup>a</sup>

Many years passed before the impression of this event was erased in the state where it occurred. It will never be forgotten. Some who escaped, yet survive to tell of the scene. The day after the fire, the Common Council of Richmond passed an ordinance forbidding any public show or spectacle, or any open dancing assembly, for four months.<sup>b</sup> A monumental church has risen on the very spot where the ill-fated theatre once stood, and its monument, bearing the names of many victims of the night, will recall to the visiter thoughts of death and of the life beyond. Yet it is not the nature of man to cherish depressing memories. Time, the great destroyer, and yet the great physician, sweeps away, first, the friends whose loss brings sorrow, and the sorrow caused by their loss. Another theatre has been reared in the metropolis of Virginia, and another "Bleeding Nun" may yet be impersonated within its walls.

(1812.) The succeeding year witnessed a declaration of war made against Great Britain by the United States. The causes which led to this second struggle have often been detailed: treaties broken, neutral rights violated, seamen impressed, a flag insulted, merchantmen unjustly seized; these

<sup>a</sup> Niles, i. 331.

<sup>b</sup> Ibid. i. 329, 330.



were the wrongs of which America complained. Virginia sustained Mr. Madison and his administration in their views of the war. Many of her sons gained distinction in the combats that followed by sea and by land, and she was not to escape actual invasion by the enemy. Early in May, 1813, the infamous Admiral Cockburn, with a British fleet, entered Chesapeake Bay, and commenced a series of private depredations, to which nothing that Dunmore had done could be compared. His first efforts were against the coasts and villages of the District of Columbia and Maryland. His excesses at Havre de Grasse, Fredericktown, and Georgetown, have placed his name among the most brutal buccaneers that have disgraced the world. But he was to gain even a darker reputation in Virginia. A considerable English fleet was collected in the Bay, near the Capes, and in Lynhaven Harbour. They were closely watched from Norfolk and Hampton. From time to time some of the ships put to sea, but they soon returned, and a heavy reinforcement came in, which swelled the fleet to four line-of-battle ships and twelve frigates.<sup>a</sup> They carried a large land force, under Sir Sidney Beckwith; the naval commander was Admiral Warren.

At this time Mr. Jefferson's famous "Gun-boat System," was in course of trial in the United States; and the harbour of Norfolk was chiefly defended by this species of naval armament. But to meet the emergency, large bodies of militia, from

<sup>a</sup> Enquirer, May 18, 1813.

the upper counties, had been ordered down to the seaboard. Unused to the "malaria" of the summer season in lower Virginia, these brave men fell sick in numbers. Many of them died in and near Norfolk, and the sick-list bore an appalling face. General Robert Taylor was the commander of the military district, and Commodore Cassin directed the sea defences. On the 20th June, the English frigate *Junon* had approached to a point one and a half miles above Hampton, apparently with design to lead the way to Norfolk. Now was the time for defence. Captain Tarbell determined to send gun-boats against her, and test the efficiency of this armament. "Every one was impatient to know how Mr. Jefferson's *bill dogs* would acquit themselves; and whether the philosopher's scheme would prove, upon trial, a monument of his wisdom or his folly."<sup>a</sup>

On the morning of Sunday, the 20th, the gun-boats drew near and opened their fire. The frigate suffered severely in her hull; but she warped her broadside upon them and returned the fire. At the same time, another frigate and a corvette, seeing the danger of their sister, came to her aid; and for some time, the fifteen guns of the boats, were opposed to one hundred and fifty on the decks of the men-of-war. The fight was hotly continued for a time, but the sails of the gun-boats having been pierced, and a thirty-two pound ball having shattered one of them, they were compelled to

<sup>a</sup> Letter in *Enquirer*, Friday, June 25, 1813.

draw off. They had done well, and had certainly checked the advance upon the town.<sup>a</sup>

Craney Island lies near the mouth of Elizabeth River, and commands the approach from Hampton Roads to Norfolk. Its defence, therefore, became all-important; and Commodore Cassin resolved that it should not be taken without a desperate conflict. The frigate *Constellation* was anchored nearly opposite to the town; a detachment of her sailors and marines, under Lieutenant Neale, assisted by Lieutenants Shubrick and Saunders, were sent to the island, where they soon threw up a battery, on the northwest side. At the same time, on the south side, opposite the narrow inlet between the island and the main land, Captain Beatty was intrenched with his regiment, and a number of volunteers from various other regiments. High enthusiasm prevailed among the Virginians; many who had been on the sick-list rose from their beds, and reported for duty at the batteries on the island.<sup>b</sup>

(June 22d.) The enemy advanced in boats to the attack, numbering twenty-six hundred men, and under Sir Sidney Beckwith. They divided their force into two detachments. One of these pressed forward to carry the northwest battery; but when they came within reach, Lieutenant Neale and his men opened upon them a galling fire. The eighteen-pounder was trained with so fatal precision that three of the boats were sunk; one was

<sup>a</sup> Letter in *Enquirer*, dated June 22; Brackenridge's *Late War*, 133. <sup>b</sup> *Norfolk Herald*, 22d June, in *Enquirer*.

literally cut in twain, and as she filled, her men clung to her sides. The other boats hauled off in discomfiture, and the Virginians instantly sent aid to the drowning wretches in the water.<sup>a</sup>

Meanwhile, the other detachment had landed on the main shore, and were attempting to cross the narrow inlet in front of the southern battery. Two twenty-four pounders and two sixes were waiting to receive them; and the volunteers stood to their guns like veterans. The enemy were cut to pieces at long shot, and as they came nearer, the battery played havoc among them. Unable to endure, they precipitately retreated; and so eager were the Virginians, that the Winchester riflemen ran into the water, hoping to reach the foe with their bullets.<sup>b</sup> Most of the attacking force had consisted of miserable French troops, taken prisoners in Spain, and induced to enlist in the English army by prospect of pillage in America!<sup>c</sup>

The heroic defence of Craney Island filled the enemy with rage and shame. They abandoned their designs upon Norfolk, and sought a more defenceless prey. Hampton became their object. Major Stapleton Crutchfield was charged with its protection. He had about four hundred artillerymen and infantry. The fortifications of the place were very slight, and it was exposed to attack at many points. Major Crutchfield was obliged to divide his little force; he himself took post at a battery

<sup>a</sup> Brackenridge, 134; Enquirer, June 29.

<sup>b</sup> Enquirer, June 29th; Official accounts.

<sup>c</sup> Brackenridge, 133.



below the town; Captain Pryor commanded another immediately in front of the principal landing; and Captain Servant, with a company of rifles, guarded the rear approaches of Hampton. (June 25th.) Cockburn in person led the attack, firing round shot and rockets from his barges; but he was warmly received by Crutchfield, and for a time was brought to a stand. Sir Sidney Beckwith encountered a severe fire from Servant's riflemen, but the British detachments were twenty-five hundred strong, and soon drove all opposition before them. At the same time, a heavy corps of royal marines were advancing upon the central battery, commanded by Captain Pryor. Already his men regarded captivity as certain; but their brave leader roused them to a desperate effort. He spiked every gun in the battery, and then at the head of his force, made a furious charge upon the marines, broke through their ranks, swam the creek above the town, and actually made his escape without the loss of a man!<sup>a</sup> In these conflicts the British lost two hundred men; while on the other side not more than twenty were killed or wounded.<sup>b</sup>

The enemy took possession of Hampton, and committed revolting enormities upon the people and the town. A wanton destruction of private property took place; but this, in itself, would have been unimportant. The degraded soldiery, and the blacks who had been enticed from their owners, were allowed to riot in every species of brutality. An

<sup>a</sup> Major Crutchfield's letter, 25th June, Enquirer.

<sup>b</sup> Compare Enquirer, 29th June, with Brackenridge, 135.

aged man named Kirby, while lying sick in bed, was murdered before the eyes of his wife, and the next moment she was herself desperately wounded by the discharge of a pistol!<sup>a</sup> The women unhappily left in the town, became the victims of the lust both of the soldiers and negroes. They were forcibly violated, with every species of insult; and when one of their number sought Cockburn, and wildly implored him to arrest this violence, the dastardly officer replied, "he had no doubt before he entered Hampton, all the ladies had left it, and therefore had given no orders to prevent it!"<sup>b</sup> Finding the militia of the country collecting in formidable numbers for an attack, at 3 o'clock on the morning of the 27th June, the British evacuated Hampton, and returned to their ships.

While these events were in progress, Richmond was the scene of intense excitement. On Saturday the 26th, the citizens met at the Capitol, and adopted defensive measures. An alarm occurred, and every man was at his post; the drums beat to arms; the volunteer companies, and militia regiments assembled in the public square; their number had never been so full, and every thing indicated a resolve to defend the city to the last. Gray-haired men were seen in the ranks with shouldered muskets, and encouraging their companions by their words. There were means at hand for an obstinate resistance, and had it been necessary, we cannot doubt they would have been used. But the

<sup>a</sup> Enquirer, July 2. Brackenridge,  
135.

<sup>b</sup> Letters in Enquirer, July 2, and  
July 9.

next intelligence was the retreat of the enemy, and their subsequent movements banished all apprehensions of an attack.<sup>a</sup>

General Taylor made the conduct of the British at Hampton the subject of a special protest to Sir Sidney Beckwith, in which he depicted the infamy of their proceedings with manly eloquence. There can be no doubt that this English officer regretted the excesses which had been committed; but there can be no doubt, also, that by proper measures, he might have prevented them.<sup>b</sup> Cockburn's character was already too degraded to sink lower, and by their culpable indifference, the other commanding officers in this expedition became involved, beyond redemption, in his guilt.

Soon afterwards, the invading fleet left the Chesapeake, and prepared for a descent upon North Carolina. (1814.) The well-remembered events of the next year did not immediately affect Virginia. Washington City, and the exposed towns of Maryland, were the prey sought by the enemy. The American troops suffered an unhappy reverse at Bladensburg, notwithstanding the heroism of Commodore Barney. The Virginia militia did not reach the field until after the battle. Though America lost her Capitol, she gained the union of

<sup>a</sup> Editorial, *Enquirer*, July 2. The express, on the 26th June, announcing the capture of Hampton, is directed to James Barbour, Esq., the Governor. *Enq.* 29th. The next missive is from Major Crutchfield, directed simply "To the Governor of

Virginia," and the same paper contains a letter giving an account of the conduct of the enemy in Hampton, and directed to Charles K. Mallory, Lieutenant-Governor, Virginia. *Enquirer*, July 2.

<sup>b</sup> Brackenridge, 259, 264, 268.

all her citizens against the foe, and the English, at last, won little by an attack which deprived them of their highest military and naval chiefs, General Ross and Sir Peter Parker.<sup>a</sup>

(1815.) On the 18th of February, in this year, Peace was proclaimed by the President of the United States, and was received with universal joy. Through the country and towns of Virginia, bonfires were lighted, and illuminated houses at night spoke the public triumph. It is remarkable, that in the treaty of peace, several causes prominent in producing the war, were not alluded to. Nothing was said about paper blockades, or the rights of neutrals, or the impressment of seamen. Yet there was a tacit understanding on these subjects. Each nation had learned lessons from the war, and profited by them. America learned her own strength, and particularly the power of her naval arm; England was taught that she was no longer omnipotent at sea,<sup>b</sup> and that the maritime rights of her rival were the last that would be resigned, or that she might violate with impunity.

After completing his second presidential term in

<sup>a</sup> Brackenridge, 259, 264, 268.

<sup>b</sup> The reader will be interested in the following cotemporary view of the subject taken by an English mind. It is from an article in the London Statesman, March 20, 1813, (copied in Enquirer, May 21st, 1813,) announcing the capture of the Java by the frigate Constitution. "America, however, must be excepted from the expression of 'all our enemies.'

She is of us, and of us *improved*. We are neither ashamed nor afraid to say so. We knew it before, and knowing so much, we have uniformly deprecated the going to war with her. The Americans will be the most terrible warriors we have had to contend with. We have, like fools, despised them as a power in arms."



1809, Thomas Jefferson had retired to Monticello, in Albemarle County, and the rest of his life was spent apart from public employment. But a mind so active and so enlarged, could not be without an object worthy of its powers. Mr. Jefferson had long been deeply interested in the cause of education, and had wished to see his native state alive to her duty on the subject. We have seen that, as one of the revisors of the legal code, he had sought to elevate William and Mary College into a University during the Revolution; but many concurrent causes defeated this scheme. The plan of a state institution for learning and science yet occupied his mind, and at length his appeals to the Legislature and the public were successful.

(1819.) On the 25th of January, the law was passed, establishing the University of Virginia.<sup>a</sup> The neighbourhood of Charlottesville, in Albemarle, was selected for the site; and the lands and property which had previously belonged to Central College, there situated, were purchased by the state. Fifteen thousand dollars per annum were appropriated from the Literary Fund, to meet the expenses of building, and of subsequent endowment. The institution was to be under the direction of seven Visitors, appointed by the Governor and Council, and from their number, these Visitors were to elect a Rector, to preside and give general superintendence. The power of the Visitors was considerable: they might make rules and regulations; appoint and remove professors; and regulate

<sup>a</sup> 1 R. C. 90-93.

salaries and fees. Mr. Jefferson's influence had secured a wide field of instruction for the University; and the branches of study were to be so distributed among professors, not exceeding ten in number, as the Visitors might direct. They were to teach the ancient languages, including Hebrew, and many modern tongues, including the Anglo-Saxon; mathematics, and all the physical sciences that had then gained distinct form; anatomy and medicine; mental science, ethics, rhetoric, and belles-lettres; law, natural, international, and municipal, and the science of government.

Mr. Jefferson was elected the first Rector, and retained the office to the time of his death. He entered into the scheme with his whole heart, and was indefatigable in labours to forward it. He drew all the plans for the buildings, and his taste was so generally admitted, that few of his suggestions were rejected by the Visitors. The workmen were mostly procured in Philadelphia, and the materials used were the best that the means allowed could purchase. Mr. Jefferson's passion for Græcian architecture showed itself in these edifices. They are formed on models exquisitely beautiful; yet not the most economical, or the most convenient for the intended purpose.\* Notwithstanding the energy with which the Rector urged on the work, its progress was slow; the principal difficulty was want of money. The original estimate for the cost had been one hundred and sixty-two thousand dollars; but it was found it would be much

\* See Tucker's Jefferson, ii. 430, 431.

greater, and the Legislature did not very readily grant the required appropriation. But at length, in 1824, the buildings were so nearly complete, that preparations might be made to open the schools. The rotunda was not finished; but the professor's houses, the lecture rooms, and dormitories, were ready. Deeply anxious that all should be favourable in the opening session, Mr. Jefferson, with the concurrence of the other Visitors, sent Francis W. Gilmer to Europe, to procure professors for all the schools, except law and moral philosophy.\* This step was adopted from liberal motives, but it caused some dissatisfaction.

(1825.) Early in this year, the teachers arrived. Only the chairs of law, chemistry, and ethics, were filled from the United States. The Rector was fired with zeal; he rode from his house to the buildings several times a day; professors and students often dined with him, and his hospitable doors were open to the crowds of visitors who came from a distance to see the University. The system of laws which he had suggested for the government of the institution was approved by his coadjutors, with hardly a dissenting voice. It sought to rule rather by presenting high motives and examples, and by addresses to reason, than by stringent penalties. The professors being generally inexperienced in the ways of American youth, willingly adopted this plan presented by the philosopher.

But in the very first year of its life, the Univer-

\* Ibid. ii. 474, 475.

sity was nearly rent to pieces. (October.) The wild young men there assembled, indulged to extreme their propensity to disorder. Riot followed riot in quick succession, until at length the students rose up against the faculty in open resistance. Mr. Jefferson was keenly mortified by this occurrence, and the more so, because his own nephew was so prominent in the rebellion that it was found necessary to expel him.<sup>a</sup> The Rector came, with James Madison, and Chapman Johnson, to the grounds, and each of the three addressed the rebels in earnest remonstrance. The riot was quelled, and the exercises resumed their course.

The religious views of Thomas Jefferson, and his fears of sectarian influence, undoubtedly gave a bias to the early life of this institution, much to be deplored.<sup>b</sup> But whatever may have been the sinister causes operating on its infancy, they have long since ceased. It is a truth practically illustrating the value of religion, that the employment of a chaplain at the University, was the *voluntary* work of its professors, officers, and students. A divine, chosen each year from one of the four principal evangelical denominations, is paid by subscriptions of the students and a percentage upon their salaries voluntarily granted by the faculty and other officers.<sup>c</sup> And since this change, notwithstanding the scenes of rebellion and murder<sup>d</sup>

<sup>a</sup> Ibid. ii. 481.

<sup>b</sup> See the Catalogue and Report for 1844-45.

<sup>c</sup> Report, 1844-45.

<sup>d</sup> In 1840, the lamented Davis, Professor of Law, was killed on the lawn of the University, by a pistol-shot fired by a student in disguise.



which have shaken it to its base, the University has disappointed the fears of its friends, and the hopes of its foes. In the past ten years, it has annually averaged one hundred and eighteen new students; its number in 1845, was one hundred and ninety-four; and its organization has, perhaps, never held out a more exhilarating prospect than at the present time.

