



**THE WORKS OF
THOMAS
JEFFERSON
VOLUME 4**

The Works of Thomas Jefferson

Volume 4

THOMAS JEFFERSON

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ITINERARY AND CHRONOLOGY OF THOMAS JEFFERSON

1783-1785

1783—Jan. 22.	At Philadelphia.
31.	At Baltimore preparing to embark for France.
Feb. 14.	Departure suspended.
28.	Leaves Baltimore.
Mar. 4.	At Philadelphia.
Apr. 1.	Congress withdraws appointment.
11.	Leaves Philadelphia.
23.	At Richmond for a fortnight.
May 7.	At Tuckahoe.
15.	Arrives at Monticello.
June 6.	Elected Delegate to Congress.
?	Drafts Constitution for Virginia.
17.	At Monticello.
July 18.	At Monticello.
Aug. 31.	At Monticello.
Oct. 12.	At Eppington.
15.	Leaves Monticello.
Nov. 3.	Arrives at Trenton.
4.	Attends Congress.
	Congress adjourns to Annapolis.

- 11. At Philadelphia.
- 21. Leaves Philadelphia.
- 25. At Annapolis.
Lodges at Mrs. Gheesland's.
- Dec. 13. Attends Congress.
- ? Drafts report on Unfinished
Business.
- 16. Appointed on Committee to
report on Minister's letters.
- 16. Reports on definitive Treaty.
- ? Introduces resolutions
relative to definitive Treaty.
- 1783—Dec. Reports on Minister's
20. Letters.
- 22. Report read.
Reports on ceremonial for
Washington.
- 23. Seconds motion on letters.
- 24. Makes motion for extra
posts.
- On Committee on letters of
Governor of Massachusetts.
- 27. Reports on ratification of
Treaty.
- 1784—Jan. Makes motion on British
2. Treaty.
- 13. On Committee on N. H.
memorial.
- 14. Reports ratification of
British Treaty.
Reports Proclamation of
British Treaty.

21. On Committee on N. H. memorial.
23. Reports on Zebulon Butler.
29. On Committee on Carlton's letter.
Reports on Allan's letter.
30. Reports on Committee of the states.
- Feb. 11. On Committee on French Minister's letter.
25. Removes to "Mr. Delany's" house.
27. Makes motions relating to papers.
- Mar. 1. Drafts of Virginia cession.
Reports on Government for Western Territory.
5. Reports on reduction of Civil list.
Reports on Indians.
12. Elected Chairman of Congress.
On Committee on Qualifications.
16. On Committee on Foreign letters.
19. On Committee to report on Indian officers.
22. Reports revised Government for Western Territory.
Reports on Cession of Western Territory.

23. Reports on arrears of interest.
24. Congress considers report on Civil list.
Committee on Qualifications report.
Moves resolutions for Commercial treaties
30. Reports on circular-letter regarding Treasury.
Elected Chairman of Congress.
Grand Committee reports circular-letter.
Report on Foreign treaties considered.
- Apr. 5. Report on Arrears of interest considered.
Prepares *Notes on a Money Unit*.
6. Committee reports on Greene's letter.
12. Report on Arrears of interest considered.
- 1784—Apr. 12. Makes motion concerning Arrears of interest.
Drafts resolution concerning Seat of Government.
13. Makes motions relating to Seat of Government.
14. Makes Motion concerning Steuben.
- Apr. 15.

16. Report on French Letters considered.
19. Report on Western Territory considered.
21. Seconds motions to amend report on Western Territory.
22. Seconds motion to amend report on Arrears of interest.
26. Report on power of Committee of the States considered.
27. Reports on Mercer.
30. Reports draft of Land Ordinance.
30. Reports on Commercial matters.
- May 3. Makes motion relating to secrecy of foreign papers.
On Committee to report on letters.
7. Elected Minister to France.
Committee accepts report on Continental bills.
Reports *Instructions to Ministers*.
Reports Ordinance for Western Lands.
Reports revision of Treasury department.
11. Leaves Annapolis.
14. Arrives at Philadelphia.
16. Committee reports on King of France's letter.

