

## 66. *Notes on the State of Virginia*

The Following Notes were written in Virginia in the year 1781, and somewhat corrected and enlarged in the winter of 1782, in answer to Queries proposed to the Author, by a Foreigner of Distinction, then residing among us . . . The subjects are all treated imperfectly; some scarcely touched on. To apologize for this by developing the circumstances of the time and place of their composition, would be to open wounds which have already bled enough. To these circumstances some of their imperfections may with truth be ascribed; the great mass to the want of information and want of talents in the writer. He had a few copies printed, which he gave among his friends: and a translation of them has been lately published in France, but with such alterations as the laws of the press in that country rendered necessary. They are now offered to the public in their original form and language.

Feb. 27, 1787.

### Query XIII: The Constitution of the State?<sup>1</sup>

. . . 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 intitled 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. . . .

3. The senate is, by its constitution, too homogeneous 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 department 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 dependant 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 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 on 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. . . . Though this opinion seems founded on the first elements of common sense, yet is the contrary maintained by some persons. 1. 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. . . . 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 *by force of the term* means "an act above the power of the ordinary legislature." I answer, that *constitutio*, *constitutum*, *statutum*, *lex*, are convertible terms. . . . Thus in the statute 25. Hen. 8. c. 19. sec. I. "*Constitutions and ordinances*" are used as synonymous. . . . No inference then of a different meaning can be drawn from the adoption of this title: on the contrary, we might conclude, that, by their affixing to it a term synonymous with ordinance, or statute, they meant it to be an ordinance or statute. But of what consequence is their meaning, where their power is denied? If they meant to do more than they had power to do, did this give them power? It is not the name, but the authority which renders an act obligatory. . . .

To get rid of the magic supposed to be in the word *constitution*, let us translate it into its definition as given by those who think it above the power of the law; and let us suppose the convention instead of say-

ing, "We, the ordinary legislature, establish a *constitution*," had said, "We, the ordinary legislature, establish an act *above the power of the ordinary legislature*." Does not this expose the absurdity of the attempt? 3. But, say they, the people have acquiesced, and this has given it an authority superior to the laws. It is true, that the people did not rebel against it: and was that a time for the people to rise in rebellion? Should a prudent acquiescence, at a critical time, be construed into a confirmation of every illegal thing done during that period? Besides, why should they rebel? At an annual election, they had chosen delegates for the year, to exercise the ordinary powers of legislation, and to manage the great contest in which they were engaged. These delegates thought the contest would be best managed by an organized government. They therefore, among others, passed an ordinance of government. They did not presume to call it perpetual and unalterable. They well knew they had no power to make it so; that our choice of them had been for no such purpose, and at a time when we could have no such purpose in contemplation. Had an unalterable form of government been meditated, perhaps we should have chosen a different set of people. There was no cause then for the people to rise in rebellion. But to what dangerous lengths will this argument lead? . . .

On every unauthoritative exercise of power by the legislature, must the people rise in rebellion, or their silence be construed into a surrender of that power to them? If so, how many rebellions should we have had already? One certainly for every session of assembly. The other states in the Union have been of opinion, that to render a form of government unalterable by ordinary acts of assembly, the people must delegate persons with special powers. They have accordingly chosen special conventions to form and fix their governments. The individuals then who maintain the contrary opinion in this country, should have the modesty to suppose it possible that they may be wrong and the rest of America right. But if there be only a possibility of their being wrong, if only a plausible doubt remains of the validity of the ordinance of government, is it not better to remove that doubt, by placing it on a bottom which none will dispute? If they be right, we shall only have the unnecessary trouble of meeting once in convention. If they be wrong, they expose us to the hazard of having no fundamental rights at all. True it is, this is no time for deliberating on forms of government. While an enemy is within our bowels, the first object is to expel him. But when this shall be done, when peace shall be established, and leisure given us for intrenching within good forms, the rights for which we have bled, let no man be found indolent enough to decline a little more trouble for placing them beyond the reach of question. . . .