But, during the years in which the Old Dominion was rearing an institution of learning, her friends have been forced to acknowledge that her general progress was far behind the demands of the age. The delays that occurred ere her scheme was accomplished, may be considered as indicative of her character. After 1820, the difference between herself, and her sisters of the North and her daughters of the West, became constantly more apparent. She was indeed advancing, but it was with a step sluggish and undecided, while they were moving forward with vigour and speed. Virginia was seeking to feed herself upon the accumulations of the past, while all around her were growing strong upon the healthful aliment of the present age. We shall again have occasion, in the closing chapter of this work, to refer to this lethargy which has so much weakened the sinews of our state. It may not be impossible to find causes adequate to produce such stupor, and to foresee in

The original proposal for a chaplain came in the form of a memorial from the students of the University. On this subject and others connected with it, I have obtained valuable in-

formation from the Rev. Prof. Francis S. Sampson, now of Union Theological Seminary, Prince Edward, Virginia.

the removal, or at least the mitigation of those causes, the return of full life and energy to Virginia.

The Constitution of 1776 had been a tried and faithful servant. It had its faults, but its virtues outweighed them. It had endured for half a century, and had guided the state through many scenes of trial. But now it seemed to be time that the government-making abilities of her statesmen should again be put in motion. They had been so long unemployed, that they were in danger of growing dull from disuse. We have admitted that the old system had several weak points; and have described those most objectionable. None of these defects were greatly injurious; for had they been so, they would have been remedied long before the year 1830. But as the people were now quiet, and moderately prosperous, free from war, and not painfully disturbed by fear of federal encroachment, they thought it a favourable season for taking the ancient machine of government to pieces, and fitting it together again, with certain added springs and wheels, which would increase its beauty and usefulness.

The chief objection to the old constitution, was the narrow right of suffrage. We have seen that under its provisions, as finally interpreted by the Legislature, the privilege of voting was confined to men having a freehold in fifty acres of unimproved, or twenty-five acres of improved land, or in a house and lot in some town.<sup>a</sup> Though this

<sup>a</sup> 1 R. C. 39, note.

freehold qualification may restrict the number of voters, yet many wise men have thought it to be most expedient in all points of view. For, a freeholder, in most cases, will have other interests besides that in land ; he will be interested to protect personal property ; to insure good faith between man and man ; to provide for the pure administration of justice ; and therefore he will choose honest and competent law-makers. Yet it was natural that this restriction should dissatisfy many who felt deep interest in the welfare of the community, but whose pursuits did not lead them to acquire land. And it is true, that minds of high order have held a freehold suffrage to be too narrow for the spirit of American institutions.

(1828.) At length, after several ineffectual efforts to procure a change, an Act of Assembly was passed, on the 31st January, to provide for taking the sense of the people as to the call of a convention.\* The voters on this question were, of course, to be qualified according to the existing constitution ; and upon full returns, it appeared that twenty-one thousand eight hundred and ninety-six voted for a convention, and sixteen thousand six hundred and thirty-seven against it. (1829.) On the 10th of February, another act was passed, for organizing the convention ; and it was provided that its members should be elected by voters qualified according to the old constitution, but that the question of ratifying their labours should be decided by voters qualified to vote for members of the

\* Supplement to R. C. 1-3.

most numerous branch of the Legislature, according to the requirements of the *new or amended Constitution*.<sup>a</sup> Once more, then, Virginia was busy with popular meetings and debates. The members of Convention were elected, and on Monday, the 5th of October, they met at the Capitol in Richmond, and prepared to enter upon their duties.

Their number varied from time to time during the session, but it was generally about ninety-six. It embraced men venerable in years and in reputation. James Madison was the only member who had also been a member of the Assembly of 1776, that adopted the old Constitution. John Marshall, Chief Justice of the United States, was elected from Richmond City. Besides these, there were James Monroe, the ex-President, John Randolph of Roanoke, Samuel Taylor, Benjamin Watkins Leigh, William B. Giles, Lucas P. Thompson, Philip N. Nicholas, Archibald Stuart, Briscoe G. Baldwin, Chapman Johnson, John R. Cooke, John Y. Mason, Robert Stanard, Littleton W. Tazewell, Abel P. Upshur, William F. Gordon, and others equally distinguished, of whom some have gone from among us, but most are alive to the present day.<sup>b</sup> At first, James Monroe was elected President, and George W. Munford, Secretary; but a change afterwards took place, and when the amended Constitution was approved, Philip P. Barbour was President, and David Briggs, Secretary.

<sup>a</sup> Act in Suppl. 3-9.

<sup>b</sup> See Debates, 1829-30, 3-14.



They were in session until the 15th January, 1830. Thus, their debate lasted more than three months, nearly as long as that of the immortal Convention of 1787. They discussed, most elaborately, all the interests of Virginia,—present, past, and future; and at length approved an “Amended Constitution,” by a vote of fifty-five to forty. Philip Doddridge, of Brooke County, was sick at the time; had he voted, the majority for the Constitution would have been reduced to fourteen.<sup>a</sup> Several members had strong objections to the plan, but voted for it in a spirit of compromise. John Randolph moved that the question of *ratifying* should be submitted to the vote of the people, qualified according to the “Old Constitution;” but, as the Act of Assembly, under which the Convention was elected, had expressly declared that this question should be decided by the votes of those qualified according to the amended plan proposed, Mr. Randolph’s motion was properly rejected.<sup>b</sup>

The principal change involved in the “Amended Constitution,” was in the right of suffrage.<sup>c</sup> Under it, with some salutary exceptions, white men twenty-one years old are to vote, if they are qualified according to the Old Constitution, or if they are possessed, or have a tenant possessed of an estate of freehold, worth twenty-five dollars, or have in land a share worth twenty-five dollars, or have a reversion, or vested remainder in fee in land worth fifty dollars; or have a leasehold estate, originally for five years or more, of the annual value

<sup>a</sup> Debates, 1829–30, 882.

<sup>c</sup> Supplement, 13–24, and Debates,

<sup>b</sup> Ibid. 885, 892.

895–902.

of twenty dollars; or be housekeepers and heads of families, having actually paid within the year preceding that in which they propose to vote, the part of the revenue of the Commonwealth with which they have been assessed.<sup>a</sup>

The New Constitution adopts the old "Bill of Rights" without the slightest change. It also interweaves into its own texture the enactments of the "Bill of Religious Freedom," and farther declares that "the Legislature shall not prescribe any religious test whatsoever; nor confer any peculiar privileges or advantages on any one sect or denomination, nor pass any law requiring or authorizing any religious society, or the people of any district within this Commonwealth, to levy on themselves or others any tax for the erection and repair of any house for public worship, or for the support of any church or ministry." It forbids bills of attainder, ex post facto laws, laws impairing the obligation of contracts, or abridging the freedom of speech or of the press, or any law "whereby private property shall be taken for public uses without just compensation."

It will not be necessary farther to detail the provisions of the new system of government, and it is perhaps the less necessary, because the Constitution has already been threatened with change. Notwithstanding the great experience and ability of the men who framed it, their work has given small satisfaction. Serious attempts to provide for another convention have been made, and though

<sup>a</sup> Art. iii. cl. 14.

they have heretofore been defeated, it is impossible to say when they may be renewed and carried into full effect. To this subject allusion will again be, presently, required.

After the Convention adjourned, the plan they had approved was submitted to the people, and was ratified by a majority of nearly ten thousand five hundred votes: twenty-six thousand and fifty-five voting in the affirmative, and fifteen thousand five hundred and sixty-three in the negative.<sup>a</sup> The attentive reader will observe, that under the ancient freehold qualification, the number of votes thrown on the question of a convention, was thirty-eight thousand five hundred and thirty-three, and that, two years afterwards, the whole number thrown, on the expanded basis of suffrage provided by the new system, was but forty-one thousand six hundred and eighteen. Thus, the difference was very little more than three thousand votes, and if we take into view the natural increase in Virginia's population during these two years, the difference will appear yet smaller. The *quantity* of the popular constituency seemed very little augmented, and will any say that its *quality* was improved? This fact may furnish evidence either that the Convention ought to have made no change, or that the change made ought to have gone far beyond that actually adopted.

And in reviewing the official returns from the polls,<sup>b</sup> we may see the broad shadow that "coming

<sup>a</sup> Supplement, note 15; Debates, Preface, iv.      <sup>b</sup> In the Debates, page 903.

events" cast before them. It will be remarked that, in general, the counties west of the Blue Ridge voted heavily *against* the Amended Constitution. Harrison threw one thousand one hundred and twelve votes to eight; Ohio, six hundred and forty-three to three; Randolph, five hundred and sixty-five to four; Logan, two hundred and fifty-five to two; Hardy, one hundred and twenty to sixty-three; Grayson, six hundred and forty-nine to seventy, and in the county of Brooke, the whole vote of three hundred and seventy-one was against the plan. In the forty-one counties then composing the entire region west of the Blue Ridge, there was a clear majority of seven thousand three hundred and two votes against the New Constitution. And yet, in its favour, the sixty-eight counties east of the Ridge, gave a majority of seventeen thousand seven hundred and ninety-four, which was sufficient to extinguish the whole adverse majority of the West, and to bring the state in favour of the new government, by a balance of ten thousand four hundred and ninety-two votes.

This conflict of sentiment was too remarkable, and too plainly defined by geographical bounds, to be without an adequate cause. We must endeavour to explain it.

In 1830, Eastern Virginia, upon a surface of twenty-seven thousand two hundred square miles, had a population of eight hundred and thirty-two thousand nine hundred and eighty souls, of whom four hundred and sixteen thousand three hundred and twenty (or within a minute fraction of one-half) were



slaves. At the same time, Western Virginia, upon an area of forty-two thousand eight hundred square miles, had a population of three hundred and seventy-eight thousand four hundred and twenty-five, of whom fifty-three thousand four hundred and thirty-seven, (or about one-seventh,) were slaves. The above estimate includes the free blacks, who were about fifty-seven thousand in number, and were distributed through both sections of the state.<sup>a</sup> Thus will be perceived at a glance the enormous disparity of the slave interest in the two great divisions of Virginia. And this has caused the difference of sentiment between them, which has threatened to rend them asunder. Other and minor causes may have increased the feeling, but this has been paramount. Its operation may be developed.

When the Federal Government was formed, slavery was in full being, and it entered largely into the debates of the body that framed the Constitution. It was soon decided that direct taxes and representation in the several states must be proportioned to their respective numbers, but in estimating those numbers the difficulty arose. Were the slaves to be considered as persons or as property? In fact, they were both: they were persons, for they had bodies and souls; they increased the numerical strength of the country for every effort requiring human exertion; they added to its responsibility for the protection of life and health;

<sup>a</sup> These statistics are originally from the census of 1830, Murray's *Encyc. Geog.* iii. 524.

they were capable of crime, and liable to punishment for it. And they were also property, liable to be bought and sold, conveyed by deed, bequeathed by will, gained by marriage or descent. At length a fair compromise was effected between the slaveholding and non-slaveholding states, and the result was the well-known article in the Constitution, by which three-fifths of the slaves are added to the free people of the states in estimating their numbers. This established what is called the *Mixed Basis* of representation and taxation.

It would be hard to find an equitable objection to this compromise. The instrument containing it was adopted by the Northern States, and they have, ever since, acquiesced without resistance. And if it was right for the Union, it seemed *à fortiori* right for Virginia. For, the expenses of the Federal Government have been generally paid without direct taxes, and thus the slave states have had the advantage of having their slaves estimated in representation without the corresponding burden, which must be imposed when necessary. But Virginia was obliged to pay her expenses by direct taxes, and these of course would fall most heavily upon slaveholders, and it seemed reasonable that those who bore the burden, should have the loudest voice in ordering its adjustment. This view so commended itself to the majority of the Convention, that they adopted the principle of the *Mixed Basis* for representation in Virginia. They were, of course, compelled, under the Federal Constitution, to apply it in apportioning representatives for Con-

gress.<sup>a</sup> And they, in substance, carried it out for the state government.

Their Legislature was to consist of two branches, the Senate and the House of Delegates. To constitute the Senate, they considered the state as divided into Eastern and Western Virginia by the Blue Ridge. To Eastern Virginia they gave nineteen senators, to Western Virginia, thirteen. To constitute the House of Delegates, they considered the state under a division into four districts, to wit: the Tide-Water District, running from the Atlantic coast and the Bay to the head of tide-water; the Middle District, from the head of tide-water to the eastern base of the Blue Ridge; the Valley District, between the two great ranges of mountains; and the Trans-Alleghany District, running from the Alleghany range to the western boundary of the state. To the first of these districts, they gave thirty-six delegates; to the second, forty-two; to the third, twenty-five; and to the fourth, thirty-one. A comparison of these numbers with the population of the several parts of the state, would show that both Houses were, substantially, constituted on the principle of the *Mixed Basis*; and though power was given to the Legislature to re-apportion the Senators and Delegates from time to time, yet it was given with some restraints, and it has uniformly been exercised according to the original principle.

The people of Western Virginia have never been satisfied with this arrangement. Their complaints

<sup>a</sup> See Amend. Constit. art. iii. cl. 6.

are natural, and merit serious thought. They have urged that the slaves of the state ought not to be considered, in fixing the number of representatives, for they cannot be regarded as persons, because they do no public duty, and can never be permitted to vote; and as property they cannot be considered, because such property is not the basis of representation. They have insisted that the *White Basis* alone should be adopted, and that only this will insure to them their legitimate influence in the public counsels. These views have been so controlling, that in the session of 1845-46 a vote was taken in the Legislature upon the expediency of calling another convention. The attempt then failed, but it is believed that it has not been finally abandoned.

It would be obviously improper in this work to express any opinion upon this subject, farther than may have been necessarily involved in a fair statement of its merits. To the wisdom, the moderation, the patriotism, both of the West and the East, it must be committed.

But the candid will forgive an earnest deprecation of hasty measures for obtaining a new government. It has been thought, that this attempt, unless conducted with a degree of delicacy and of self-sacrifice seldom found in human action, will end in sundering entirely the two great divisions of the state, than which, no result could be more deplorable. They have been united, not so much by common origin, or common interest, as by those thousand hallowed and tender associations which cluster



around the very name of Virginia. There are few sensitive hearts, either in the East or the West, that would not bleed under the shame of a divorce so unnatural. And even if this extreme evil did not follow, a change of government might produce other ills, only the more formidable, because not yet defined. Nothing is more dangerous than that popular *restlessness* which, without adequate cause, seeks to remodel the whole framework of government. Whether this has not been demonstrated by the experience of the past twenty years in Virginia, the public conscience may decide. In this subject, beyond all others, it becomes us to consider whether we should not

——“Rather bear those ills we have,  
Than fly to others that we know not of.”

(1831.) In the year succeeding the approval of the new Constitution, the state witnessed a scene of domestic bloodshed caused by a part of the very population whose presence produced such conflict of sentiment among her citizens. In the county of Southampton lived a slave named Nat Turner, small and somewhat feeble in body, but of shrewd and enthusiastic mind. He was a preacher among his class, and claimed also the character of a prophet. During the month of August, the sun at one time assumed a singular appearance, probably under the influence of meteoric causes, which have not yet been fully explained. Nat Turner found in this event food for his own fanaticism, and that of his followers. He prepared papers covered with

hieroglyphics, apparently written in blood, and presenting mystic symbols,—a sun, a crucifix, and various numbers.<sup>a</sup> These were doubtless the reflections of his own distempered fancy ; but they wrought effectively on the dark minds upon whom they were intended to operate. He is said to have traversed several counties, and to have formed a plan for a general insurrection, which was only defeated by a mistake as to the appointed day ; but no satisfactory evidence of so extensive a plot has been adduced. Yet his scheme was sufficient to work horrible consequences.

Late in the night of Sunday, the 21st of August, this misguided wretch, at the head of about twenty followers, approached the house of Joseph Travis, his master. The negroes entered the house by a ladder, and it was agreed that Nat Turner should shed the first blood. He aimed a blow at Mr. Travis, in bed, but the hatchet glanced, and the wounded man sprang up, and called wildly on his wife. Another negro, named Will, instantly struck him dead with an axe. The wife and her children, even to the infant in the cradle, all shared the same fate. The murderers rifled the house of all the guns and ammunition it contained, and then proceeded on their errand of death. They had tasted blood, and now maddened by desperation, they thought of nothing but indiscriminate murder. At the house of Levi Waller, they left his wife and ten children lying in a bleeding heap upon the floor. Near the same place was a school of little

<sup>a</sup> Letter in *Constit. Whig*, Sept. 26, 1831.

girls, all of whom were butchered by these monsters, except one young innocent of twelve years, who hid herself in a neighbouring hedge. When found afterwards by her friends, she said with touching simplicity, that "God had watched over her."<sup>a</sup> At every house, the slaves seized all the arms and horses they could obtain; and as they went forward their numbers increased, until they were more than forty, well mounted, and still thirsting for blood.