- 19-21. Report on Western Territory considered.
21. Makes motion to amend report on Western Territory.
22. Report on Arrears of interest considered.
23. Report on Western Territory considered and adopted.
26. Report on committee of the States considered.
Report on Arrears of interest considered.
28. Leaves Philadelphia.
Report of Grand Committee on Western Territory considered.
Congress considers report on Commercial matters.
- 1784—May
29. Arrives at Trenton.
30. Arrives at New York.
- June 5. Leaves New York.
11. At Hartford.
12. At New London.
14. At Newport.
17. At Providence.
18. At Boston.
23. At Portsmouth, N. H.
26. At Boston.
- July 5. Sails from Boston on ship *Ceres*.
26. At Cowes.

- 29. At Portsmouth.
- 31. At Havre.
- Aug. 5. At Rouen.
- 6. At Paris.
Lodges at hotel D'Orleans,
rue Richelieu.
- 10. At Passy, conferring with
Franklin.
- 11. At Paris.
Lodges at hotel D'Orleans,
rue Petits Augustins.
- 30. Commissioners hold first
conference at Passy.
- Sept. 13. Sends *Notes on Virginia* to
press.
- 15. At Versailles, with
commissioners, to meet
Vergennes.
- 16. Commissioners meet British
Minister.
- Oct. 16. Hires hotel Tête-bout, cul-
de-sac Tête-bout.
- Dec. 9. Purchases copying letter-
press.
- 1785—Mar. Elected by Congress French
10. Minister.
- May 11. *Notes* *on*
Virginia completed.
- 17. Audience at French Court.
- June 20. At Saunois.
At Paris.
- July 28. Signs Prussian Treaty.

Aug.	Negotiations with Vergennes, concerning tobacco monopoly.
Oct. 17.	Rents hotel du Count de Langeac, Grille de Chaillot.
Nov.	Youngest daughter, Lucy Elizabeth, dies in Virginia. Secures privileges for American whale oil.
Dec. 9.	Holds conference with Vergennes on commerce.

NOTES ON VIRGINIA (CONTINUED)

QUERY XII *A notice of the counties, cities, townships, and villages?*

The counties have been enumerated under Query IX. They are 74 in number, of very unequal size and population. Of these 35 are on the tide waters, or in that parallel; 23 are in the Midlands, between the tide waters and Blue ridge of mountains; 8 between the Blue ridge and Alleghaney; and 8 westward of the Alleghaney.

The state, by another division, is formed into parishes, many of which are commensurate with the counties; but sometimes a county comprehends more than one parish, and sometimes a parish more than one county. This division had relation to the religion of the state, a Parson of the Anglican church, with a fixed salary, having been heretofore established in each parish. The care of the poor was another object of the parochial division.

We have no townships. Our country being much intersected with navigable waters, and trade brought generally to our doors, instead of our being obliged to go in quest of it, has probably been one of the causes why we have no towns of any consequence. Williamsburg, which, till the year 1780, was the seat of our government, never contained above 1800 inhabitants; and Norfolk, the most populous town we ever had, contained but 6000. Our towns, but more properly our villages or hamlets, are as follows.

On *James river* and its waters, Norfolk, Portsmouth, Hampton, Suffolk, Smithfield, Williamsburg, Petersburg, Richmond, the seat of our government, Manchester, Charlottesville, New London.

On *York river* and its waters, York, Newcastle, Hanover.

On *Rappahannoc*, Urbanna, Portroyal, Fredericksburg, Falmouth.

On *Patowmac* and its waters, Dumfries, Colchester, Alexandria, Winchester, Staunton.

On the *Ohio*, Louisville.

There are other places at which, like some of the foregoing, the *laws* have said there shall be towns; but *Nature* has said there shall not, and they remain unworthy of enumeration. *Norfolk* will probably be the emporium for all the trade of the Chesapeake bay and its waters; and a canal of 8 or 10 miles will bring to it all that of Albemarle sound and its waters. Secondary to this place, are the towns at the head of the tide waters, to wit, Petersburg on Appamattox; Richmond on James river; Newcastle on York river; Alexandria on Patowmac, and Baltimore on the Patapsco. From these the distribution will be to subordinate situations in the country. Accidental circumstances, however, may controul the indications of nature, and in no instance do they do it more frequently than in the rise and fall of towns.