Our situation is indeed perilous, and I hope my countrymen will be sensible of it, and will apply, at a proper season, the proper remedy; which is a convention to fix the constitution, to amend its defects, to

bind up the several branches of government by certain laws, which when they transgress their acts shall become nullities; to render unnecessary an appeal to the people, or in other words a rebellion, on every infraction of their rights, on the peril that their acquiescence shall be construed into an intention to surrender those rights.

Query XIV: A Description of the Laws? On the Law  
"To Diffuse Knowledge More Generally Through  
the Mass of the People<sup>2</sup>

. . . The general objects of this law are to provide an education adapted to the years, to the capacity, and the condition of every one, and directed to their freedom and happiness. Specific details were not proper for the law. These must be the business of the visitors entrusted with its execution. The first stage of this education being the schools of the hundreds, wherein the great mass of the people will receive their instruction, the principal foundations of future order will be laid here. Instead therefore of putting the Bible and Testament into the hands of the children, at an age when their judgments are not sufficiently matured for religious enquiries, their memories may here be stored with the most useful facts from Grecian, Roman, European and American history. The first elements of morality too may be instilled into their minds; such as, when further developed as their judgments advance in strength, may teach them how to work out their own greatest happiness, by shewing them that it does not depend on the condition of life in which chance has placed them, but is always the result of a good conscience, good health, occupation, and freedom in all just pursuits.—Those whom either the wealth of their parents or the adoption of the state shall destine to higher degrees of learning, will go on to the grammar schools, which constitute the next stage, there to be instructed in the languages. The learning Greek and Latin, I am told, is going into disuse in Europe. I know not what their manners and occupations may call for: but it would be very ill-judged in us to follow their example in this instance. There is a certain period of life, say from eight to fifteen or sixteen years of age, when the mind, like the body, is not yet firm enough for laborious and close operations. If applied to such, it falls an early victim to premature exertion; exhibiting indeed at first, in these young and tender subjects, the flattering appearance of their being men while they are yet children, but ending in reducing them to be children when they should be men. The memory is then most susceptible and tenacious of impressions; and the learning of languages being chiefly a work of memory, it seems precisely fitted to the powers of this period, which is long enough too for acquiring the most useful languages antient and modern. I do not pretend that language is science. It is only an instrument for the attainment of sci-

ence. But that time is not lost which is employed in providing tools for future operation: more especially as in this case the books put into the hands of the youth for this purpose may be such as will at the same time impress their minds with useful facts and good principles. If this period be suffered to pass in idleness, the mind becomes lethargic and impotent, as would the body it inhabits if unexercised during the same time. The sympathy between body and mind during their rise, progress and decline, is too strict and obvious to endanger our being misled while we reason from the one to the other.—As soon as they are of sufficient age, it is supposed they will be sent on from the grammar schools to the university, which constitutes our third and last stage, there to study those sciences which may be adapted to their views.—By that part of our plan which prescribes the selection of the youths of genius from among the classes of the poor, we hope to avail the state of those talents which nature has sown as liberally among the poor as the rich, but which perish without use, if not sought for and cultivated. But of all the views of this law none is more important, none more legitimate, than that of rendering the people the safe, as they are the ultimate, guardians of their own liberty. For this purpose the reading in the first stage, where *they* will receive their whole education, is proposed, as has been said, to be chiefly historical. History by apprising them of the past will enable them to judge of the future; it will avail them of the experience of other times and other nations; it will qualify them as judges of the actions and designs of men; it will enable them to know ambition under every disguise it may assume; and knowing it, to defeat its views. In every government on earth is some trace of human weakness, some germ of corruption and degeneracy, which cunning will discover, and wickedness insensibly open, cultivate, and improve. Every government degenerates when trusted to the rulers of the people alone. The people themselves therefore are its only safe depositories. And to render even them safe their minds must be improved to a certain degree. This indeed is not all that is necessary, though it be essentially necessary. An amendment of our constitution must here come in aid of the public education. The influence over government must be shared among all the people. If every individual which composes their mass participates of the ultimate authority, the government will be safe; because the corrupting the whole mass will exceed any private resources of wealth: and public ones cannot be provided but by levies on the people. In this case every man would have to pay his own price. The government of Great-Britain has been corrupted, because but one man in ten has a right to vote for members of parliament. The sellers of the government therefore get nine-tenths of their price clear. It has been thought that corruption is restrained by confining the right of suffrage to a few of the wealthier of the people: but it would be more effectually restrained by an extension of that right to such numbers as would bid defiance to the means of corruption.