As they galloped up to the house of Mrs. Vaughan, a widow lady of the county, she saw them at a distance, but, paralysed with terror, made no attempt to escape. She was killed, together with several members of her family, and her daughter, a young lady remarkable for her beauty, was shot down within a few feet of the house door, while endeavouring to make her escape.<sup>b</sup> After completing other butcheries, the negroes thought themselves strong enough to attack the town of Jerusalem, the county seat of Southampton. But when within a few miles of the place, they were met by a small body of white men, armed with guns generally loaded *with bird-shot*,<sup>c</sup> and at the first discharge, the cowardly wretches turned and fled to the swamps behind them. They soon afterwards collected their scattered forces, and prepared to make another attack.

But the first house they sought was that of

<sup>a</sup> Letters in Constit. Whig, Aug. 29, and Sept. 26th.

<sup>c</sup> Norfolk Herald, 24th Sept., in Whig.

<sup>b</sup> Editorial, Whig, Sept. 3, and Letter, Aug. 25.

Doctor Blount; and here was to be a display of real heroism. Besides the Doctor himself, there were in the house, his son,<sup>a</sup> a brave youth of fifteen, and three other white men. Six guns were heavily loaded, and one was reserved by Doctor Blount, who resolved that their lives should be sold as dearly as possible. The negroes approached within twenty yards, and then, with steady aim, five discharges were poured upon them. One fell dead, another was severely wounded; the rest betook themselves to flight in utter consternation.<sup>b</sup>

It was now noon of Monday, the 22d, and from this time, the offensive warfare of the slaves was over. Recovering from their momentary panic, the people of the county rallied, and came upon the butchers with stern resolve to exterminate them if necessary. They hunted them like beasts of prey through the swamps. We have reason to fear that many summary executions took place, and that some who were innocent may have been slain. Several slaves captured near a point known as the Cross-Keys, were decapitated on the spot.<sup>c</sup> But there was much to extenuate this violence, and when the first ebullition of revenge was gone, justice resumed her course; captives were brought to Jerusalem for regular trial. General Eppes, the commander of this militia district, organized a

<sup>a</sup> Now Lieutenant Simon Blount, because of his heroic conduct at the United States Navy, an officer Southamton. deservedly esteemed by all who know him. He was appointed a Midshipman by General Jackson,

<sup>b</sup> Editorial, Whig, Sept. 3.

<sup>c</sup> Letter in Whig, Aug. 29.



sufficient force for protection, and dismissed the companies who had come from distant points.

Meanwhile, Norfolk had heard of the insurrection, and was in great excitement. Commodore Warrington, of the navy-yard, promptly offered a full supply of pistols, cutlasses, and ball-cartridges, sufficient for a thousand men; the borough court took active steps for sending a force to the scene; the steamer Hampton was chartered; at Fortress Monroe, Colonel House embarked in her with three companies of United States troops, and then from the sloops of war Natchez and Warren she received a corps of marines.\* Captain Elliot and Colonel Worth attended them. At the same time, troops of cavalry from Norfolk and Prince George started for Southampton; and on the evening of August 23d, the Richmond Light Dragoons and Fayette Artillery set out for Jerusalem; but the latter were met at Smithfield by a message from General Eppes, informing them that they would not be needed, as the insurrection was entirely crushed.

On the morning of the 25th, besides the large military force, there were assembled in Jerusalem nearly four hundred ladies of the county, who had fled from their homes to escape the murderers. Such a display had never before been seen in the town. The danger was over, but sad recitals were to be exchanged among the survivors. Fifty-five victims had fallen, principally women and children. It is remarkable, that through the whole series of

\* Norfolk Herald, 24th, in Whig, 26th Aug.

assaults, not one female was violated.\* Remembering the brutal passions of the negro, we can only account for this fact by supposing the actors to have been appalled by the very success of their hideous enterprise.

Order having been once more restored, and most of the foreign troops having left the town, the trials were carried forward with a patience and care highly creditable to the magistracy of the county. Twenty-one slaves were convicted and condemned, and thirteen were executed. Nat Turner long escaped the vigilance of his pursuers by concealing himself under a pile of fence-rails, but at length he was captured, and on the 11th of November, met the fate his crimes deserved.

This insurrection produced a strong movement of the public mind in Virginia. Its progress and total failure had indeed strengthened the conviction that no widespread ruin could ever be brought by her slaves. They were weak and cowardly, killing only the unarmed and feeble, and flying before any determined opposition. Yet the revolt had inflicted painful wounds; many of the young and innocent had fallen, and many had been butchered who had gained a good name for benevolence to their species. The cruelty of the slaves was the more unpardonable, because it was unprovoked. They had never been treated harshly; Nat Turner himself declared that his master was invariably kind to him. Their outrages were prompted by nothing save an inhuman fanaticism. How far they may

\* Whig, Aug. 29.

have been stimulated by the prevalence of abolition doctrines, introduced among them by secret agents, has never been determined.

Governor Floyd delayed not to arm the country. Muskets were distributed in abundance to the militia, and, in a short time, Virginia, if called to the field, would have bristled with bayonets. The next session of the Legislature was interesting: many members of fine talents composed it, and their debates had now a subject favourable alike to displays of reasoning and of passion. It has been said that the idea of general emancipation had many supporters, and that nothing but the reaction against the sinister influences from abroad prevented its triumph. But this reaction was complete. Instead of emancipating, the Legislature passed stringent laws against slaves, free negroes, and mulattoes; forbidding their meetings, punishing them for words, proscribing their instruction, arresting their preachers, and imposing other restrictions, which though necessary, are saddening to the heart of the philanthropist.<sup>a</sup> In subsequent years, much of this austere legislation has been modified, but enough remains to remind slaves of the miseries entailed by such an attempt as that of 1831; and whites, of the evils bequeathed to them by their European forefathers.

Though slavery is an institution which cannot be considered desirable, and which Virginia would never choose, were the question now first presented to her, yet it is her duty carefully to guard the

<sup>a</sup> See Supplement, 236, 245, 248.

property secured by it, until such time as her citizens shall voluntarily part with it. Any interference with it by other states, or by the General Government, will not fail to rouse her to firm resistance. Her principles on this subject have been made known in a memorable case, which has not yet ceased to act upon her conduct. On the 30th of August, 1839, Henry L. Hopkins, Lieutenant-Governor of the Commonwealth, transmitted to William H. Seward, Governor of New York, a requisition, in form, demanding the surrender of three fugitives from justice in Virginia. The requisition was accompanied by an affidavit made before Miles King, Mayor and Justice of the Peace in Norfolk, by John G. Colley, who swore that on or about the 15th of July, 1839, Peter Johnson, Edward Smith, and Isaac Gansey, attached to the schooner Robert Centre, then in New York, "did feloniously steal and take from the said Colley, a certain negro slave, the property of said Colley." The requisition therefore, demanded these men under the Constitution,<sup>a</sup> and the Act of Congress made in pursuance thereof.

Governor Seward declined to comply with this requisition. In his answer, he made some slight objections to the form of the affidavit; but he did not attempt to conceal the truth, that his refusal was based upon much broader ground than a defect in the *form* of the demand. That might easily have been repaired; but his Excellency of New York expressly declared, that he could not sur-

<sup>a</sup> See Constitution, art. iv. sec. 2, cl. 2.



render these men, because he did not conceive that the act with which they were charged came within the meaning of the words "treason, felony, or other crime," used in the Constitution. A voluminous correspondence occurred between Governor Seward and Mr. Hopkins, and was afterwards continued between the former and Thomas Walker Gilmer, who was elected Governor of Virginia in March, 1840.\* This correspondence was managed with ability on both sides. On the part of the executive of Virginia, the power with which her right was sustained has long been conceded; and on the side of Governor Seward it may be said, that only ingenuity more than common could have made his conduct appear respectable in the eyes of reasonable men.

He assumed the ground that the words "treason, felony, or other crime" in the Constitution, must be understood to apply only to those acts which are recognised as crimes by the laws of all civilized nations; that it was not sufficient that the act should be a crime according to the laws of the state where it was committed; that at common law there could be no such crime as stealing a slave, because slavery did not exist; that the laws of New York had long since abolished slavery, and that, therefore, as the act charged was a crime, not by the common law, nor by the laws of all civilized nations, nor by the laws of New York, but merely by the statute law of Virginia, the Constitution did not apply, and he

\* The correspondence may be found in the *Enquirer*, beginning Jan. 12, 1840.

was not bound to surrender the fugitives. How indefensible was the course pursued by Governor Seward will appear from the following considerations :

1. He infringed a precedent given by one of his own predecessors in office. In the year 1832, Enos T. Throop, Governor of New York, issued his warrant directing one John Clark, to be taken into custody, in order that he might be delivered to an agent from Rhode Island. Governor Throop's warrant recites a requisition of the Executive of Rhode Island, informing him that the said Clark was charged with having, while President of the Burrilville Bank, abstracted notes, money, and bank bills, from said bank, "which said acts (the warrant adds) *are made criminal by the laws of that state.*" It is to be remembered that the acts committed by Clark do not constitute a crime at common law, but a mere breach of trust, yet Governor Throop decided that because they were made criminal by the laws of Rhode Island, therefore, the fugitive must be surrendered.<sup>a</sup> The principle of this precedent will apply with exactness to the Virginia case.

2. He ran counter to a decision made by the Supreme Court of his own state. For, this same case of John Clark, after passing through intermediate judicial stages, came before the highest court of New York. Chief Justice Savage delivered an opinion, to the effect that all the elements entered into this case that were required in order to bring

<sup>a</sup> 9 Wendell's Reports, 212, 223.

it within the Constitution and Act of Congress; 1. The Governor of Rhode Island had demanded that Clark should be arrested and delivered up as a fugitive from justice; 2. A copy of an affidavit was presented, charging Clark with certain acts which the Governor of Rhode Island certified to have been *made criminal by the laws of that state*; 3. The affidavit was certified by the Governor of Rhode Island to be duly authenticated. The Chief Justice decided that it was only necessary that the fugitive should be "properly charged" with crime in the state demanding him, in order to require his surrender.<sup>a</sup> This decision is applicable to the case from Virginia. Her laws make it deep felony to steal a slave,<sup>b</sup> and her executive had sent, with his own endorsement, an affidavit charging the three fugitives with having "feloniously" stolen the slave of Colley.

3. He violated the Constitution of the United States. At the time when that instrument was adopted, slaves existed in New York as well as in Virginia, and one of its articles declared that "No person held to service or labour in one state, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labour, but shall be delivered up on claim of the party to whom such service or labour shall be due."<sup>c</sup> Cautiously as this clause is worded, it can mean nothing less than that a

<sup>a</sup> 9 Wendell, 219, 220, and see Conway Robinson's Constitution and Slavery, Southern Lit. Messenger, vi. 89-106.

<sup>b</sup> 1 R. C. 427, 428.

<sup>c</sup> Constit. art. iv. sect. 2, cl. 3.

slave escaping from a slave state to a free state does not become free. The laws of the free state cannot deprive the owner of his property in his slave; in other words, they *must recognise that property*. New York solemnly assented to the Constitution. She became a party to the compact, and it binds herself and all her officers. Therefore, a slave being property by the law of Virginia, must be recognised as property by New York. And the three fugitives were charged with *stealing* this property. If such an act was not a crime within the meaning of the Constitution, it is hard to conceive what would constitute a crime. By refusing to exercise his constitutional duty, Governor Seward subjected himself to the charge of having deliberately countenanced men who had "feloniously taken and carried away the personal property of another," which is the technical definition of a larceny.

Even in his own, and some other states farther north, the Governor's course was considered unjustifiable. The press of New York and Massachusetts, while under the control of moderate men, spoke plainly their disapproval.<sup>a</sup> In Virginia, a committee of the House of Delegates made a report on the subject, and the Assembly advised the executive to address letters to the Southern States, asking their co-operation in sustaining the common rights of the South. This was done by Governor Gilmer, and Alabama made a prompt response.<sup>b</sup>

<sup>a</sup> Journal of Commerce, Enquirer, Feb. 6, and Mass. Palladium, Enquirer, Feb. 13th, 1841.      <sup>b</sup> Enquirer, Dec. 18, 1840, and post.



The course pursued by the Legislature of New York has left it doubtful whether they entirely sanctioned the refusal of the Governor;<sup>a</sup> but no efficient measures were taken to surrender the criminals. (1841.) Virginia could no longer submit without retaliation. On the 13th of March, the Assembly passed a severe Inspection Law, requiring that all vessels from New York entering the ports of Virginia, should be placed under the control of inspectors, and should not be permitted to leave port without a certificate from one of these inspectors, testifying that they had no concealed or stolen slaves aboard.<sup>b</sup> This act passed both Houses by a decisive majority, yet not without opposition. Wyndham Robertson, the delegate from Richmond City, presented a protest, after its passage, alleging many objections to the law. This was signed by himself and twenty-one other members of the House.

Hardly had this action been taken, ere a circumstance occurred which enabled Virginia to show to New York an example of obedience to the Constitution in the very requirement which the latter state so deliberately infringed. Robert F. Curry, charged with committing forgery in New York, fled to Virginia. Governor Seward, in proper form, made a requisition for the fugitive. Governor Gilmer, acting with conscientious regard to what he deemed his duty, declined to comply with this

<sup>a</sup> Protest, Enq., March 26, 1841. less previously suspended by the

<sup>b</sup> Enquirer, March 16. The law proclamation of the Governor.  
was to take effect in May, 1842, un-

demand until justice should be done by New York to Virginia. But the House of Delegates having obtained official knowledge of the facts, passed, on the 20th day of March, a resolution, expressing confidence in the patriotic motives of the Governor, but declaring that if the demand had been legally made, the fugitive ought to be surrendered, notwithstanding the conduct of New York. Immediately on the receipt of this resolution, Governor Gilmer addressed a letter to the House, in which he vindicated his action, and declaring that he was unwilling to oppose his individual views to the wishes of the other department of government, he resigned his office!<sup>a</sup> On the 22d, Curry was surrendered by John M. Patton, the Lieutenant-Governor, who accompanied his act by a renewed protest against the conduct of the executive of New York.

A calm review of the events of this period will convince us that the Assembly adopted the proper course as to the requisition of Governor Seward. The infringement of the Constitution by the executive of New York, would not justify a similar infringement by the executive of Virginia. The federal compact was still binding, and it was a duty which Virginia owed, not merely to New York, but to every other state in the Union, to surrender fugitives from justice when properly charged with crime, and demanded. Yet all discriminating minds have recognised the purity of the motives which impelled Governor Gilmer in the course he

<sup>a</sup> Enquirer, March 22.

pursued. He was a patriot statesman. Those who knew him best in life found in him the chivalrous traits of the gentleman, united with those nobler qualities that distinguish the Christian. The appalling accident which cut him down in the very strength of his days, filled America with mourning, and history can offer no solace for his death, save the sad privilege of paying an impartial tribute to his memory.

Subsequent years have presented few causes which have materially affected the individual fortunes of Virginia. It might not indeed be difficult to tell of scenes which have moved the very heart of society, but the lessons that are to be conveyed by these events must be left to the future. Time must heal wounds and alleviate sorrows, before experience will venture to record them as admonitions, alike to those who have felt, and those who have escaped them.

The retrocession of the county and town of Alexandria, will appropriately close the history of Virginia to the present time. They had been originally granted as part of the "ten miles square." It will be unnecessary to detail all the causes which made them dissatisfied with their condition, and induced a wish to return to the parent state. One who has inhabited the "District," has compared his feelings on a temporary visit to Virginia to those of a man who had been gasping in a vacuum, and had suddenly been granted the enjoyment of a pure and healthful atmosphere.<sup>a</sup> How far his

<sup>a</sup> Philip Fendall, of Washington City.—The remark was heard by

views have accorded with those of others in the same circumstances, we cannot say. The Act of Congress authorizing the retrocession was approved on the 9th of July, 1846, and the vote of the county and town having shown a large majority in favour of the measure, nothing remained but its ratification by Virginia. On the 13th March, 1847, the Legislature passed an act, by which this part of the "District" was reunited to the Commonwealth.<sup>a</sup> Provision was made for extending to it the judicial rule of the state, and for organizing its internal polity. The county and town were joined to the county of Fairfax, for all the purposes of suffrage for representation, either in the state or the General Government.

Such an occurrence has novel and interesting features for Virginia. She has sent forth many emigrants, has been the mother of many states; she has been impoverished by the very generosity which has enriched younger sovereignties, and few indeed have been the direct benefits she has derived from her munificence. But when she finds a number of her children voluntarily returning to her bosom, she may hope that she has not entirely lost her claim upon the affections of those who have gone out and established permanent interests in distant parts of America.

the author in a speech delivered by      <sup>a</sup> Sess. Acts 1846-47, pages 41-  
Mr. Fendall, in Fredericksburg, 48.  
Friday night, Sept. 18, 1840.