QUERY XIII *The constitution of the State and its several charters?*

Queen Elizabeth by her letters patent, bearing date March 25, 1584, licensed Sir Walter Raleigh to search for remote heathen lands, not inhabited by Christian people, and granted to him in fee simple, all the soil within 200 leagues of the places where his people should, within six years, make their dwellings or abidings; reserving only to herself and her successors, their allegiance and one fifth part of all the gold and silver ore they should obtain. Sir Walter immediately sent out two ships, which visited Wococon island in North Carolina, and the next year despatched seven with 107 men, who settled in Roanoke island about latitude 35°. 50'. Here Okisko, king of the

Weopomeiocs, in a full council of his people is said to have acknowledged himself the homager of the Queen of England, and, after her, of Sir Walter Raleigh. A supply of 50 men were sent in 1586, and 150 in 1587. With these last Sir Walter sent a Governor, appointed him twelve assistants, gave them a charter of incorporation, and instructed them to settle on Chesapeak bay. They landed, however, at Hatorask. In 1588, when a fleet was ready to sail with a new supply of colonists and necessaries, they were detained by the Queen to assist against the Spanish armada. Sir Walter having now expended 40,000*l* in these enterprises, obstructed occasionally by the crown without a shilling of aid from it, was under a necessity of engaging others to adventure their money. He, therefore, by deed bearing date the 7th of March 1589, by the name of Sir Walter Raleigh, Chief Governor of Assamàcomòc, (probably Acomàc,) alias Wingadacoia, alias Virginia, granted to Thomas Smith and others, in consideration of their adventuring certain sums of money, liberty to trade to this new country free from all customs and taxes for seven years, excepting the fifth part of the gold and silver ore to be obtained; and stipulated with them and the other assistants, then in Virginia, that he would confirm the deed of incorporation which he had given in 1587, with all the prerogatives, jurisdictions, royalties and privileges granted to him by the Queen. Sir Walter, at different times sent five other adventurers hither, the last of which was in 1602; for in 1603 he was attainted and put into close imprisonment, which put an end to his cares over his infant colony. What was the particular fate of the colonists he had before sent and seated, has never been known; whether they were murdered, or incorporated with the savages.

Some gentlemen and merchants, supposing that by the attainder of Sir Walter Raleigh the grant to him was forfeited, not enquiring over carefully whether the sentence of an English court could affect lands not within

the jurisdiction of that court, petitioned king James for a new grant of Virginia to them. He accordingly executed a grant to Sir Thomas Gates and others, bearing date the 9th of March, 1607, under which, in the same year, a settlement was affected at Jamestown, and ever after maintained. Of this grant, however, no particular notice need be taken, as it was superceded by letters patent of the same king, of May 23, 1609, to the Earl of Salisbury and others, incorporating them by the name of 'The Treasurer and company of Adventurers and Planters of the City of London for the first colony in Virginia,' granting to them and their successors all the lands in Virginia from Point Comfort along the sea-coast, to the northward 200 miles, and from the same point along the sea coast to the southward two hundred miles, and all the space from this precinct on the sea coast up into the land, West and North west, from sea to sea, and the islands within one hundred miles of it, with all the commodities, jurisdictions, royalties, privileges, franchises, and pre-eminences, within the same, and thereto and thereabouts, by sea and land, appertaining in as ample manner as had before been granted to any adventurer; to be held of the king and his successors, in common soccage, yielding one-fifth part of the gold and silver ore to be therein found, for all manner of services; establishing a council in England for the direction of the enterprise, the members of which were to be chosen and displaced by the voice of the majority of the company and adventurers, and were to have the nomination and revocation of the governors, officers, and ministers, which by them should be thought needful for the colony, the power of establishing laws and forms of government and magistracy, obligatory not only within the colony, but also on the seas in going and coming to and from it; authorizing them to carry thither any persons who should consent to go, freeing them forever from all taxes and impositions on any goods or merchandise on importation into the colony,

or exportation out of it, except the five per cent. due for customs on all goods imported into the British dominions, according to the ancient trade of merchants; which five per cent. only being paid they might, within 13 months, re-export the same goods into foreign parts, without any custom, tax, or other duty, to the king or any his officers, or deputies; with powers of waging war against those who should annoy them; giving to the inhabitants of the colony all the rights of natural subjects, as if born and abiding in England; and declaring that these letters should be construed, in all doubtful parts, in such manner as should be most for the benefit of the grantees.