Lastly, it is proposed, by a bill in this revisal, to begin a public library and gallery, by laying out a certain sum annually in books, paintings, and statues.

### Query XVII: The Different Religions Received into That State?<sup>3</sup>

. . . The error seems not sufficiently eradicated, that the operations of the mind, as well as the acts of the body, are subject to the coercion of the laws. But our rulers can have authority over such natural rights only as we have submitted to them. The rights of conscience we never submitted, we could not submit. We are answerable for them to our God. The legitimate powers of government extend to such acts only as are injurious to others. But it does me no injury for my neighbour to say there are twenty gods, or no god. It neither picks my pocket nor breaks my leg. If it be said, his testimony in a court of justice cannot be relied on, reject it then, and be the stigma on him. Constraint may make him worse by making him a hypocrite, but it will never make him a truer man. It may fix him obstinately in his errors, but will not cure them. Reason and free enquiry are the only effectual agents against error. Give a loose to them, they will support the true religion, by bringing every false one to their tribunal, to the test of their investigation. They are the natural enemies of error, and of error only. Had not the Roman government permitted free enquiry, Christianity could never have been introduced. Had not free enquiry been indulged, at the æra of the reformation, the corruptions of Christianity could not have been purged away. If it be restrained now, the present corruptions will be protected, and new ones encouraged. Was the government to prescribe to us our medicine and diet, our bodies would be in such keeping as our souls are now. Thus in France the emetic was once forbidden as a medicine, and the potatoe as an article of food. Government is just as infallible too when it fixes systems in physics. Galileo was sent to the inquisition for affirming that the earth was a sphere: the government had declared it to be as flat as a trencher, and Galileo was obliged to abjure his error. This error however at length prevailed, the earth became a globe, and Descartes declared it was whirled round its axis by a vortex. The government in which he lived was wise enough to see that this was no question of civil jurisdiction, or we should all have been involved by authority in vortices. In fact, the vortices have been exploded, and the Newtonian principle of gravitation is now more firmly established, on the basis of reason, than it would be were the government to step in, and to make it an article of necessary faith. Reason and experiment have been indulged, and error has fled before them. It is error alone which needs the support of government. Truth can stand by itself. Subject opinion to coercion: whom.

will you make your inquisitors? Fallible men; men governed by bad passions, by private as well as public reasons. And why subject it to coercion? To produce uniformity. But is uniformity of opinion desirable? No more than of face and stature. Introduce the bed of Procrustes then, and as there is danger that the large men may beat the small, make us all of a size, by lopping the former and stretching the latter. Difference of opinion is advantageous in religion. The several sects perform the office of a Censor morum over each other. Is uniformity attainable? Millions of innocent men, women, and children, since the introduction of Christianity, have been burnt, tortured, fined, imprisoned; yet we have not advanced one inch towards uniformity. What has been the effect of coercion? To make one half the world fools, and the other half hypocrites. To support roguery and error all over the earth. Let us reflect that it is inhabited by a thousand millions of people. That these profess probably a thousand different systems of religion. That ours is but one of that thousand. That if there be but one right, and ours that one, we should wish to see the 999 wandering sects gathered into the fold of truth. But against such a majority we cannot effect this by force. Reason and persuasion are the only practicable instruments. To make way for these, free enquiry must be indulged; and how can we wish others to indulge it while we refuse it ourselves. . . .