## CHAPTER VIII.

Review of the present condition of the State proposed—Her Laws—Changes in the Civil Code—Amelioration of the Criminal Code—Penitentiary—Statistics—Free coloured population—Laws as to slaves—Courts of justice—Delay in Court of Appeals—Proposed revival of the law—Literature in Virginia—George Sandys's Ovid—Munford's Homer—Poets of Virginia—Lighter prose works—Historical works—Newspapers—Southern Literary Messenger—Colleges—William and Mary—Washington—Virginia Military Academy—Randolph Macon—Emory and Henry—Rector—Hampden Sidney—Medical department—Lunatic Hospitals—Institutions for the deaf and dumb and the blind—Religion in the state—Freedom of conscience—The Baptists—Statistics—The Methodists—Statistics—The Presbyterians—Division in 1837, 1838—Statistics—The Episcopalians—Progress of their church—Statistics—Other sects—Jews—Roman Catholics—Religious incorporations—Petition to Legislature of 1845-46—Debate before Committee of Courts of Justice—Agricultural interest of Virginia—Statistics—Manufactures—Mining—Finances—Subjects of taxation—Population of the state—Virginia compared with Massachusetts—Statistics—Sluggishness of Virginia—Three causes assigned—Want of education—Ignorance in the state—Want of internal improvement—Old James River Company—James River and Kanawha Company—Work accomplished by it—Other improvements proposed—Slavery—Its evils—Public sentiment with regard to it—Its decrease—Statistics—Virginia Land Company in England—Conclusion.

HAVING attended Virginia from her birth, through the varied fortunes of her life, to the present time, it will be proper that we shall now present a view of her general condition and prospects. This will lead us again to speak of the past, but only so far as shall be necessary in order to illustrate the present. Important as may have been the action

of our state in the general system, and imposing as her example must always be, it cannot be denied that she no longer holds the high position in the confederacy that she once occupied. If it be true that she has fallen behind her sisters, that she languishes while they prosper, that she is indolent while they are active, her people ought not to shut their eyes to her faults. And if for her ills there be a remedy which perseverance can secure, wisdom will not refuse to hear encouragement to seek this remedy. It is believed that what will now be presented will convince the candid that Virginia is in a more prosperous condition than has generally been supposed; that her worst maladies are susceptible of cure, and that she has in herself a recuperative power which is rapidly diffusing itself throughout her whole system, and restoring her to more than pristine vigour.

Our review will be appropriately opened by remarks upon the *Law* of the state, its progress and present aspect. In a previous chapter, we have endeavoured to explain the great changes in the *civil* jurisprudence of Virginia, wrought under the influence of the Revolution. It will not be necessary to add much to what has been said on this subject. Farther changes have indeed been effected,—all have been important, and some salutary; but they have been of a character interesting rather to lawyer and client, as such, than to the people at large. The Common Law of England is yet the broad basis on which rests our legal system; and though, since the Revolution, innovations upon the

common law have been practised with unsparing hand, yet now the Legislature touches it lightly. The people love it, and well-trained lawyers reverence it more and more. It is not probable that any other general system will ever be substituted for it in Virginia.

In the *criminal* law of the state, great changes have occurred within seventy years past. The code has been softened and improved. Cruel and unusual punishments have been abrogated. The punishment of death is inflicted by hanging by the neck, and as to white inhabitants, it is retained in three cases only: treason, murder in the first degree, and the felonious burning of a house in a town. Other grave felonies are punished by confinement in the penitentiary during a series of years, and in some cases of repeated conviction, during life. Misdemeanours, in general, are punished by fine, and imprisonment in the common jails.

The Penitentiary System of the state has worked well; its superintendence has been careful, and its abuses have been few. The convicts have proper medical attendance, and except in extreme cases, they are not subjected to solitary confinement. The Penitentiary, though not applicable to slaves, applies to free negroes and mulattoes, as well as whites.<sup>a</sup> The internal division is into five wards, in each of which some species of healthful and

<sup>a</sup> See 1 R. C. 616-631.—The Penitentiary System was adopted by Act of Assembly, in 1796, but did not go into operation until March 25th, 1800.

profitable labour is enforced upon every convict able to work. Boot and shoemaking, tailoring, blacksmithing, stonecutting, axe-making, weaving, spinning, carpenters' work, coopering, painting, and other industrial pursuits, are carried on with vigour, and produce each year an average of nearly twenty-four thousand dollars, or about one hundred and twenty dollars for each convict. Besides these, there is a garden attached to the buildings, which is worked by the inmates, and which produces in value nearly four hundred dollars per annum. The whole number of convicts, on the 30th September, 1846, was two hundred and twenty-five, of whom one hundred and forty-three were white, and eighty-two coloured; two hundred and eighteen were males, and seven females.\* During the forty-five years from 1800 to the beginning of 1845, the number has greatly varied; the annual average being one hundred and forty-six. In this period, the greatest number was two hundred and twenty, in the year 1823. Since that time the number has diminished, though in irregular proportion. At the opening of 1845, the total was one hundred and ninety-seven. During the above period, the whole number of white males received, was eighteen hundred and fifty-four; of white females, thirty-six; of coloured males, five hundred and thirty-four; of coloured females, sixty-three. Thus the whole number of white convicts received, has been eighteen hundred and ninety; and of coloured, composed of free

\* Pen. Report, 1846; Doc. No. 1, page 33.



negroes and mulattoes, five hundred and ninety-seven.<sup>a</sup>

Let it be remembered that during the forty years from 1800 to 1840, the average white population of Virginia was six hundred and twenty thousand, while in the same time, the average free coloured population was thirty-seven thousand souls. Therefore the number of white convicts was one in about three hundred and twenty-eight, and the number of free coloured convicts, one in about sixty-one. An ominous disparity! which has constantly pressed upon the attention of the reflecting men of the state. The free negroes and mulattoes are unquestionably the most vicious and corrupting of the varied material composing our social system. But they have souls, feelings, rights. It will require all that humanity and wisdom united can suggest, so to legislate with regard to them as to check the evils they produce, and yet grant them justice and mercy.

And in this connexion, it must be stated that the criminal law, as to free coloured persons and slaves, differs widely from that applied to whites. The free negroes occupy an equivocal and most unhappy position between the whites and slaves, and the laws affecting them partake of this peculiarity. Capital punishment is inflicted on them for offences more lightly punished in whites.<sup>b</sup> They are entitled to trial by jury in cases of homicide, and in all capital cases; but for other crimes, they are tried by Justices' Courts of Oyer and Ter-

<sup>a</sup> Report, 1846, Table ix. page 35.

<sup>b</sup> Supplement, 238, 247.

miner, who must be unanimous in order to convict. They are subjected to restraint and *surveillance* in points beyond number. It is vain to say aught against the general policy of these measures; they are the inevitable results of evils which time alone can cure.

An inexperienced examiner, in reading the criminal code of Virginia as to slaves, would declare that it was stained with blood. And, in truth, it is appalling to note the number and the character of the offences for which death is denounced against them. But it affords the purest consolation to reflect that these laws seldom operate in practice. To say that the capital execution of a slave in Virginia is as rare as that of a white person, may not be true; but it is true that the disparity in number in such cases, is far less than the ignorant suppose. The executive is clothed with the merciful power of selling slaves condemned to die, and transporting them beyond the limits of the state. The owner then receives value; but if a slave so transported returns, he is liable to execution, without reprieve, and the owner loses his value.<sup>a</sup>

From the *Law* itself, we may now turn to the mechanism by which it is administered. Justices of the peace in Virginia are, in general, not paid for their labours. Each justice has jurisdiction in many petty offences, and in civil claims, definite in character, which do not amount to more than twenty dollars. Justices compose the County and Corporation Courts. These sit monthly, and have

<sup>a</sup> 1 R. C. 430.

extensive powers, civil and criminal, legal and equitable, original and appellate. Next, the state is divided into ten judicial districts, and each district into two circuits, except the fourth, which contains three circuits. Thus, in all, there are twenty-one circuits. In each of these, in general, a single judge presides, uniting in himself the jurisdictions both of law and chancery. But in the twenty-first circuit, embracing the County of Henrico and City of Richmond, there are two judges, one of whom presides in law and the other in chancery. Therefore the number of Circuit Judges in the state is twenty-two. The Circuit Courts have jurisdiction in civil and criminal cases, and appeals lie to them from the County and Corporation Courts. They sit twice a year in every county in the state.

Next, is the General Court, composed from the Circuit Judges. They are required to arrange themselves into four classes of five or six judges each, one of which is, in annual rotation, exempt from attendance. Thus, fifteen judges are required to attend the General Court, of whom eleven constitute a quorum.\* They have original jurisdiction in cases of probate of wills and granting letters of administration, and in some public claims; and appellate jurisdiction from the Circuit Courts in all criminal cases. Finally, the Court of Appeals of Virginia is composed of five judges, specially elected, though in some peculiar cases Circuit Judges may constitute a Special Court of Appeals.

\* Am. Almanac, 1847, 256.

This court has no original jurisdiction, but it is the supreme civil tribunal of the state. Appeals in law and chancery lie to it from the Circuit Courts, and its decision is final. It is deeply to be regretted that, in consequence of the pressure of its business, the Court of Appeals is far behindhand in its decisions. Causes which have accumulated for a series of years remain undecided on its docket, and it is probable that an original appeal now obtained, could not be heard for nearly seven years from this time.<sup>a</sup> This disheartening evil is believed to be attributable neither to judges, nor lawyers, nor clients. The judges work assiduously about two hundred and fifty days in each year, the lawyers are ready for argument, when their causes are reached, and clients are seldom in fault for delay in their own suits. The evil chiefly arises from the imperfect performance of the judicial machinery connected with this department. In the Legislature, several attempts have been made to apply correction, but nothing has yet been done. It is hoped that the attempt will be renewed until a perfect remedy shall be applied.

We have seen that from time to time the legal system of Virginia, with its incidents, has been subjected to revisal, that order and improvement might be introduced. The last re-arrangement was conducted under the superintendence of Benjamin Watkins Leigh, who was aided by William Waller Hening and William Munford. It took place in 1819. In this case, the labours of the

<sup>a</sup> See Robinson's Reports, ii. Preface.



learned superintendent were confined to an accurate collection and classification of the general laws of the land, according to a scheme prescribed by the Assembly. He was not required to suggest reforms.\* The result was the production of the two volumes of our "Revised Code," which, with public statutes since passed, continue to exhibit the law of the state. Within a few years past, another and more thorough revisal has been determined on. The civil and criminal laws of Virginia have been committed to John M. Patton and Conway Robinson, whose instructions as to suggested reforms are broad, and approach nearly to those under which acted Messrs. Jefferson, Pendleton, and Wythe, in 1777. During the coming session of the Legislature, a report is expected from these gentlemen. Those who know them best believe that, united, they possess accurate legal learning, indefatigable industry, well-balanced judgment, and liberal views of public policy. Virginia expects much from their counsels. Could she obtain a good code, it were better that it should be made like the laws of the Medes and Persians, than that it should continue to tremble in ceaseless fluctuation.

We pass now to some remarks upon the *literature* of the state. The attempt to introduce such a head may excite the surprise of those who can find no literature except in the classic treasures of antiquity, or the accumulated stores of modern Europe. The question may be asked, where is the literature of Virginia, and it would not be easily answered.

\* See 1 R. C., Preface, and page 14.

It is a melancholy truth that her people have never been *a reading people*. In the mass, they have shown an indifference to polite letters and to education in general, depressing to the mind that wishes to see them respectable and happy. Until a great change shall be wrought in this respect, the state can never assume her proper dignity. Nevertheless, from her settlement to the present time, men have occasionally lived in Virginia who have loved learning with sacred affection, exceeded by none ever felt in America. They have risen superior to all sinister influences, and have shone the more brightly, because surrounded by darkness like that of Gothic ages.

In the year 1621, George Sandys was appointed Treasurer of the London Company for Virginia, and while in the Colony, he entertained himself during leisure hours in translating Ovid's *Metamorphoses* into English verse. The work was published in 1632, under the title of "*Ovid's Metamorphoses Englished, mythologized, and represented in figures.*" Sandys was one of the scholars of his day, and his work drew forth praises from competent critics.<sup>a</sup> There was little in the unbroken forest, the savage scenes, the rude settlement, which Virginia then presented, to accord with the warm colourings and passionate descriptions of the Roman poet. The translator drew inspiration from his author, and his own bosom. Pope was charmed with the work, read it with rapture at nine years of age, and always afterwards mentioned it with enthusiasm. When some

<sup>a</sup> North Am. Review, July, 1846, 150.

of the most graceful pens of Queen Anne's reign rendered Ovid into English, Sandys fell into oblivion; but a few time-worn copies of his book may yet be found in Virginia, to remind her of the first lover of the Muses who lived on her soil.

It is remarkable that in modern years, another great poem of antiquity has been translated into English verse by a Virginian. William Munford was born in Mecklenburg County, in 1775. He graduated at William and Mary College, studied law under Chancellor Wythe, was admitted to the bar, and practised with success during many years. He represented his native county in the House of Delegates, was afterwards in the State Senate, was chosen a member of the Council of State in 1806, and was elected Clerk of the House of Delegates in 1811. In addition to his other duties, he reported the decisions of the Court of Appeals, first alone, and then in connexion with William Waller Henning, with whom he also united in aiding Mr. Leigh in the revisal of 1819. But amid these public labours, Mr. Munford found time to gratify his literary taste by translating the whole of Homer's Iliad into English blank verse. At the time of his death, July 21st, 1825, he left his work complete, and prepared for the press. Various circumstances delayed its appearance until 1846, when it was published in Boston, in two elegant octavo volumes. The man of letters in America, will read this work with pride and pleasure, and profound critics have long since demonstrated its excellence as a transla-

tion.<sup>a</sup> We do not expect to see it supersede Pope's Paraphrase of the Iliad. Nine thousand of the most musical couplets that the English language is capable of producing, will be read while any taste is left in the world. But they will be read, not because they have the simplicity, the fire, the sublime power of Homer, but because they have the melody, the feeling, the fascinating graces of Alexander Pope. Cowper's version of the Iliad is too rude to be popular. The reader who knows only English, and who wishes to know how and what Homer really wrote, will read Munford's translation.

Of original poetry, Virginia has not yet produced any work that promises to endure the test of time. We have already noticed the "Land of Powhatan," by St. Leger Landon Carter. It has some beauties but more deformities. It has been very little read. Mr. Carter's subsequent volume, "Nugæ by Nugator," contains specimens of better poetry than any in his earlier work; but its title will probably foreshadow its fate, as accurately as its author could have expected. William Maxwell, of Virginia, has published a volume of poems, which might now be in circulation, had it not contained some imitations of Catullus and other Latin poets, and certain fables in verse, which were not adapted to the taste of the nineteenth century. The "Missionary's Grave," in this collection, is simple and beautiful, and other detached pieces might be found equally pleasing and elegant.

<sup>a</sup> See South. Quar. Rev. July, 1846, 1-45; North American, 149-165.



Added to these, the press of the "Old Dominion" has sent forth from time to time short poems, graceful enough to please when they appeared, but not so instinct with the true "afflatus" as to escape final oblivion.

Of the lighter species of prose writing, our state has produced enough to show that time and cultivation only are required to make her respectable. Some of the novels written by her children, male and female, have attracted public favour. "Edgehill," and "Yorktown," are yet in print. William Wirt's *British Spy*, has long been admired. His speculations in physics are ingenious, though behind his own subsequent experience; his sketches of the great men of Virginia are free and glowing; his "Blind Preacher" has drawn tears of genuine feeling from many readers. Mr. Wirt's "Old Bachelor," though not equal in interest to the *Spy*, yet abounds in pleasant portraiture of men and manners.<sup>a</sup> Many light fragments left by massive minds in the state, add to her humble literary stores. The Letters of John Randolph, of Roanoke, published since his death, are interesting from association, but they have not increased his fame.

In the more solid departments of literature, Virginia has not been entirely recreant to her duty. Her earliest History is that which takes its name from the renowned John Smith. It is a confused mass of information, furnished by nearly thirty writers. Beyond denial, the best parts were from Smith's own pen. Beverley wrote a volume on

<sup>a</sup> See *Evan. and Lit. Mag.*

the Colony, which was first published in 1705. He gives a meagre and prejudiced sketch of the History of Virginia, in the first part of his book; but the last part is devoted to her physical condition, agriculture, natural products, laws, manners, aborigines,—and this is spirited and valuable. Rev. William Stith, President of William and Mary College, was an accomplished scholar and an excellent man. He wrote the History of the Colony to 1624, and published it in Williamsburg in 1747. Our obligations to him have been acknowledged in the first volume of this work. John Burk was an Irishman by birth, but practised law in Petersburg for several years. He wrote three volumes of our history, and intended to continue it, but he unhappily fell in a duel with a Frenchman, with whom he had engaged in a political dispute. Mr. Burk's volumes show genius and a love of freedom; but his style tends constantly to the exaggerated and bombastic, leaving the reader in painful doubt whether he can safely trust himself to such a guide. He published in 1804. Skelton Jones wrote a few pages of a continuation, and Louis Hue Girardin completed the volume to the close of the Revolution. This performance has been already noticed. J. W. Campbell, of Petersburg, wrote a small, but valuable work on Virginia, published in 1813. His son, Charles Campbell, has accomplished and is still applying well-directed labour in the same department. Rev. William Henry Foote, of Romney, has published a volume of "Sketches of North Carolina," embracing many interesting reminis-

cences which time threatened to destroy. Much may yet be expected from Mr. Foote's love of history.