Afterwards on the 12th of March 1612, by other letters patent, the king added to his former grants, all islands in any part of the ocean between the 30th and 41st degrees of latitude, and within 300 leagues of any of the parts before granted to the treasurer and company not being possessed or inhabited by any other Christian prince or state, nor within the limits of the northern colony.

In pursuance of the authorities given to the company by these charters, and more especially of that part in the charter of 1609, which authorized them to establish a form of government, they on the 24th of July 1621, by charter under their common seal, declared that from thence forward there should be two supreme councils in Virginia, the one to be called the council of state, to be placed and displaced by the treasurer, council in England, and company from time to time, whose office was to be that of assisting and advising the governor; the other to be called the general assembly, to be convened by the governor once yearly or oftener, which was to consist of the council of state, and two burgesses out of every town, hundred, or plantation, to be respectively chosen by the inhabitants. In this all matters were to be decided by the greater part of the votes present; reserving to the governor a negative voice; and they were to have power to treat, consult, and

conclude all emergent occasions concerning the public weal, and to make laws for the behoof and government of the colony, imitating and following the laws and policy of England as nearly as might be; providing that these laws should have no force till ratified in a general quarter court of the company in England, and returned under their common seal; and declaring that, after the government of the colony should be well framed and settled, no orders of the council in England should bind the colony unless ratified in the said general assembly. The king and company quarrelled, and by a mixture of law and force, the latter were ousted of all their rights without retribution, after having expended 100,000£ in establishing the colony, without the smallest aid from government. King James suspended their powers by proclamation of July 15, 1624, and Charles I. took the government into his own hands. Both sides had their partisans in the colony: but, in truth, the people of the colony in general thought themselves little concerned in the dispute. There being three parties interested in these several charters, what passed between the first and second, it was thought could not affect the third. If the king seized on the powers of the company, they only passed into other hands, without increase or diminution, while the rights of the people remained as they were. But they did not remain so long. The northern parts of their country were granted away to the lords Baltimore and Fairfax; the first of these obtaining also the rights of separate jurisdiction and government. And in 1650 the parliament, considering itself as standing in the place of their deposed king, and as having succeeded to all his powers, without as well as within the realm, began to assume a right over the colonies, passing an act for inhibiting their trade with foreign nations. This succession to the exercise of kingly authority gave the first color for parliamentary interference with the colonies, and produced that fatal precedent which they continued to follow, after

they had retired, in other respects, within their proper functions. When this colony, therefore, which still maintained its opposition to Cromwell and the parliament, was induced in 1651 to lay down their arms, they previously secured their most essential rights by a solemn convention, which, having never seen in print, I will here insert literally from the records.

“ARTICLES agreed on & concluded at James Cittie in Virginia for the surrendering and settling of that plantation under ye obedience and government of the commonwealth of England by the commissioners of the Councill of State by authoritie of the parliamt of England, and by the Grand assembly of the Governour, Councill, & Burgesses of that countrey.

“First it is agreed & consted that the plantation of Virginia, & all the inhabitants thereof, shall be and remaine in due obedience and subjection to the Comonwealth of England, according to ye lawes there established, and that this submission and subscription bee acknowledged a voluntary act not forced nor constrained by a conquest upon the countrey, and that they shall have and enjoy such freedoms and priviledges as belong to the free borne people of England, and that the former government by the Commissions and Instructions be void and null.

“2ly, Secondly, that the Grand assembly as formerly shall convene & transact the affairs of Virginia, wherein nothing is to be acted or done contrairie to the government of the Comonwealth of England & the lawes there established.