#### Query XVIII: The Particular Customs and Manners . . . in That State?<sup>4</sup>

. . . There must doubtless be an unhappy influence on the manners of our people produced by the existence of slavery among us. The whole commerce between master and slave is a perpetual exercise of the most boisterous passions, the most unremitting despotism on the one part, and degrading submissions on the other. Our children see this, and learn to imitate it; for man is an imitative animal. This quality is the germ of all education in him. From his cradle to his grave he is learning to do what he sees others do. If a parent could find no motive either in his philanthropy or his self-love, for restraining the intemperance of passion towards his slave, it should always be a sufficient one that his child is present. But generally it is not sufficient. The parent storms, the child looks on, catches the lineaments of wrath, puts on the same airs in the circle of smaller slaves, gives a loose to his worst of passions, and thus nursed, educated, and daily exercised in tyranny, cannot but be stamped by it with odious peculiarities. The man must be a prodigy who can retain his manners and morals undepraved by such circumstances. And with what execration should the statesman be loaded, who permitting one half the citizens thus to trample on the rights of the other, transforms those into despots, and these into enemies, destroys the morals of



the one part, and the *amor patriæ* of the other. For if a slave can have a country in this world, it must be any other in preference to that in which he is born to live and labour for another: in which he must lock up the faculties of his nature, contribute as far as depends on his individual endeavours to the evanishment of the human race, or entail his own miserable condition on the endless generations proceeding from him. With the morals of the people, their industry also is destroyed. For in a warm climate, no man will labour for himself who can make another labour for him. This is so true, that of the proprietors of slaves a very small proportion indeed are ever seen to labour. And can the liberties of a nation be thought secure when we have removed their only firm basis, a conviction in the minds of the people that these liberties are of the gift of God? That they are not to be violated but with his wrath? Indeed I tremble for my country when I reflect that God is just: that his justice cannot sleep for ever: that considering numbers, nature and natural means only, a revolution of the wheel of fortune, an exchange of situation, is among possible events: that it may become probable by supernatural interference! The Almighty has no attribute which can take side with us in such a contest.—But it is impossible to be temperate and to pursue this subject through the various considerations of policy, of morals, of history natural and civil. We must be contented to hope they will force their way into every one's mind. I think a change already perceptible, since the origin of the present revolution. The spirit of the master is abating, that of the slave rising from the dust, his condition mollifying, the way I hope preparing, under the auspices of heaven, for a total emancipation, and that this is disposed, in the order of events, to be with the consent of the masters, rather than by their extirpation.

#### Query XIX: The Present State of Manufactures, Commerce, Interior and Exterior Trade?<sup>5</sup>

We never had an interior trade of any importance. Our exterior commerce has suffered very much from the beginning of the present contest. During this time we have manufactured within our families the most necessary articles of cloathing. Those of cotton will bear some comparison with the same kinds of manufacture in Europe; but those of wool, flax and hemp are very coarse, unsightly, and unpleasant: and such is our attachment to agriculture, and such our preference for foreign manufactures, that be it wise or unwise, our people will certainly return as soon as they can, to the raising raw materials, and exchanging them for finer manufactures than they are able to execute themselves.

The political œconomists of Europe have established it as a principle that every state should endeavour to manufacture for itself: and this principle, like many others, we transfer to America, without calculating the difference of circumstance which should often produce a difference