The writings of the professed statesmen of Virginia have been generally political, and do not fall within our present purpose. Mr. Jefferson's "Notes" are still reckoned among the most agreeable of his works. They were originally prepared in 1781, at the request of M. De Marbois, of the French legation, then in Philadelphia. The work was revised two years afterwards, and was first printed in Paris for private circulation. A very inaccurate and rude French translation having appeared, the author consented that a London bookseller should publish the English original, "to let the world see that it was not really so bad as the French translation had made it appear."<sup>a</sup> Mr. Wirt's *Life of Patrick Henry* has been deservedly popular. It can hardly be excelled in grace, warmth, and the power of enlisting attention. And whatever doubts may once have prevailed, it is believed that the authenticity of the great body of the work will bear a rigid test. Professor Tucker's *Life of Jefferson* is clearly written, and considering the difficulty of the subject, it is eminent in candour. John Marshall's *Life of Washington* is learned and accurate, but it wants compactness and energy. Did our plan embrace remarks upon professional works, we might find in the law-books prepared by Virginians, matter for rational pride, and well-based hope.

<sup>a</sup> *Jefferson's Works*, i. 50.

The first newspaper in the Colony was the "Virginia Gazette," the opening number of which appeared in Williamsburg, August 6, 1736. It was continued, under various changes, through nearly fifty years. Companions and successors were soon established. Examiner, Patriot, Virginian, Herald, Enquirer, Whig, Compiler, Republican, and many other equally promising names, have thrown light and heat among the people. The tone of the newspaper press in our state has been always animated, sometimes violent; but often dignified and impressive. Several attempts had been made to establish a literary periodical, but they were not successful until 1834, when Thomas W. White commenced the "Southern Literary Messenger," in Richmond. Mr. White supplied the want of learning and refined taste, by labour and enthusiasm. He drew able pens to his pages, and made them welcome to a wide circle of readers. After his death, in January, 1843, the Messenger passed into the hands of Benjamin B. Minor, and within a few weeks it has been transferred to John R. Thompson, of Richmond. This periodical, since its birth, has experienced the changes incident to human effort. At one time it has been solid and instructive; at another, brilliant and erratic; at another, decent and dull. Mr. Thompson's friends believe that it will not lose vital warmth under his care. High considerations will induce Virginia and her sister states to sustain a work commenced and persevered in under so many disadvantages.



In close union with *literature*, we will speak of the institutions intended to spread learning among the people of the state. We have already noticed the University, and indulged in surmises as to its prospects. William and Mary College continues to flourish with strength apparently not abated. It has four regular professors, and an average of one hundred students. Its library contains about five thousand volumes. Washington College, at Lexington, has had varied success in the past ten years, but must still be regarded as prosperous. It has six professors and tutors, one hundred and thirty-six students, and there are twenty-seven hundred volumes in its library. The Virginia Military Academy was established by act of Assembly in 1836; its buildings are at Lexington. Its operations commenced on the 11th November, 1839. The course of instruction is intended to train young men to all that is essential to the military art, and of course embraces a wide field of study. The number of students in each year since its establishment, has averaged about eighty. The students are divided into *pay* and *state* cadets. In 1846, the number of pay cadets was seventy-seven, of state cadets twenty-seven, making a total of one hundred and four.<sup>a</sup> The annual cost of the institution to the state has been about seven thousand five hundred dollars. Randolph Macon College, in Mecklenburg County, is under the care of the Methodist denomination. It was founded in 1832.

<sup>a</sup> Sess. Acts, 1835-36, page 12; 1, page 13, and Doc. No. 34, page 6. Journal of 1846-47, H. D. Doc. No.

It has eight professors and tutors, and seventy-three students. Emory and Henry College, under the same denomination, was founded in 1839. It has four instructors, forty-six students, and a library of two thousand eight hundred volumes. Rector College, in Harrison County, is under the care of the Baptists. It was established in 1839, and has about fifty students. There is also a college at Bethany, which is under the general supervision of Rev. Alexander Campbell. It was founded in 1840, has six instructors, and one hundred and twenty-eight students.<sup>a</sup>

Hampden Sydney College, in Prince Edward County, has not flourished as its friends had hoped, for a school so unexceptionable in its origin and object. In the last ten years, the number of students has hardly attained an average of sixty, and now it is much less. Difficulties have been experienced in providing an efficient organization of its faculty. Within a very short time past, a change has occurred, which will render a complete reorganization ultimately necessary. Efforts are now in progress to raise a fund, by which permanent scholarships will be attached to this college. With strenuous exertions it will again prosper; without them, it will, we fear, become extinct.

But while the parent college thus languishes, the medical department of Hampden Sydney, established at Richmond in 1838, promises even more than its most sanguine friends had hoped. It has a beautiful building, of Egyptian architecture,

<sup>a</sup> See American Almanac, 1847, pages 180 and 257.

perfectly arranged for hospital instruction, and the other facilities essential to the medical inquirer. The number of students has annually averaged seventy. The number during the session of 1846-47, was seventy-five, of whom sixty-seven were from Virginia. At commencement, in March, 1847, seventeen students received the degree of Doctor of Medicine. The department has six professors, presiding in the several schools of Anatomy and Physiology, Surgery and Surgical Anatomy, Chemistry and Pharmacy, Obstetrics and Diseases of Women and Children, Theory and Practice of Medicine, Materia Medica and Therapeutics.\* During a few months past, the College has sustained a serious loss in the death of Augustus L. Warner, M.D., Professor of Surgery, who united to profound theoretic knowledge of his subject, a delicacy and skill in practice, which made the surgeon's knife in his hand the instrument of mercy to the patient. He has been succeeded by Doctor Charles Bell Gibson, formerly of the Washington University, of Baltimore. Thus the faculty is again complete, and to the student who expects to combat Southern disease, this medical college presents unique advantages.

Next may be mentioned the institutions of Virginia for the relief of the insane, the deaf and dumb, and the blind, which though not immediately con-

\* Catalogue and Report, 1846-47. The professors are John Cullen, M.D., Charles Bell Gibson, M.D., Doctor M.D., R. L. Bohannon, M.D., L. W. Carter P. Johnson is Demonstrator of Anatomy. Chamberlayne, M.D., Socrates Maupin, M.D., who is also Dean of the

nected with the advance of learning, are evidences of that higher philanthropy that learning tends to produce. The state has two lunatic hospitals : the Eastern, at Williamsburg, under the care of Doctor John M. Galt, and the Western, at Staunton, under Doctor Francis T. Stribling. On the 1st of January, 1846, the Eastern Asylum had one hundred and twenty-eight patients, of whom seventy-one were males, and fifty-seven females. During the year ending 31st December, 1846, thirty-two were admitted, thirteen were discharged, and seven died, leaving at the last named date, one hundred and forty in the hospital ; of whom eighty-two were males, and fifty-eight females. Of the aggregate of one hundred and sixty in the Asylum during the year, ninety-two were single, fifty-five married, seven were widows, and six widowers.\* The Western Asylum, on the 1st January, 1846, had one hundred and eighty-two inmates ; one hundred and fourteen males, and sixty-eight females. During the year 1846, ninety-two were admitted, of whom precisely one-half were of each sex ; thirty-seven were discharged, and twenty died, leaving at the close of the year, two hundred and seventeen ; one hundred and twenty-three males, and ninety-four females. Of the whole number of two hundred and seventy-four patients in the hospital during the year, one hundred and seventy-eight were single, seventy-three married, twelve were widows, and three widowers. The civil relations of the re-

\* Journal H. D., 1846-47, Doc. No. 29.



maining eight were not ascertained.<sup>a</sup> The buildings for each of these institutions, are large; the Western Asylum, in particular, embraces several ample and beautiful edifices. The treatment of the insane is tender and judicious. Humanity, gentle labour, and watchful study of the laws of mind, have taken the place of bars, and bolts, and chains, and dungeons.

The building at Staunton for the deaf and dumb, and the blind, has recently been completed, and is thought to be very elegant and commodious. It will accommodate one hundred and sixty pupils, without inconvenient crowding. On the 4th December, 1846, the number of deaf mutes was thirty-eight; twenty-one males, and seventeen females. The number of the blind was twenty-six; fourteen males, and twelve females. Fifty-one deaf mutes, and sixty-three blind persons were applying for admission.<sup>b</sup> The organization of this united scheme of philanthropy is almost perfect, and its results have been highly gratifying. The pupils perform such profitable labour as their infirmities will permit; their schools are regularly conducted, and their proficiency in some branches of study is astonishing. In music and figures, the blind excel the most accomplished visitors who come to see and hear them.

For the Eastern Asylum, it is estimated that twenty-five thousand dollars will be required from the state during the current year; for the Western,

<sup>a</sup> Journal H. D., 1846-47, Doc.

<sup>b</sup> Journal H. D., Doc. No. 9.

it is thought that twenty-three thousand will be sufficient. The Institution for the Deaf and Dumb and the Blind, has a state annuity of ten thousand dollars, and with five thousand more, it is believed by the Board of Visitors, that sixty additional pupils could be supported.<sup>a</sup>

By the census of 1840, the number of white deaf and dumb persons in Eastern Virginia, was two hundred and twelve; of white blind, two hundred and fifty-six; of white insane and idiotic,<sup>b</sup> five hundred and twelve. Of coloured deaf mutes, there were one hundred and twenty-five; of coloured blind, four hundred and seventeen; of coloured idiotic and insane, three hundred and seven. In Western Virginia, at the same time, there were of white deaf and dumb, two hundred and forty-one; of white blind, one hundred and seventy; of white idiotic and insane, five hundred and forty. Of coloured deaf and dumb, there were twenty-five; of coloured blind, forty-nine; of coloured idiots and lunatics, seventy-five.<sup>c</sup> Thus, in the state, the aggregate was six hundred and three deaf mutes; eight hundred and ninety-two blind; and fourteen hundred and thirty-four idiotic and insane persons. From this it will be apparent that much as have the benevolent institutions of Virginia accomplished, more yet remains to be done.

<sup>a</sup> Journal, Documents, No. 9, 29–35.

<sup>b</sup> The institutions of Virginia are for the benefit of idiots as well as lunatics. See Dr. Galt's Rep. Journal, Doc. No. 29.

<sup>c</sup> Compendium of Census of 1840, pages 35–39. Most of the estimates on this subject given in Howe's Hist. Collec. 179, seem to be entirely inaccurate.

For, throwing out of the account, those unfortunates of all the above classes, whose relatives and friends are able and willing to support them, there will remain a large number to be provided for by merciful appropriations from government.

Besides the various colleges and institutions already mentioned, there are in the state many academies and schools, male and female, incorporated and unincorporated, in which the earlier stages of learning receive attention. To these, farther allusion may be necessary under another head.

We pass now to the *religious* aspect of Virginia. We have seen, that from the dominion of a rigid establishment, supported by law, the state passed, gradually, through changes which resulted in complete religious freedom. We hazard little in asserting that there is no part of the world in which conscience is more perfectly free from legal restraint than in Virginia. If there yet remain points in which a man is subjected to disabilities because of his religious character, they are few and anomalous. So broad are the principles of liberty which, on this subject, pervade the minds both of rulers and people, that it has been considered doubtful whether government, general or local, can enforce the observance of the first day of the week, the Christian Sabbath. The conscientious preferences of Jews and others, who adhere to the seventh day as the Sabbath, have been respected. Many of the wise and virtuous have believed that this matter should be decided rather by the influ-

ence of enlightened public opinion, than by the requirements of positive law.

The effect of this divorce between Church and State, has corresponded with the hopes of the friends both of religion and of liberty. Those who are most competent to judge, have believed that in no one of the United States, has Christianity had more vital power than in Virginia. We would not be misinterpreted on this subject; there is yet irreligion enough in our state to appal the reflecting; there yet exists among us vice in its most reckless forms, and infidelity in its most open developement. But the assertion made is, that those who have *professed* to be Christians, in Virginia, have adhered steadily, both to the creed and the practice enjoined in the Scriptures. They have avoided, on the one hand, the bold rationalism which denies that Christ is God, because reason cannot comprehend him; and, on the other, the slavish superstition which embodies Christ in a wafer of bread, because Rome has thus degraded him. The great doctrines of revelation, the Triune God, the depravity of man, the necessity for a spiritual change, the almighty agency required to produce it, the imputed righteousness only by which a guilty moral agent can be justified, the faith by which it is appropriated, and the absolute requirement of a holy life, as evidence of that faith,—these teachings have been received in all their simple power by the people of our state who have sense and virtue enough to reflect seriously upon religion. And as religious *truth*, when steadily contemplated, must enlighten



and purify, so sound doctrine and consistent practice, have eminently characterized the various denominations of Virginia who profess an evangelical Christianity.

The Baptists have sustained their strength, both in numbers and influence. Since we last had occasion to speak of them, their progress has been continuous and rapid. The *Regular* Baptists are still known by the title, and are the prevailing class; the *Separates* are now hardly distinguishable as such; but other classes have been formed, into which many of them have been merged, and which differ more or less from the Regulars. From time to time secessions from the Baptist Church have taken place, of members or bodies of members, believing with it as to immersion, but differing from it in other important points. The independent form of government adopted by this Church, has prevented any general schism on the agitating topics of the American Union; but great differences of opinion on the question of slavery are believed to prevail between the Northern and Southern Associations in the United States. In Virginia, it is thought that the denomination, as a body, are thoroughly Southern in feeling and principle, on this subject.

In 1844, the Baptists of the state had thirty-five associations, of whom twenty-three were warmly devoted to the missionary cause, and twelve were opposed to it. The Church had then 609 houses of worship, 312 ministers, and 84,258 communi-

cants.<sup>a</sup> Accurate observation of men who have long watched its progress, has shown that the Church grows at the rate of about three and a half per cent. per annum. At this ratio, in 1847, the number of churches would be 673, of ministers 345, and of communicants 85,143. The actual number of ministers is 357.<sup>b</sup> Those Baptists who approve of missionary effort, and other benevolent schemes, have a complete and efficient organization for the purpose. In 1846, the amount contributed by the churches for the education of candidates for the ministry, was two thousand and thirty-two dollars, a sum confessedly too small for the demands of the subject.<sup>c</sup> The amount raised for foreign missionary purposes was four thousand one hundred and thirty-one dollars; for printing and publishing Bibles, two thousand eight hundred and fifty-six dollars; for Sunday-schools, one hundred and sixty-eight dollars. For some years past, increasing attention has been paid by the Baptists to the work of training their ministers, and the effect has been obvious. The denomination in our state is very powerful, and will exert a material influence whenever it shall put forth its strength.

The Methodists of America became a distinct Church in 1784. Previous to that time, Mr. Wesley had been deterred by feelings engendered by long habit, from acting upon his opinion that

<sup>a</sup> Proceedings Gen. Asso. Virginia, 1845, statistics.

<sup>b</sup> Their names are given, Proceed. Gen. Asso. Virginia, 1847, 12-15.

<sup>c</sup> Proceedings, 1847, pages 18, 19. Amounts will generally be given without fractions.

bishops and presbyters in the primitive church, had the same authority. But when the Revolution separated the United States from Great Britain, he found in the condition of the Methodists of America everything favourable to the re-establishment of what he believed to be the scriptural and primitive model. Accordingly, assisted by Dr. Coke and Rev. Mr. Creighton, two presbyters of the Church of England, he ordained Richard Whatcoat and Thomas Vasey as presbyters for America, and afterwards, assisted by other ministers, he ordained Dr. Coke superintendent<sup>a</sup> of the American churches. These divines arrived in the United States in November, 1784, accompanied by Mr. Wesley's letter, explaining his conduct and object.<sup>b</sup> From the opening of the next year, the Church in Virginia may be considered as having a distinct existence.

Through a series of years it has grown with little intermission. The ingenious system of rotation and responsibility peculiar to Methodism, has been applied, and up to the year 1844, it worked without material hindrance. The Conferences, known by the names of states, have, it is true, never corresponded with the geographical bounds of those states. The Virginia Conference has embraced only the larger part of the eastern division of the state. In 1803, this Conference had 4 dis-

<sup>a</sup> The more scriptural title of *Bangs' Hist. M. E. Church*, i. 153, bishop has since been substituted for 154; *Dr. Hawks*, 166-168, *omits* superintendent in the Methodist *every sentence* of the letter in which Episcopal Church. See *Dr. Bangs*, Mr. Wesley declares his opinion as to i. 154. the parity of bishops and presbyters.