“3ly, That there shall be a full and totall remission and indempnitie of all acts, words, or writeings done or spoken against the parliament of England in relation to the same.

“4ly, That Virginia shall have & enjoy ye antient bounds and lymitts granted by the charters of the former kings, and that we shall seek a new charter from the parliament to that purpose against any that have intrencht upon ye rights thereof.

“5ly, That all the pattents of land granted under the collony seale by any of the precedent governours shall be & remaine in their full force & strength.

“6ly, That the priviledge of haveing ffiftie acres of land for every person transported in that collonie shall continue as formerly granted.

“7ly, That ye people of Virginia have free trade as ye people of England do enjoy to all places and with all nations according to ye lawes of that commonwealth, and that Virginia shall enjoy all priviledges equall with any English plantations in America.

“8ly, That Virginia shall be free from all taxes, customs & impositions whatsoever, & none to be imposed on them without consent of the Grand assembly. And soe that neither fforts nor castles bee erected or garrisons maintained without their consent.

“9ly, That noe charge shall be required from this country in respect of this present ffleet.

“10ly, That for the future settlement of the countrey in their due obedience, the Engagement shall be tendred to all ye inhabitants according to act of parliament made to that purpose, that all persons who shall refuse to subscribe the said engagement, shall have a yeare’s time if they please to remove themselves and their estates out of Virginia, & in the meantime during the said yeare to have equall justice as formerly.

“11ly, That ye use of the booke of common prayer shall be permitted for one yeare ensueinge with referrence to the consent of ye major part of the parishes, provided that those which relate to kingshipp or that government be not used publiquely, and the continuance of ministers in their places, they not misdemeaning themselves, and the payment of their accustomed dues and agreements made with them respectively shall be left as they now stand dureing this ensueing yeare.

“12ly, That no man’s cattell shall be questioned as ye companies, unles such as have been entrusted with them or have disposed of them without order.

“13ly, That all ammunitiion, powder and armes, other than for private use, shall be delivered up, securitie being given to make satisfaction for it.

“14ly, That all goods all readie brought hither by ye Dutch or others which are now on shoar shall be free from surprizall.

“15ly, That the quittrents granted unto us by the late kinge for seaven yeares bee confirmed.

“16ly, That ye commissioners for the parliament subscribeing these articles engage themselves & the honour of parliament for the full performance thereof: and that the present governour, & ye councill, and the burgesses do likewise subscribe and engage the whole collony on their parts.

Rich. Bennett.—Seale.

Wm. Claiborne.—Seale.

Edmond Curtis.—Seale.

“Theise articles were signed and sealed by the Commissioners of the Councill of state for the Commonwealth of England the twelveth day of March 1651.”

Then follow the articles stipulated by the governor and council, which relate merely to their own persons and property, and then the ensuing instrument:

“An act of indempnitie made att the surrender of the country.

“Whereas, by the authoritie of the parliament of England wee the commissioners appointed by the councill of state authorized thereto, having brought a ffleet and force before James cittie in Virginia to reduce that collonie under the obedience of the commonwealth of England, and finding force raised by the Governour and countrey to make opposition against the said ffleet, whereby assured danger

appearinge of the ruine and destruction of the plantation, for prevention whereof the burgesses of all the severall plantations being called to advise and assist therein, upon long and serious debate, and in sad contemplation of the greate miseries and certaine destruction which were soe neerely hovering over the whole countrey; Wee the said Commissioners have thought fitt and condescending and granted to signe and confirme under our hands, seales and by our oath, Articles bearing date with theise presents, and do further declare that by the authoritie of the parliament and commonwealth of England derived unto us their commissioners, that according to the articles in generall wee have granted an act of indempnitie and oblivion to all the inhabitants of this colloney from all words, actions, or writings that have been spoken acted or writt against the parliament or comonwealth of England or any other person from the beginning of the world to this daye. And this we have done that all the inhabitants of the collonie may live quietly and securely under the comonwealth of England. And we do promise that the parliament and commonwealth of England shall confirm and make good all those transactions of ours. Witenes our hands and seales this 12th of March 1651.