of result. In Europe the lands are either cultivated, or locked up against the cultivator. Manufacture must therefore be resorted to of necessity not of choice, to support the surplus of their people. But we have an immensity of land courting the industry of the husbandman. Is it best then that all our citizens should be employed in its improvement, or that one half should be called off from that to exercise manufactures and handicraft arts for the other? Those who labour in the earth are the chosen people of God, if ever he had a chosen people, whose breasts he has made his peculiar deposit for substantial and genuine virtue. It is the focus in which he keeps alive that sacred fire, which otherwise might escape from the face of the earth. Corruption of morals in the mass of cultivators is a phænomenon of which no age nor nation has furnished an example. It is the mark set on those, who not looking up to heaven, to their own soil and industry, as does the husbandman, for their subsistence, depend for it on the casualties and caprice of customers. Dependence begets subservience and venality, suffocates the germ of virtue, and prepares fit tools for the designs of ambition. This, the natural progress and consequence of the arts, has sometimes perhaps been retarded by accidental circumstances: but, generally speaking, the proportion which the aggregate of the other classes of citizens bears in any state to that of its husbandmen, is the proportion of its unsound to its healthy parts, and is a good-enough barometer whereby to measure its degree of corruption. While we have land to labour then, let us never wish to see our citizens occupied at a work-bench, or twirling a distaff. Carpenters, masons, smiths, are wanting in husbandry: but, for the general operations of manufacture, let our work-shops remain in Europe. It is better to carry provisions and materials to workmen there, than bring them to the provisions and materials, and with them their manners and principles. The loss by the transportation of commodities across the Atlantic will be made up in happiness and permanence of government. The mobs of great cities add just so much to the support of pure government, as sores do to the strength of the human body. It is the manners and spirit of a people which preserve a republic in vigour. A degeneracy in these is a canker which soon eats to the heart of its laws and constitution.

67. *A Plan of Government for the Western  
Territory Report of the Committee,  
1 March, 1784*

The Committee appointed to prepare a plan for the temporary government of the Western territory have agreed to the following resolutions.

Resolved, that the territory ceded or to be ceded by Individual states to the United states shall be formed into distinct states, bounded in the

following manner as nearly as such cessions will admit, that is to say; Northwardly and Southwardly by parallels of latitude so that each state shall comprehend from South to North two degrees of latitude beginning to count from the completion of thirty one degrees North of the Equator: but any territory Northwardly of the 47th. degree shall make part of the state next below. And Eastwardly and Westwardly they shall be bounded, those on the Missisipi by that river on one side and the meridian of the lowest point of the rapids of Ohio on the other; and those adjoining on the East by the same meridian on their Western side, and on their Eastern by the meridian of the Western cape of the mouth of the Great Kanhaway. And the territory Eastward of this last meridian between the Ohio, Lake Erie, and Pennsylvania shall be one state.

That the settlers within any of the said states shall, either on their own petition, or on the order of Congress, receive authority from them, with appointments of time and place for their free males of full age to meet together for the purpose of establishing a temporary government, to adopt the constitution and laws of any one of these states, so that such laws nevertheless shall be subject to alteration by their ordinary legislature, and to erect, subject to a like alteration, counties or townships for the election of members for their legislature.

That such temporary government shall only continue in force in any state until it shall have acquired 20,000. free inhabitants; when giving due proof thereof to Congress, they shall receive from them authority with appointments of time and place to call a Convention of representatives to establish a permanent constitution and government for themselves.

Provided that both the temporary and permanent governments be established on these principles as their basis. 1. That they shall for ever remain a part of the United states of America. 2. That in their persons, property and territory they shall be subject to the government of the United states in Congress assembled, and to the Articles of confederation in all those cases in which the original states shall be so subject. 3. That they shall be subject to pay a part of the federal debts contracted or to be contracted to be apportioned on them by Congress according to the same common rule and measure by which apportionments thereof shall be made on the other states. 4. That their respective governments shall be in republican forms, and shall admit no person to be a citizen who holds any hereditary title. 5. That after the year 1800 of the Christian æra, there shall be neither slavery nor involuntary servitude in any of the said states, otherwise than in punishment of crimes, whereof the party shall have been duly convicted to have been personally guilty.

That whensoever any of the said states shall have, of free inhabitants, as many as shall then be in any one the least numerous of the thirteen original states, such state shall be admitted by it's delegates into the Congress of the United states, on an equal footing with the said original states: after which the assent of two thirds of the United states in Congress as-

sembled shall be requisite in all those cases, wherein by the Confederation, the assent of nine states is now required. Provided the consent of nine states to such admission may be obtained according to the eleventh of the articles of Confederation. Until such admission by their delegates into Congress, any of the said states, after the establishment of their temporary government, shall have authority to keep a sitting member in Congress, with a right of debating, but not of voting. . . .