<sup>b</sup> This letter in full is in *Dr.*

tricts, 32 circuits, 44 preachers, and 16,893 communicants, of which last 13,099 were white, and 3,794 were coloured.<sup>a</sup> From this time the denomination increased constantly in the state; camp-meetings were often held in various counties, and varied as may be the abuses of such means of religious instruction, candour will confess that their good effects have often been apparent. In 1844, the conflict of opinion and practice between the Northern and Southern Conferences on the subject of slavery, had become so intense that a separation took place, which has resulted in the organization of the Methodist Episcopal Church, South.<sup>b</sup> The ultimate effect of this disruption will, it is hoped, be good; but its immediate effect was a decrease of nearly thirty-two thousand members in the Church from 1844 to 1845.<sup>c</sup> It is believed that all the churches of the Virginia Conference accord in feeling and principle with the South, and that of the other Conferences, a major portion of the churches within our state are equally firm in attachment to Southern doctrines, although differences on this subject exist among them which have already produced most distressing results.

Our means of information do not enable us to present the statistical aspect of the Methodist Church in our state, beyond the beginning of the year 1846. At that time, according to the best evidence we can obtain, the Virginia Conference

<sup>a</sup> Dr. Bangs, ii. 143, 144.

<sup>c</sup> Minutes, 1844-45, Gen. Recapit.

<sup>b</sup> See minutes for 1846, '47, title- 603.



had 79 church edifices, 166 local preachers, 26,868 white members, 5,192 coloured members, and had contributed during the past year, 2,322 dollars for superannuated ministers and other kindred charities, and 5,132 dollars for missionary and similar religious purposes. The Kentucky, Ohio, Baltimore, and Philadelphia Conferences, all cover parts of Virginia. We report such parts in the above order as follows. Kentucky Conference: church edifices, 4; local preachers, 29; white members, 3,746; coloured, 165; contributions for superannuated ministers, 130 dollars; for missions, 302 dollars. Ohio Conference: church edifices, 8; local preachers, 14; white members, 2,889; coloured, 307; contributions for superannuated ministers, 50 dollars. Baltimore Conference: church edifices, 61; local preachers, 80; white members, 15,167; coloured, 3,441; contributions for superannuated ministers, 980 dollars; for missions, 3,960 dollars. Philadelphia Conference: church edifices, 4; local preachers, 9; white members, 1,173; coloured, 712; contributions for superannuated ministers, 167 dollars; for missions, 238 dollars. Total: church edifices, 156; local preachers, 298; members, 59,660; contributions for superannuated ministers, &c., 3,649 dollars; for missions, &c., 9,632 dollars.<sup>a</sup>

<sup>a</sup> These statements have been the Conferences in relation to geographically compiled from the minutes of 1844-45 and 1846-47. I have found the task perplexing, because of the very irregular arrangement of graphical bounds, but it is hoped that the errors of the statement are not grave.

The Presbyterian Church in Virginia has not been false to the promise made by its auspicious beginnings. Its progress has been steady; and though inferior in numbers, and in some other respects, to the Baptist and Methodist, it probably yields to none in the influence which, when required, it is capable of exerting. Its ministry, as a body, have been learned men; and from time to time, it has been adorned by minds as brilliant in talents as they were devoted in piety. The names of James Waddel, Moses Hoge, John Holt Rice, Conrad Speece, George Baxter, and William Armstrong, will long be remembered and revered. Of the distinguished living, it would not be proper to speak. For many years of its existence, this church in Virginia, was harmonious. But the unhappy division of 1837-38, extended itself into this state. The *Old School* portion maintained a great ascendancy in numbers, but the *Constitutional* Presbyterians were active and determined. For a time embittered feeling prevailed, and scenes occurred which produced a painful impression on all minds in love with true piety. But as years have passed away, bitterness has subsided; the parties have learned to regard each other as sister churches, separate in name, and perhaps in some doctrinal opinions, yet united by many common sympathies. Within a very short time past, a coalescing tendency has exhibited itself, the full result of which is yet to be developed.

Of the Old School part of the church, in 1847, the Synod of Virginia embraced members from six

presbyteries, which, with minute exceptions, covered the whole state, according to geographical boundaries. Of these, the Presbytery of Greenbrier had 20 churches, 14 ministers, 1 candidate for the ministry, and 1,076 communicants. Its contributions for religious purposes during the past year, had not been reported. The Presbytery of Montgomery had 18 churches, 11 ministers, 2 candidates, 1,028 communing members, and had contributed for religious objects, 646 dollars. The Presbytery of Lexington had 28 churches, 23 ministers, 4 licentiates, 1 candidate, 3,286 communicants, and had contributed 1,751 dollars. The Presbytery of Winchester had 30 churches, 19 ministers, 2 licentiates, 6 candidates, 1,412 communicants, and had contributed 3,284 dollars. The Presbytery of West Hanover had 42 churches, 37 ministers, 5 licentiates, 2 candidates, 1,996 communicants, and had contributed 1,890 dollars. The Presbytery of East Hanover had 13 churches, 14 ministers, 2 licentiates, 2 candidates, 1,283 communicants, and had contributed 5,189 dollars. Small frontier portions of the state are embraced within the bounds of the Synods of Philadelphia, Pittsburg, Wheeling, and North Carolina. These portions altogether, have 19 churches, 19 ministers, 2,967 communicants, and have contributed 2,452 dollars. The aggregate of the state will therefore be 170 churches, 137 ministers, 13 licentiates, 14 candidates, 13,048 communicants, and contributions amounting to 15,212 dollars.<sup>a</sup>

<sup>a</sup> Minutes Gen. Assembly, 1847, stat. table.—The contributions noted

The *Constitutional* or *New School* Synod of Virginia, embraces the three Presbyteries of Hanover, Winchester, and the District of Columbia. But the churches of the last-named presbytery are not within the geographical bounds of Virginia. In 1843, it had 10 churches, 7 ministers, 3 licentiates, and 1,315 communicants.<sup>a</sup> In 1839, the synod composed of the three presbyteries we have named, had 21 churches, 17 ministers, 2 licentiates, 3 candidates for the ministry, and 1,611 members. In 1847, the same synod, composed of the same presbyteries, has 42 churches, 40 ministers, 7 licentiates, 9 candidates, and 3,589 communing members. In addition, the Presbytery of New River, within the bounds of Virginia, has 7 churches, 3 ministers, and 549 communicants.<sup>b</sup>

The rapid apparent increase in these presbyteries, between the years 1839 and '47, needs a word of comment. They have undoubtedly gained by persons converted, and originally added to their communion, and by the building of new churches; but the principal increase has been from another source. In 1839, in Virginia, this branch of the Presbyterian Church was not fully organized. Many ministers and private members were then undecided in their ecclesiastical preferences who have since united themselves regularly with the

do not embrace any part of the Jos. C. Stiles, Oct. 1847. I have sums raised for ministers' salaries. not been able to obtain definite

<sup>a</sup> Min. Gen. Assem., 1843.

<sup>b</sup> Letter to the author from Rev.

knowledge as to the contributions of the Constitutional Presbyterians.



*Constitutional* Presbyterians. Hence the chief augmentation of their numbers.<sup>a</sup>

The history of the Episcopal Church in Virginia is full of material for instructive reflection. Through all its phases, it has been teaching the simple lesson that Christianity, in order to be pure, must be free. It has been sometimes a beacon to warn against the dangers of its contact, and sometimes a lighthouse to guide the storm-beaten to a harbour of safety. But whether its example has repelled or invited imitation, we may equally find in its teachings admonitions for the future. We have seen that, during the Colonial period, this Church was established by law. All its measures were coercive. The arm of civil government compelled men to attend its ministrations, to conform to its ritual, to support its officers. And we may safely say that this was the worst period of its existence; at the time when its legal authority was greatest, and its connexion with the state most stringent, its character as a church was most unhallowed and impure. Glebe lands and stipends raised by law, could not compensate for the want of piety in its ministers and members.

For about thirty years after the opening of the Revolution, this Church was struggling with adversity. The support of law was removed, and having, then, few other supports, it tottered to its base. The great body of the people felt towards it either indifference or positive dislike. Many of its

<sup>a</sup> Letter to author from Rev. J. C. Stiles, Oct. 1847.

ministers forsook the country, and returned to England; others abandoned the sacred profession, and engaged in secular duties; others, in poverty and danger, maintained a feeble supervision over their scattered flocks. Its churches were often left vacant, and were sometimes dismantled.<sup>a</sup> After the year 1802, it was left wholly without legal countenance, and was to depend upon its own redeeming powers. The superficial observer will look upon this period as the most gloomy and disastrous in the history of the Church. But the philosopher, if he be a Christian, will see in it something more than clouds and darkness. It was necessary that the impurities of one hundred and fifty years should be cleansed by fire. A day was to dawn upon the Church, made brighter by the darkness that preceded it.

In May, 1814, Richard Channing Moore was elected Bishop of the Diocese of Virginia. The Convention that elected him consisted of *seven* clergymen and *seventeen* laymen.<sup>b</sup> From this time a change appeared in the fortunes of the Church, gradual, but decided. No longer polluted by the embrace of the state, purified by adversity, and left to her own spontaneous efforts, her Christianity began to develope itself in full force. Her progress has since been constantly onward. Her bishops have been learned and laborious, her ministers enlightened and pious, her people zealous in good works. The contributions of the church for reli-

<sup>a</sup> See Dr. Hawks, 143-147, 154, 202, &c.

<sup>b</sup> Hawks, 245, 246.

gious and benevolent purposes, have been large in amount, and discriminating in their application.

In 1847, besides her bishop and assistant bishop, this Church had one hundred and twelve clergymen, either presiding over congregations in Virginia, or engaged in kindred duties. She had 95 parishes, embracing 112 church edifices. The whole number of communicants was 4305, and the amount contributed during the past year, for religious purposes, other than ministers' salaries, was 22,849 dollars.<sup>a</sup>

If we have drawn correct inferences from the facts of past and present years, the course of the Episcopal Church in Virginia proves that an Establishment is not only not necessary, but positively hurtful to the cause of religion. No Church in the United States has sustained more real injury because of its contact with the State than the Episcopal, and no denomination of Christians has greater reason to shrink with horror from any proposal to renew such contact, than the Episcopal Church of Virginia. For there are many circumstances that would make such attempt dangerous in our state, which would not so strongly operate in any other part of the Union. And such we believe to be the views of her own most virtuous and enlightened members. If this Church, with us, has any thing to fear, it is not from external enemies; it is rather from an unhappy spirit of what is called *High*

<sup>a</sup> Journal Conven. 1847, 78-85. complete it from the Appendix, 62-The Abstract, pages 78-80, is very 77.  
imperfect, but I have endeavoured to

*Churchism*, which has crept into the bosoms of men and women within her own communion. This spirit need not be described; its distinguishing traits have long been known. It is hoped that it is cherished by very few; indeed, it can hardly be otherwise. For such a spirit can prevail only with the *weak* or the *wicked*: the *weak*, who, not able to appreciate the overwhelming facts and arguments against the exclusive claims of prelacy, are content stupidly to follow designing leaders; or the *wicked*, who, knowing the truth, are yet willing to practise the deceits of an unholy ambition. We believe that in one or the other of these classes, the *High Church* people of Virginia will be found arrayed. There may be honourable exceptions, but they are only numerous enough to prove the rule. It is grateful to be able to say that, within a few months past, one of the most accomplished and virtuous Episcopal divines in our state has taken a noble stand against this mischievous spirit, and has sustained himself against all attacks, with a power of argument irresistible to every sound head and honest heart.

Besides these prominent evangelical denominations, there are in Virginia several other sects, as Quakers, Lutherans, Campbellites, Thomasites, Mennonists, Seceders, Universalists, Swedenborgians,—all more or less important in numbers and influence. But we have not been able to obtain authentic information with regard to them, nor is it probable that any sources exist from which such information could be procured.



The *Jewish* people of our state, though not numerous, are, as in other parts of the world, so distinct in their habits and character, as to form a marked portion of the popular body. They are supposed in all to number not more than seven hundred persons, and of these about five hundred live in the city of Richmond. They are distinguished by their caution, industry, and success in trade. Their first religious congregation was established in Richmond in the year 1791, and they have now in that city two synagogues, one conducted after the order of the Spanish and Portuguese, and the other after that of the German Jews. A reader presides in each, and these are the only Jewish houses of worship in Virginia.<sup>a</sup>

The Roman Catholic Church has not neglected our state in her measures for extending her communion. The Diocese of Richmond embraces other parts of Virginia. Its bishop is the Right Rev. R. V. Whelan, D.D. In 1846, it had thirteen churches, twelve clergymen, and three institutions of learning or charity, one of which is known as St. Joseph's Female Academy, in Richmond. The communicants of the church are in general foreigners, chiefly of French or Irish extract. The fine lands of West Virginia, by their cheapness, have attracted foreign population, and to them the Papists have already directed special attention.<sup>b</sup>

<sup>a</sup> For these facts I am chiefly indebted to Mr. Jacob Ezekiel, Secretary of the Portuguese Synagogue in Richmond.

<sup>b</sup> See Catholic Almanac, 1846, pages 158-160.

Before we pass from the religious condition of the state, it will be proper to refer to a subject which has given rise to some conflict of opinion among Christians, and which has not yet been finally discussed. We have seen that in past years the Legislature of Virginia had repealed an act incorporating a Christian Church, and had afterwards declared that such acts of incorporation "manifestly tended to the re-establishment of a national church."<sup>a</sup> The policy of the state seemed to be decidedly against the passage of any law which might connect religion with the working of civil government. During the period from 1802 to 1830, several applications were made to the Legislature, by one or more religious sects, asking for acts of incorporation to enable them to hold and administer property voluntarily given to them; but these applications had been uniformly rejected.<sup>b</sup> It may be, that under the pressure of fears founded on past experience, the leading men of the state carried their views on this subject farther than such experience would justify. In the Convention of 1829-30, a debate occurred on a proposition to strike out the proviso disqualifying clergymen from being members of either House of Assembly, but the proposition was rejected. Twelve members only voted for it; but among these twelve was James Madison.<sup>c</sup> Immediately after this vote, William H. Brodnax, of Dinwiddie, proposed to

<sup>a</sup> See 1 R. C. 78, 79.

for Loudon County, xi. Leigh, 132-

<sup>b</sup> Judge Stanard's Opinion in Sel. 136.

den et al. vs. Overseers of the Poor

<sup>c</sup> Debates, 1829-30, page 459.

the part of the Constitution touching religion, an amendment, to the effect that nothing in that section should be so construed as to deprive the Legislature of the power to incorporate by law "the trustees or directors of any theological seminary, or other religious society or body of men, created for charitable purposes, or the advancement of piety and learning," with proper provisoes for control and regulation. After a brief debate, this amendment was also rejected, twelve members only voting in its favour.<sup>a</sup> It should be remarked, however, that though the Convention rejected this amendment, they inserted nothing in the Constitution which *forbids* the Legislature to grant corporate powers to such bodies, if it be deemed expedient so to do.

The only symptom of a disposition to relax its previous policy on this subject, occurred in the Legislature of 1841-42. On the 3d of February, 1842, a law passed, giving full legal power to trustees for a religious society, to acquire and hold land to the amount of thirty acres in the country and two acres in any incorporated town, to be used for no other purpose "than as a place of public worship, religious or other instruction, burial-ground, and residence of their minister." Power is given to the Chancery Courts to revise these trusts.<sup>b</sup>

<sup>a</sup> We do not learn whether Mr. Madison was one of these twelve. See Debates, 459, 460. Journal of Virginia Epis. Conven. 1847, page 88.—Argument on Corporations by Wm. S. Plumer, D.D.,

<sup>b</sup> Sess. Acts, 1841-42; see also pages 6, 7.

After some preliminary measures, which excited animated debate in several ecclesiastical bodies, a committee appointed by the Convention of the Protestant Episcopal Church in Virginia, presented to the Legislature of 1845-46, a petition for a law authorizing the religious congregations of the state to hold property to a limited amount.<sup>a</sup> The petition in general terms states the ills which Christian denominations had suffered from the want of legal protection to their property; it speaks of "corporate rights," and of the propriety that religious denominations should have the right "as a body," to appeal to the laws for the protection of their interests; it mentions several objects, as a theological seminary, clergymen's salaries, buildings for public worship, the relief of widows and orphans of deceased clergymen, which merited special countenance; it asks no privilege or immunity which the petitioners "do not desire to see extended to their brethren of all other denominations;" they declare that "it would offend no less against their own sense of what is right and proper than against the principles of our institutions, to bestow on any religious denomination, privileges which are not made free and open to all."

On the 11th December, 1845, this petition was presented to the Legislature by James Lyons, and it was referred to the Committee on Courts of Justice.<sup>b</sup> Willing to obtain as much light as possible

<sup>a</sup> See the Petition, Journal H. D., Scott, Leftwich, Funsten, Gordon, 1845-46, Doc. No. 8, and Argument Tunstall, Turnbull, Wootten, Holaday, Edmundson, Garnett, Lacy, of Wm. H. Macfarland, pages 3-6.