Richard Bennett.—Seale.

William Claiborne.—Seale.

Edmond Curtis.—Seale.

The colony supposed, that, by this solemn convention, entered into with arms in their hands, they had secured the antient limits^{Ref. 002} of their country, its free trade^{Ref. 003} its exemption from taxation^{Ref. 004} but by their own assembly, and exclusion of military force^{Ref. 005} from among them. Yet in every of these points was this convention violated by subsequent kings and parliaments, and other infractions of their constitution, equally dangerous, committed. Their General Assembly, which was composed of the council of

state and burgesses, sitting together and deciding by plurality of voices, was split into two houses, by which the council obtained a separate negative on their laws. Appeals from their supreme court, which had been fixed by law in their general assembly, were arbitrarily revoked to England, to be there heard before the king and council. Instead of four hundred miles on the seacoast, they were reduced, in the space of thirty years, to about one hundred miles. Their trade with foreigners was totally suppressed, and when carried to Great Britain, was there loaded with imposts. It is unnecessary, however, to glean up the several instances of injury, as scattered through American and British history, and the more especially as, by passing on to the accession of the present king, we shall find specimens of them all, aggravated, multiplied and crowded within a small compass of time, so as to evince a fixed design of considering our rights natural, conventional and chartered as mere nullities. The following is an epitome of the first sixteen years of his reign. The colonies were taxed internally and externally; their essential interests sacrificed to individuals in Great Britain; their legislatures suspended; charters annulled; trials by juries taken away; their persons subjected to transportation across the Atlantic, and to trial before foreign judicatories; their supplications for redress thought beneath answer; themselves published as cowards in the councils of their mother country and courts of Europe; armed troops sent among them to enforce submission to these violences; and actual hostilities commenced against them. No alternative was presented but resistance, or unconditional submission. Between these could be no hesitation. They closed in the appeal to arms. They declared themselves independent states. They confederated together into one great republic; thus securing to every state the benefit of an union of their whole force. In each state separately a new form of government was established. Of ours particularly the

following are the outlines. The executive powers are lodged in the hands of a governor, chosen annually, and incapable of acting more than three years in seven. He is assisted by a council of eight members. The judiciary powers are divided among several courts, as will be hereafter explained. Legislation is exercised by two houses of assembly, the one called the house of delegates, composed of two members from each county, chosen annually by the citizens, possessing an estate for life in 100 acres of uninhabited land, or 25 acres with a house on it, or in a house or lot in some town: the other called the Senate, consisting of 24 members, chosen quadrennially by the same electors, who for this purpose are distributed into 24 districts. The concurrence of both houses is necessary to the passage of a law. They have the appointment of the governor and council, the judges of the superior courts, auditors, attorney general, treasurer, register of the land office, and delegates to congress. As the dismemberment of the state had never had its confirmation, but, on the contrary, had always been the subject of protestation and complaint, that it might never be in our own power to raise scruples on that subject, or to disturb the harmony of our new confederacy, the grants to Maryland, Pennsylvania and the two Carolinas were ratified.

This constitution was formed when we were new and unexperienced in the science of government. It was the first, too, which was formed in the whole United States. No wonder then that time and trial have discovered very capital defects in it.

1. The majority of the men in the state, who pay and fight for its support, are unrepresented in the legislature, the roll of freeholders entitled to vote not including generally the half of those on the roll of the militia, or of the tax-gatherers.

2. Among those who share the representation, the shares are very unequal. Thus the county of Warwick, with only

one hundred fighting men, has an equal representation with the county of Loudon, which has 1746. So that every man in Warwick has as much influence in the government as 17 men in Loudon. But lest it should be thought that an equal interspersion of small among large counties, through the whole state, may prevent any danger of injury to particular parts of it, we will divide it into districts, and shew the proportions of land, of fighting men, and of representation in each:

	Square miles.	Fighting men.	Delegates.	Senators.
Between the sea - coast and falls of the rivers	Ref. 006 11,205	19,012	71	12
Between the falls of the rivers and Blue Ridge of mountains	18,759	18,828	46	8
Between the Blue Ridge and the Alleghany	11,911	7,673	16	2
Between the Alleghany and Ohio	Ref. 007 79,650	4,458	16	2
Total	121,525	49,971	149	24

An inspection of this table will supply the place of commentaries on it. It will appear at once that nineteen thousand men, living below the falls of the rivers, possess half of the senate, and want four members only of possessing a majority of the house of delegates; a want more than supplied by the vicinity of their situation to the seat of government, and of course the greater degree of convenience and punctuality with which their members may and will attend in the legislature. These nineteen thousand, therefore, living in one part of the country, give law to upwards of thirty thousand living in another, and appoint all their chief officers executive and judiciary. From the difference of their situation and circumstances, their interests will often be very different.

3. The senate is, by its constitution, too homogenous with the house of delegates. Being chosen by the same electors, at the same time, and out of the same subjects, the choice falls of course on men of the same description. The purpose of establishing different houses of legislation is to introduce the influence of different interests or different principles. Thus in Great Britain it is said their constitution relies on the house of commons for honesty, and the lords for wisdom; which would be a rational reliance, if honesty were to be bought with money, and if wisdom were hereditary. In some of the American States, the delegates and senators are so chosen, as that the first represent the persons, and the second the property of the State. But with us, wealth and wisdom have equal chance for admission into both houses. We do not, therefore, derive from the separation of our legislature into two houses, those benefits which a proper complication of principles is capable of producing, and those which alone can compensate the evils which may be produced by their dissensions.

4. All the powers of government, legislative, executive, and judiciary, result to the legislative body. The concentrating these in the same hands is precisely the definition of despotic government. It will be no alleviation that these powers will be exercised by a plurality of hands, and not by a single one. 173 despots would surely be as oppressive as one. Let those who doubt it turn their eyes on the republic of Venice. As little will it avail us that they are chosen by ourselves. An *elective despotism* was not the government we fought for, but one which should not only be founded on free principles, but in which the powers of government should be so divided and balanced among several bodies of magistracy, as that no one could transcend their legal limits, without being effectually checked and restrained by the others. For this reason that convention, which passed the ordinance of government laid its foundation on this basis, that the legislative,

executive and judiciary departments should be separate and distinct, so that no person should exercise the powers of more than one of them at the same time. But no barrier was provided between these several powers. The judiciary and executive members were left dependent on the legislative, for their subsistence in office, and some of them for their continuance in it. If therefore the legislature assumes executive and judiciary powers, no opposition is likely to be made; nor, if made, can it be effectual; because in that case they may put their proceedings into the form of an act of assembly, which will render them obligatory on the other branches. They have accordingly in many instances, decided rights which should have been left to judiciary controversy: and the direction of the executive, during the whole time of their session, is becoming habitual and familiar. And this is done with no ill intention. The views of the present members are perfectly upright. When they are led out of their regular province, it is by art in others, and inadvertence in themselves. And this will probably be the case for some time to come. But it will not be a very long time. Mankind soon learn to make interested uses of every right and power which they possess, or may assume. The public money and public liberty, intended to have been deposited with three branches of magistracy, but found inadvertently to be in the hands of one only, will soon be discovered to be sources of wealth and dominion to those who hold them; distinguished, too, by this tempting circumstance, that they are the instrument, as well as the object, of acquisition. With money we will get men, said Cæsar, and with men we will get money. Nor should our assembly be deluded by the integrity of their own purposes, and conclude that these unlimited powers will never be abused, because themselves are not disposed to abuse them. They should look forward to a time, and that not a distant one, when a corruption in this, as in the country from which we derive our origin, will have seized the heads

of government, and be spread by them through the body of the people; when they will purchase the voices of the people, and make them pay the price. Human nature is the same on every side of the Atlantic, and will be alike influenced by the same causes. The time to guard against corruption and tyranny, is before they shall have gotten hold of us. It is better to keep the wolf out of the fold, than to trust to drawing his teeth and talons after he shall have entered. To render these considerations the more cogent, we must observe in addition:

5. That the ordinary legislature may alter the constitution itself. On the discontinuance of assemblies, it became necessary to substitute in their place some other body, competent to the ordinary business of government, and to the calling forth the powers of the State for the maintenance of our opposition to Great Britain. Conventions were therefore introduced, consisting of two delegates from each county, meeting together and forming one house, on the plan of the former house of Burgesses, to whose places they succeeded. These were at first chosen anew for every particular session. But in March 1775, they recommended to the people to choose a convention, which should continue in office a year. This was done, accordingly, in April 1775, and in the July following that convention passed an ordinance for the election of delegates in the month of April annually. It is well known, that in July 1775, a separation from Great Britain and establishment of republican government, had never yet entered into any person's mind. A convention, therefore, chosen under that ordinance, cannot be said to have been chosen for the purposes which certainly did not exist in the minds of those who passed it. Under this ordinance, at the annual election in April 1776, a convention for the year was chosen. Independance, and the establishment of a new form of government, were not even yet the objects of the people at large. One extract from the pamphlet called Common sense

had appeared in the Virginia papers in February, and copies of the pamphlet itself had got in a few hands.^{Ref. 008} But the idea had not been opened to the mass of the people in April, much less can it be said that they had made up their minds in its favor.^{Ref. 009} So that the electors of April 1776, no more than the legislators of July 1775, not thinking of independance and a permanent republic, could not mean to vest in these delegates powers of establishing them, or any authorities other than those of the ordinary legislature. So far as a temporary organization of government was necessary to render our opposition energetic, so far their organization was valid. But they received in their creation no powers but what were given to every legislature before and since. They could not, therefore, pass an act transcendent to the powers of other legislatures. If the present assembly pass an act, and declare it shall be irrevocable by subsequent assemblies, the declaration is merely void, and the act repealable, as other acts are. So far, and no farther authorized, they organized the government by the ordinance entituled a Constitution or Form of government. It pretends to no higher authority than the other ordinance of the same session; it does not say that it shall be perpetual; that it shall be unalterable by other legislatures; that it shall be transcendent above the powers of those who they knew would have equal power with themselves. Not only the silence of the instrument is a proof they thought it would be alterable, but their own practice also; for this very convention, meeting as a House of Delegates in General assembly with the Senate in the autumn of that year, passed acts of assembly in contradiction of their ordinance of government; and every assembly from that time to this has done the same. I am safe therefore in the position that the constitution itself is alterable by the ordinary legislature. Though this opinion seems founded on the first elements of common sense, yet

is the contrary maintained by some persons. I. Because, say they, the conventions were vested with every power necessary to make effectual opposition to Great Britain. But to complete this argument, they must go on, and say further, that effectual opposition could not be made to Great Britain without establishing a form of government perpetual and unalterable by the legislature; which is not true. An opposition which at some time or other was to come to an end, could not need a perpetual institution to carry it on: and a government amendable as its defects should be discovered, was likely to make effectual resistance, as one that should be unalterably wrong. Besides, the assemblies were as much vested with all powers requisite for resistance as the Conventions were. If therefore these powers included that of modelling the form of government in the one case, they did so in the other. The assemblies then as well as the conventions may model the government; that is, they may alter the ordinance of government. 2. They urge that if the convention had meant that this instrument should be alterable, as their other ordinances were, they would have called it an ordinance; but they have called it a *constitution*, which *ex vi termini*, means "an act above the power of the ordinary legislature." I answer that *constitutio*, *constitutum*, *statutum*, *lex*, are convertible terms. "*Constitutio* dicitur jus quod a principe conditur." "*Constitutum*, quod ab imperatoribus rescriptum statutumve est." "*Statutum*, idem quod lex." Calvin Lexicon juridicum. *Constitution* and *statute* were originally terms of the^{Ref. 010} civil law, and from thence introduced by Ecclesiastics into the English law. Thus in the statute 25 Hen. VIII. c. 19, §. 1, "*Constitutions* and *ordinances*" are used as synonymous. The term *constitution* has many other significations in physics and politics; but in Jurisprudence, whenever it is applied to any act of the legislature, it