<sup>b</sup> Consisting of Messrs. Boccock, and Baldwin.—Journal, page 18.



on the subject, the committee consented that it should be publicly discussed before them. The debate commenced in the hall of the House of Delegates, in Richmond, on the evening of the 8th of January, 1846, and was continued, with intervals, during several subsequent evenings. For the petition, the argument was conducted by James Lyons, William H. Macfarland, and Rev. Mr. Tinsley, a minister of the Baptist Church; and against it, by William S. Plumer, D.D., pastor of the First Presbyterian Church, Richmond.\* The debate was animated, and often truly eloquent, and it was heard on each evening by a crowded auditory, composed of both sexes.

Interesting as was the whole discussion, it is deemed inexpedient to give even a brief sketch of the course of argument pursued on either side. But it may here be stated that the true question discussed was whether a *general law* should be passed, giving to all religious denominations who desired it, power to take and hold property, and to exercise other corporate privileges incident to such power. It was expressly declared by the gentleman who argued against the petition, that if the boon asked had been simply an act of incorporation for a specific object, as a Theological Seminary, or a fund for the widows and orphans of deceased clergymen, he would not have opposed it.<sup>b</sup>

\* The arguments of Mr. Macfarland and of Dr. Plumer, have been printed. The latter gentleman is now pastor of a Presbyterian church in Baltimore, Md.

<sup>b</sup> See Dr. Plumer's Argument, p. 8.

On the 6th February, the committee reported on the petition, as follows: "1. Resolved, unanimously, as the opinion of this committee, that the policy of the laws of this Commonwealth, by which the power to take and hold property is withheld from religious congregations, is founded in the highest wisdom, as well for the safety of the State, as for the purity of the Church. 2. Resolved, therefore, as the opinion of this committee, that the prayer of the petitioners be rejected." On motion of Mr. Lyons, this report was ordered to be laid on the table.<sup>a</sup>

At the next session of the Legislature, the petitioners obtained the leave of the House to withdraw their petition. (January 16, 1847.) It was then again presented, and again referred to the Committee of Courts of Justice. On the 28th January, the committee reported; and, on the 8th of March, the report was agreed to by the House, without a dissenting voice. It is in the following words: "Resolved, in the opinion of this committee, that the said petition be rejected, it being, in the opinion of this committee, inexpedient to legislate upon the subject."<sup>b</sup>

Since this judgment of the Legislature, intimations have been given that renewed prayers on the subject will be offered to succeeding Assemblies by more than one religious denomination. Delicacy forbids that any surmises shall here be indulged as to the final success of these prayers. But the re-

<sup>a</sup> Journal, H. D. 1845-46, 193.

<sup>b</sup> Journal H. D., 1846-47, pages 88-111, 182-183.

mark shall be hazarded that it is not probable that Virginia will ever so far depart from her settled policy as to sanction a *general law* for incorporating all religious societies that may apply for it. Yet an act of incorporation for a specific religious object, might meet with greater favour than heretofore. Gross injustice might be done, we may say, *has been done*, in consequence of the want of legal protection to property given for purposes the wisest and most sacred that human interests can know.

Passing from the views of our state which may be considered as intellectual and moral, we may now speak of those which are more nearly allied to her physical condition. It is true that *mind* is employed in all that we shall notice; but, it is mind operating chiefly upon matter. The *Agricultural* interest of Virginia, shall now engage our thoughts. Agriculture must always be the principal source of her wealth. It is hard to conceive of any change that could make any branch of industry within her bosom, more productive than the cultivation of the ground. Her rich soil, genial suns, temperate clime, her noble rivers, skirting grounds of unequalled beauty and fertility, all eminently fit her for copious returns to the labour of the husbandman, and had the skill and industry of her people been equal to her intrinsic resources, it is impossible to estimate the agricultural riches that she might have produced. Even now, though slave labour and ignorance of chemistry have ruined, for a time, many of her finest lands, her products are yet sufficient to banish the idea of famine from the

fancies of her poorest people. On this subject, we shall give the results of the latest and most accurate observations to which we have access. We shall present, separately, Eastern and Western Virginia, although their products are often the same. We will give the amount of each product of the state section, and then the county raising the largest, and that raising the next largest quantity of the article.\* Our estimate will include, not merely crops and harvests in the proper sense, but other species of wealth directly dependent on them for existence.

Eastern Virginia has an area of twenty-seven thousand square miles of land and water. In 1840, this section of the state had 157,051 horses and mules, of which Loudon had 7,627, and Fauquier 7,624; 542,543 neat cattle, of which Fauquier had 26,184, and Loudon 25,620; 551,506 sheep, of which Fauquier had 35,055, and Loudon 31,503; 1,121,733 swine, of which Southampton had 43,663, and Pittsylvania 42,513; poultry, valued at 481,732 dollars, of which Fauquier had an amount valued at 18,091 dollars, and Accomac an amount valued at 18,064 dollars; this section raised 4,864,814 bushels of wheat, of which Loudon raised 573,460, and Fauquier 362,227 bushels; 77,947 bushels of barley, of which Albemarle raised 72,527, and Gloucester 2,748 bushels; 7,586,340 bushels of

\* The estimates given here, and may, I think, be relied on as ap. in subsequent parts of this chapter, proximating the truth. Some errors have been compiled with great care, patent on the face of the returns and some labour, from the Compendium of the Census of 1840. They have been corrected.



oats, of which Accomac raised 453,137, and Pittsylvania 333,763 bushels; 460,885 bushels of rye, of which Albemarle raised 117,369, and Loudon 81,517 bushels; 27,010 bushels of buckwheat, of which Loudon raised 6,845, and Fauquier 6,454 bushels; 21,204,699 bushels of Indian corn, of which Loudon raised 891,695, and Pittsylvania 679,319 bushels; 877,030 pounds of wool, of which Fauquier raised 75,195, and Loudon 63,951 pounds; 6,546 pounds of hops, of which Orange raised 940, and Fauquier 626 pounds; 36,779 pounds of wax, of which Pittsylvania raised 4,182, and Campbell 2,312 pounds; 1,404,217 bushels of potatoes, of which Accomac raised 113,396, and Southampton 88,036 bushels; 193,385 tons of hay, of which Princess Anne raised 76,250, and Louisa 21,307 tons.

The whole quantity of tobacco raised in the state was 75,347,106 pounds. In Eastern Virginia the quantity raised was 73,131,092 pounds; of this, 41,239,591 pounds were raised in the twelve counties of Pittsylvania, Campbell, Buckingham, Cumberland, Prince Edward, Charlotte, Halifax, Mecklenburg, Lunenburg, Nottaway, Amelia, and Powhatan, which, together, cover an area of 6,295 square miles. Pittsylvania raised 6,438,777, and Halifax 6,209,511 pounds.

Farther, the eastern section raised 1,038 tons of hemp and flax, of which Bedford raised 249, and Prince William 167 tons; 2,957 pounds of rice, of which Nansemond raised 1,440, and Southampton 1,080 pounds; 3,493,667 pounds of cotton, of which

Southampton raised 851,315, and Stafford 760,287 pounds; 2,571 pounds of silk cocoons, of which King and Queen raised 337, and Nelson 300 pounds; 63 pounds of sugar, all made in Bedford; 323,663 cords of wood, of which Northumberland produced 45,120, and Isle of Wight 31,307 cords; products of the dairy, valued at 791,298 dollars, of which Loudon raised, in value, 80,223, and Campbell 45,605 dollars; products of the orchard, valued at 447,075 dollars, of which Southampton raised, in value, 40,345, and Sussex 37,520 dollars; 9,628 gallons of wine, of which Fauquier made 1,226, and Henrico 1,148 gallons; and of home-made fabrics, of all kinds, an amount valued at 1,485,988 dollars, of which Halifax made, in value, 97,779, and Pittsylvania 97,090 dollars.\*

Western Virginia embraces an area of about thirty-nine thousand square miles. In 1840 this section had 169,387 horses and mules, of which Wythe had 10,496 and Augusta 9,910; 481,605 neat cattle, of which Harrison had 23,536, and Augusta 21,479; 742,266 sheep, of which Jefferson had 67,289, and Harrison 35,119; 870,422 swine, of which Jefferson had 72,467, and Rockingham 38,765; poultry, valued at 272,966 dollars, of which Rockingham had, in value, 15,041, and Monongalia 11,800 dollars; this section raised 5,244,902 bushels of wheat, of which Jefferson raised 516,969, and Rockingham 375,197 bushels; 9,483 bushels of barley, of which Jefferson raised 4,230, and Washington 1,168 bushels; 5,864,722 bushels of

\* See Compendium of the Sixth Census, 155-157.

oats, of which Monongalia raised 320,092, and Washington 295,770 bushels; 1,021,914 bushels of rye, of which Augusta raised 92,227, and Rockingham 90,886 bushels; 216,812 bushels of buckwheat, of which Hampshire raised 26,167, and Preston 16,057 bushels; 13,372,892 bushels of Indian corn, of which Jefferson raised 988,552, and Logan 870,930 bushels; 1,661,344 pounds of wool, of which Jefferson raised 516,840, and Harrison 70,804 pounds; 4,051 pounds of hops, of which Monongalia raised 636, and Shenandoah 568 pounds; 28,241 pounds of wax, of which Russel raised 2,884, and Logan 2,358 pounds; 1,540,443 bushels of potatoes, of which Jefferson raised 151,443, and Brooke 63,140 bushels; 171,323 tons of hay, of which Harrison raised 13,765, and Rockingham 12,220 tons; 3,828 tons of hemp and flax, of which Tazewell raised 923, and Jackson 750 tons; 2,216,014 pounds of tobacco, of which Botetourt raised 707,885, and Roanoke 599,273 pounds; 816 pounds of cotton, of which Lee raised 556, and Scott 200 pounds; 620 pounds of silk cocoons, of which Logan raised 266, and Monongalia 111 pounds; 1,541,770 pounds of sugar, of which Harrison raised 200,372, and Monongalia 118,569 pounds; 79,927 cords of wood, of which Shenandoah raised 12,703, and Jefferson, 7,859 cords; products of the dairy, amounting to 689,190 dollars, of which Rockbridge produced, in value, 72,077, and Rockingham 61,025 dollars; products of the orchard, amounting to 258,690 dollars, of which Washington raised, in value, 19,932, and Rock-

bridge, 16,896 dollars; 4,283 gallons of wine, of which Rockbridge made 981, and Rockingham 697 gallons; and, of home-made fabrics, an amount valued at 955,684 dollars, of which Rockingham made, in value, 67,901, and Rockbridge 61,682 dollars.<sup>a</sup>

The estimated agricultural wealth of Virginia will be noted under another head of this chapter. We may now speak of the *Manufacturing* interest of the state. For many years this branch of industry was carried on almost entirely by private families, and was inconsiderable in its results; but within the present century, it has drawn the resources of wealthy individuals, and of incorporated companies, and within twenty years past, it has rapidly expanded in its operations. We hail this result with unalloyed pleasure. It is vain to speak of the disadvantages of engaging in such pursuits with slave labour, and of the false principles of economy that would suggest the attempt. If Virginia has lately shown any evidence of returning prosperity, in nothing is this evidence more satisfactory than in her attention to manufactures. They are both the cause and the effect of revived energy.

The largest amount of capital thus invested in the state, is in mills for grain. Flour mills are abundantly scattered through the east and west sections, and at Richmond they have been erected and employed on the most extensive scale.<sup>b</sup> The

<sup>a</sup> Comp. of Census, pp. 167-169. largest in the United States, and

<sup>b</sup> The Gallego flour mills, at perhaps in the world, were destroyed Richmond, which were among the by fire on Sunday morning, October



capital applied in milling throughout the state is estimated to amount to 5,184,669 dollars, while in Massachusetts not more than 1,440,152 dollars are thus appropriated.\* The manufacture of tobacco is next in amount in Virginia; it employs a capital of 1,526,080 dollars. Next is cotton, which employs 1,299,020 dollars of capital. Manufactures of leather are next, employing a capital of 1,180,098 dollars. Besides these, Virginia manufactures wool, silk, flax, and hemp, hats and caps, soap and candles, distilled spirits, powder, glass, earthenware, paper, carriages, wagons, and furniture, in respectable quantities. We shall presently give a full estimate on the subject.

The *Mining* interest of our state is considerable. No man can tell what amount of wealth her mineral resources would produce, were they fully developed. Deep in her bosom there are hidden treasures, which well-directed labour would bring forth. We do not know that her gold mines have yet compensated for the lost investments, blasted hopes, and chilled hearts that have been expended upon them. Nevertheless, she *has gold* in abundance, which is yearly obtained in increasing quantities. Her most profitable mineral is coal, which in 1840 employed a capital of 1,302,000 dollars. Next is iron, which in the same year employed a capital of 1,247,000 dollars.

Some remarks shall be devoted to the *Finances*

10th, 1847.—Preparations for re-      \* Compendium of Census, pages  
building them have been already 117-177.  
commenced.

of Virginia. On this subject it would be easy to fill many pages with reasonings and surmises, and to offer theories which would have at least the charm of novelty; but it is happily unnecessary. There may be statesmen in England who esteem her national debt a public blessing, and who admire to enthusiasm the complicated fiscal machinery necessary to support it; but in America we have learned a different philosophy. In general, the more simple that may be the financial system of a country, the more happiness it will enjoy, if unaffected by other causes. To administer government with economy, to tax her people with discrimination, to make debts with caution, and to pay them with punctuality,—these are the duties of a wise state; and by their neglect, nations have been convulsed, and kings have perished on the scaffold.

Like the other states of the Union, Virginia came out of the Revolutionary War embarrassed by a huge debt for unredeemed paper money. She was gradually relieved by her own exertions, and by the working of the funding system, established during the first presidential term. Since that time, though she has experienced financial vicissitudes, she has never suffered under the imputation of bad faith in her monetary duties. She *has never repudiated*. She looks upon such conduct with unmingled abhorrence. She has even verged to the other extreme. She has thought it better to remain poor and inactive, rather than endanger her credit

by contracting enormous debts for purposes of internal developement.

On the 30th September, 1845, the state had productive stocks and funds amounting to 6,595,844 dollars, and nearly the same amount in stocks and funds *unproductive*, because generally invested in improvements not completed, or complete but not profitable. The whole amount of state debt was 7,384,794 dollars, requiring provision for an annual interest of 451,746 dollars. Besides this interest, which is regularly paid, a sinking fund of nearly 6,000 dollars, is annually applied to the principal. Beyond these, the chief items of expenditure are the expenses of the General Assembly, which amount yearly to about 75,200 dollars, the officers of government, the contingent expenses of courts, the Public Guard at Richmond, annuities to the University, the Military Academy, school quotas, Lunatic Hospitals, and the institutions for the deaf and dumb, and the blind. The total expenditure for 1845, was estimated at 1,443,388 dollars.\*

The proceeds of productive stocks, fines, forfeitures, and other sources, other than taxes, amounted to 846,352 dollars. The balance of 685,051 dollars, making up the public income, was raised by taxes on persons and property. Persons, *as such*, are taxed when enjoying special privileges, professional or otherwise, as physicians, attorneys, merchants, dentists, peddlers, hotel and tavern-keepers, venders of lottery tickets, and exhibitors of shows. Property in general is taxed as follows : slaves, horses

\* American Almanac, 1847, 256, 257.

and mules, gold and silver watches, metallic and other clocks, coaches and other vehicles, pianos, gold and silver plate, interest on money loaned, income over four hundred dollars, bridges, ferries, and newspapers. The tax bill is remodelled each year in the Legislature, that it may be accommodated as skilfully as possible to the ability and feelings of the people.

The *Population* of Virginia has not grown as rapidly as her internal resources would have authorized us to expect. Her ratio of increase has fallen below that of most of her sisters, and when compared with some of the western and northern states, the difference has been striking. In 1790 Virginia was the most populous member of the Union; she had then a total of 748,308 souls, of whom 293,427 were slaves, and 12,776 were free coloured persons. At that time, the second state in population was Pennsylvania, who had 434,373 inhabitants. In 1800 Virginia had 880,200, of whom 345,796 were slaves, and 20,124 free coloured persons. In 1810 she had 974,622, of whom 392,518 were slaves, and 30,570 free coloured persons. In 1820 her total was 1,065,379, of whom 425,153 were slaves, and 36,889 free coloured persons. In 1830 she had 1,211,405, of whom 469,757 were slaves, and 47,348 free coloured. In 1840 her total population was 1,239,797, of whom 449,087 were slaves, and 49,852 were free coloured persons.\* We shall have occasion again to refer to

\* Compare Abstract of Census, 370-375.



some branches of this subject, in closing this chapter.

After having presented the varied estimates from which the condition of a people is generally to be inferred, the question arises, has Virginia prospered as her physical resources would warrant us in expecting? Has she held her place in the great march of the American States, during the present century? It has long been the sad conviction of her most enlightened children, that these questions must be answered in the negative. But enough has been shown to encourage her, and to prove that she has within her bounds every element of prosperity that a people need desire. If then it be true that she has fallen behind her sisters in any thing pertaining to a nation's welfare, her defects ought to be made known, that they may, if possible, be supplied. Her wounds must be probed in order that they may be healed, and however painful may be the process, her real friends will not shrink from its accomplishment. To this end, an attempt shall here be made to compare Virginia with one of the wealthiest and most prosperous states in the American Confederacy. If this comparison shall prove unfavourable to our state, the circumstances under which it is made will exclude the idea of prejudice or partiality. There may be in it much for our encouragement, as well as for our humiliation.

Massachusetts was first settled in 1620,—Virginia in 1607; Massachusetts in winter has a cold, harsh atmosphere,—Virginia has at all times a

temperate and pleasant climate; Massachusetts has a hard, sterile soil, little grateful for attention,—Virginia has a soil generous even to prodigality, and repaying twenty-fold the labour of the husbandman; Massachusetts is cut by small streams, and has but one river that may claim the first dignity,—Virginia has six of the finest rivers whose waters reach the Atlantic; Massachusetts has, comparatively, a flat country, and supplies water-power by artificial means,—Virginia has a surface of mountains, from which she obtains a natural water-power, exhaustless in capacity; Massachusetts has some iron and granite, but beyond these, her minerals are as nothing,—Virginia has iron, lead, copper, gold, salt, and coal, in quantity which no one has yet ventured to estimate; Massachusetts has indeed splendid harbours, and every thing essential to the expansion of shipping,—but Virginia has an inland sea, and harbours that might be made as good as any in the world; Massachusetts has seven thousand eight hundred square miles of surface,—Virginia has sixty-six thousand square miles of horizontal area.

From this statement of familiar facts, we infer that, if Virginia has not equalled her northern sister in her ratio of progress, the fault is in her *people*, and not in her physical condition. That we may see the truth on this subject, the following comparative view will be presented.

First, as to population. In 1790, Massachusetts had 378,717 souls. In 1800 she had 423,245. In 1810 she had 472,040. In 1820, she had 523,287.

In 1830, her total number was 610,048. And in 1840, her population amounted to 737,669. Thus it will be perceived, that in 1840, Virginia had a population of *nineteen* and Massachusetts of *ninety-five* souls to the square mile.<sup>a</sup> This great difference deserves attention. For, if other causes of disparity do not intervene, population will present the same test of progress in civilized life, in enlightened as in savage nations. If, in the same series of years, one country has become much more densely peopled than another, the former has given evidence that it is far before the latter in the possession of materials for prosperity.

We will next offer a comparison of the actual wealth of the two states, estimated in reference to the same articles, at the same time, under the same circumstances, and upon the same arithmetical principles. In 1840, in Massachusetts, the amount computed to be invested in mining, was 2,345,310 dollars. In agriculture, the produce for the past year had been 22,097,429 dollars. In horticulture, 43,170 dollars. In commerce, foreign and domestic, the amount invested was 28,016,765 dollars. In fisheries, 11,725,850 dollars. The products of the forest, for a year, had been 377,054 dollars. The capital invested in manufactures of all kinds, was 45,891,524 dollars, making a total of national wealth which might be considered as *active*, of 110,497,102 dollars. In the same year, in Virginia, the amount invested in mining was 3,024,000 dollars. In agriculture, the produce of the past year

<sup>a</sup> Compare Abstract, 370-375 ; Morse's Geog. 21-27.

had been 92,400,583 dollars in value. In horticulture, 19,900 dollars. In foreign and domestic commerce, the amount invested was 21,197,803 dollars. In fisheries, 28,383 dollars. The products of the forest, for the past year, had been 619,673 dollars. The capital invested in manufactures of all kinds, was 12,865,061 dollars, making a total of *active* wealth of 130,155,403 dollars.<sup>a</sup>

Thus it appears that the wealth of Virginia, really indicative of public industry, only exceeds that of her northern sister by about thirty millions of dollars. Had her productive labour been profitable, in proportion to her excess of area over Massachusetts, her active wealth in 1840, would have been nine hundred and thirty-five millions, instead of one hundred and thirty millions of dollars. And if her more abundant natural riches be taken into consideration, her increase ought to have been much greater. It must, therefore, be regarded as a truth but too fully established, that Virginia has fallen below her duty; that she has been indolent, while others have been laborious; that she has been content to avoid a movement positively retrograde, while others have gone rapidly forward. Her motion, compared with that of Massachusetts or Ohio, might, in familiar terms, be likened to the heavy

<sup>a</sup> These estimates have been carefully drawn from the returns of the Census of 1840, in the Compendium. I had at first intended to give the amount of each item under each head of national industry above mentioned, and had prepared full notes for the purpose; but such an arrangement would have required an inconvenient space in this work, and might have excluded other matter more strictly pertinent to my object.



stage-coach of the past century, competing with the flying steam-car of the present.

For this sluggishness and imbecility, many causes might be assigned, and ingenious arguments might be urged in their support. The cause may be complex: action and reaction are constantly taking place: causes become effects, and, in their turn, effects are converted into causes. But there are *three* sources from which, as we believe, the evil disposition of our state so naturally flow, that they ought to receive special notice.

The first of these is the *Want of Education* among the people. Lord Bacon has said that "Knowledge is power." He did not say that knowledge is virtue, or that knowledge would necessarily bring happiness to its possessor. Yet the experience of all ages has proved that an educated people will, other things being equal, be the most industrious, most prosperous, most virtuous, and therefore most happy. And since the light of revealed knowledge has dawned upon the world, the necessity for education has become more and more apparent. Great learning may not be essential, but in the present century, to read, and write, and use figures intelligently, are qualifications without which the great body of any people will find it difficult to perform their positive duties. An uncultivated mind will be lethargic and inefficient in its movements; polish it by education, and you immediately give it activity and power.

Adopting these views, it is with pain we are compelled to speak of the horrible cloud of igno-

rance that rests upon Virginia. In the eastern section, there are twenty-nine thousand eight hundred and sixty-three, and in the western, twenty-eight thousand nine hundred and twenty-four, making a total of fifty-eight thousand seven hundred and eighty-seven white persons, over twenty years of age, who can neither read nor write.<sup>a</sup> This, however, is not all. It is computed that there are in the state 166,000 children, between seven and sixteen years of age, and therefore fit for school. Of these, about 28,000 poor children attend the free and Lancastrian schools, an average of twelve weeks in a year for each child. 12,000 more children are sent to colleges, academies, and classical schools. The remaining one hundred and twenty-six thousand children attend no school at all, and receive no education except what can be imparted by poor and ignorant parents!<sup>b</sup> But yet farther,—there are in Virginia 449,087 slaves, and 49,852 free negroes, who are, with few exceptions, wholly uneducated. They are human beings, with intellects, passions, wills, all perverted by original depravity, and they are sunk in ignorance. Happily, they are permitted to hear the public ministrations of our religion, and affecting examples of its good influence upon them are often seen. The policy which discourages farther extension of knowledge among them is necessary; but the fact remains unchanged, that they exist among us, a huge

<sup>a</sup> The population of Eastern Virginia, in 1840, was 806,942; of Western Virginia, 432,855. The estimate in the text is for the same year.

<sup>b</sup> Amer. Almanac, 258, 259.

mass of *mind*, almost entirely unenlightened. We fear, then, that the most favourable estimates will leave in our state six hundred and eighty-three thousand rational beings, who are destitute of the merest rudiments of knowledge.

This deplorable condition has long been felt and mourned by Virginia's most virtuous sons. Efforts have been made to ameliorate it. Education conventions have assembled, and many animated debates have taken place. The Legislature has moved from time to time, and during the session of 1845-46 its movement was decided and beneficial. Nevertheless, the evil remains almost untouched. We pretend not to suggest any remedy. But it will be pertinent to the subject to add, that in the whole state of Massachusetts, containing in 1840 seven hundred and thirty-seven thousand six hundred and ninety-nine persons, there were but four thousand four hundred and forty-eight white persons, over twenty years of age, who could neither read nor write.

The next cause of the inefficiency of Virginia is the *Want of Internal Improvement*. Her native wealth is boundless, and if it were furnished with means for its developement, would make her rich in a quarter of a century. But, thus far, by a concurrence of untoward circumstances, all that she has done in establishing lines of internal communion, has effected little in bringing out her real resources. As early as May, 1784, the Legislature granted an act of incorporation to the Old James River Company, and authorized them to raise one

hundred thousand dollars to improve the navigation of the James.<sup>a</sup> But their labours were never extensive, and their means were always too limited to accomplish objects of much importance. In February, 1820, the Legislature passed an act, under which the James River Company, with its own consent, was made a trustee to carry on the work for the state. The plan then proposed was to render the James River, from Richmond to the mouth of Dunlap's Creek, in the present County of Alleghany, navigable for boats by a series of locks and canals; to make the Great Kanawha navigable in the same manner, from the Great Falls to the Ohio River, and to connect the Great Falls and Dunlap's Creek by a turnpike road.<sup>b</sup> Under this act, improvements, more or less important, were applied to parts of the line of three hundred and sixty-five statute miles, thus designated; but no portion of the route was completed so far as to open the wealth of the finest section of Virginia.

Finally, in March, 1832, the stockholders of the James River and Kanawha Company, were incorporated by act of Assembly.<sup>c</sup> The object of this Company was to connect the tide-water of the James with the Ohio River; and it was to be done either by canal to Lynchburg, and railroad to the Great Falls of the Kanawha, or by railroad from the highest improvement of the James to the Ohio, or by a continuous railroad from Richmond to the Ohio. Their works were to be commenced within

<sup>a</sup> Hening, xi. 450-462.

<sup>c</sup> Supplement, 474-489.

<sup>b</sup> See Supplement, 420-433.



two years after the passing of the act, and to be completed within twelve years from the first general meeting of stockholders ; otherwise their charter was to be forfeited.

We have to record that after a period of fifteen years from its incorporation, the Company has not accomplished the task for which it was formed. It has constructed a large and well-made canal from Richmond to Lynchburg, a distance of about one hundred and forty-six miles ; it has advanced, nearly to completion, a line of works from Lynchburg to the mouth of North River, a distance of twenty-seven miles.\* Beyond this, it has not been able to do more than keep in good condition the works previously constructed. Its charter has been extended, and legislative aid has from time to time been bestowed on it. During the period from the 27th June, 1835, to the 31st October, 1845, the "Old Improvements" of the Company have yielded an amount of revenue which exceeded the disbursements on their account by 218,825 dollars. And the Richmond Dock, purchased by the Company, has yielded a net revenue of 16,058 dollars. But the "New Improvements" during this period, have required an expenditure, direct and indirect, of 5,975,398 dollars, and to meet this, beyond the net revenue of the "Old Improvements" and the Dock, the Company has been compelled to rely chiefly upon payments on the stock made by individuals, by the state, and by several

\* Eleventh An. Rep. J. R. and K. Co. 748.

corporations.<sup>a</sup> It will, therefore, be apparent that, thus far, the work has not been profitable to the stockholders.

Neither has it developed the resources of the state, to an extent proportioned to its cost. It would be unjust to charge the Company with negligence and inefficiency for the failure. They have contended with physical obstacles far more formidable than had been anticipated, and they have felt the same want of abundant capital in money, that Virginia as a state experiences. Yet it is sad to think that so much has been expended, and so little has been done. It is believed by many that the canal now brings to the head of tide-water very little produce that would not find its way thither by the natural laws of trade. The improvement has not yet struck the Great Valley, and opened an avenue through which its wealth may flow to the East: above all, the Allegany range has not been crossed, the Ohio has not been reached, and Virginia's frontier is literally pressed by agricultural products which seek outlets in every direction except through her veins.

The railroads which have been completed within the state are convenient for travel, but do not effect much for trade. A line of magnetic telegraph from the North, has been finished to Richmond, within a few months past, and has already advanced far to the South. By means of this miracle of the age, Virginia may converse with her distant sisters,

<sup>a</sup> See Statements, Eleventh An. Rep. 7-10.

and hear their voices urging to energy. And it is true, that within the present year she has shown symptoms of a disposition to awake from her long slumber.

Several lines of railroad are now contemplated by the enterprising of our state. It is proposed that one of these shall run continuously from Richmond City to the Ohio River. Another is to be carried from the present terminus of the Louisa Railroad, at Gordonsville, to the eastern base of the Blue Ridge; another is to run from the metropolis southward, through the tobacco region of the state, to Danville, in Pittsylvania County. For this last object heavy subscriptions have been already made, and many things seem to indicate that it will be accomplished.

The last and most important cause unfavourably affecting Virginia which we shall mention, is the existence of *Slavery* within her bounds. We have already seen the origin and progress of this institution. As to its evils, we have nothing new to offer; they have long been felt and acknowledged by the most sagacious minds in our state. "It is the common remark of all who have travelled through the United States, that the free states and the slave states exhibit a striking contrast in their appearance. In the older free states are seen all the tokens of prosperity; a dense and increasing population; thriving villages, towns, and cities; a neat and productive agriculture; growing manufactures, and active commerce. In the older parts of the slave states, with a few local exceptions, are seen, on the contrary, too evident signs of stagna-

tion, or of positive decay; a sparse population, a slovenly cultivation, spread over vast fields that are wearing out, among others already worn out and desolate; villages and towns 'few and far between,' rarely growing, often decaying, sometimes mere remnants of what they were, sometimes deserted ruins, haunted only by owls; generally no manufactures, nor even trades, except the indispensable few; commerce and navigation abandoned, as far as possible, to the people of the free states; and generally, instead of the stir and bustle of industry, a dull and dreary stillness, broken, if broken at all, only by the wordy brawl of politics."<sup>a</sup>

Were we called to declare what we believe to be the sentiments of a large majority of our people on the subject of slavery, we would attempt it under two heads. First. We hold that this institution, as it exists among us, is lawful, and that *we only* have the right to control it. The Constitution of the United States has solemnly guarantied the rights of slaveholders in their property. Any interference by the General Government, or by particular states, or by classes of individuals in other states, with her right to this property, will be resisted by Virginia, even to the end. A dissolution of the Union is an evil which she regards with horror, but a dissolution of the Union would be

<sup>a</sup> Dr. Ruffner—Address to the people of West Virginia, showing that slavery is injurious to the public welfare, and that it may be gradually abolished without detriment to the rights and interests of slaveholders. Lexington, 1847. This

Address exhibits copious statistical facts, close reasoning, and impressive reflection. We can only regret that it also contains remarks adapted to increase the jealousy already existing between the east and west sections of Virginia.



preferable to submission to measures which would violate the most solemn pledges upon which the Union was founded.

Secondly. We apprehend that, in general, the people of Virginia hold slavery to be an enormous evil, bearing with fatal power upon their prosperity. This sentiment has been gaining ground during many years. Within a very short time past, a citizen of East Virginia, intelligent, highly educated, and possessed of great wealth in this species of property, has spoken out plainly, and urged owners in our state to get rid of their slaves as rapidly as possible.<sup>a</sup> And in West Virginia, expressions of opinion have been even more decided, and incipient means have been adopted to provide for the gradual destruction of the evil.<sup>b</sup>

Under these circumstances we hail with pleasure any indications that this part of our population is decreasing in number, and that the time shall come when Virginia shall be a free state. In 1790, the slaves of the state amounted to 293,427; in 1800, to 345,796; in 1810, to 392,518; in 1820, to 425,153; in 1830, to 469,757; and in 1840, to 449,087. Thus it appears, that in the first ten years above noted, the slaves increased about 18 per cent.; in the second ten years, 13·3 per cent.; in the third ten years, 8·4 per cent.; in the fourth ten years, 10·6 per cent.; and in the last ten years, they *diminished* 4·5 per cent. During the same period, the *free* population increased in the first ten years, 17·4 per cent.; in the second ten years, 9·2

<sup>a</sup> Address of James C. Bruce, of Whig, August 16, &c., 1847.  
Halifax, delivered 4th July, 1847;    <sup>b</sup> Dr. Ruffner's Address, *passim*.

per cent. ; in the third ten years, 9·8 per cent. ; in the fourth ten years, 13·6 per cent. ; and in the last ten years, 6·7 per cent.

The principal source of decrease in our slaves is in the number *exported* to cultivate the cotton and sugar lands of the South. Hardly a day passes in which large companies may not be seen traversing the roads of Virginia, on their way to her southern frontier. Melancholy as may be the thoughts suggested by such scenes, they will at least bring with them some solace. The condition of the slaves in the South is not probably worse than upon the impoverished plantations of our state, and their gradual removal by this means gives place to a better population. Already German and New York farmers have occupied large tracts of land in Fairfax County, and an English company has been formed, whose professed design is to transport emigrants from Great Britain to the inviting fields of Virginia.<sup>a</sup> In her latter days, as in her infancy, our state seems destined to draw her inhabitants directly from the mother country.

We have now completed a review of the past history and present condition of Virginia. The future is yet before her, and its revelations to her must depend greatly upon her own preparation to meet them. By the exercise of diligence and virtue, she may obtain a glory more substantial, and a happiness more pure, than any she has ever enjoyed. May such be her conduct and her destiny !

<sup>a</sup> National Intelligencer, in Presbyterian, June 5, 1847.

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