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*pari passu*; that none shall get on any faster than the rest; and, as a necessary consequence, that the course of study shall be limited by the abilities of the slower minds. But the enormous differences in capacity which the active life of the world discloses in men exist most palpably among children. On Prof. Shaler's showing, the first fourteen years of life are, so far as the scholastic education of boys is concerned, practically a blank, and where this is not so, parents find themselves with their boys on their hands ready for college a year or two before the customary period. Where the development has been injudiciously managed, some "keeping back" may be necessary, but in many cases it is a sheer waste of the boy's life, so far as his future success is concerned. We have little doubt that most intelligent teachers would undertake to fit bright boys for college at sixteen if not at fourteen, provided they could get hold of them early enough. We fear that the trouble lies back of the training schools, in the family; and that it will continue so long as mothers prefer to intrust the care of their children at the most plastic age to ignorant nurses, rather than devote their own time to so laborious and exacting a task.

In this view it is encouraging to hear Prof. Shaler denouncing "the injurious and dangerous notion that there is a definite term of years required to attain the culture represented by the bachelor's degree." He finds the variation in the development of students at the beginning of their Junior year very great, and this variation, we apprehend, may be detected at an earlier age. He finds, too, "that the ablest students, after a time in college, have satisfied their possibilities of culture for its own sake, and can no longer find comfort in endeavors which are not related to deeds they desire to accomplish in active life." This concession will awaken a melancholy echo in the breasts of many men now past the hope of farther development, a bitter regret for those high days of buoyant, all-conquering enthusiasm when so much might have been done, but when dry husks were all that was granted to those who thirsted for the living water.

Should a change of the character suggested by Prof. Shaler be made, it might lead to the farther inquiry whether the length of college vacations is not excessive. Perhaps eight hours in the day is enough for work, but eight months in the year certainly seems a moderate allowance for study. Men who are seriously at work in the world take such vacations only exceptionally. It would bore them to death if they had to stop work for a third of the year. It may be said that studies may be prosecuted in vacation, but this can seldom be done to advantage in the absence of the accustomed conveniences and stimuli. Most college students, unless they have pecuniary or social opportunities for having a good time, find the long vacation irksome and unnecessary. Certainly, no one who beholds the college student of to-day as he appears at the watering-place will find it easy to believe that his system demands the cessation of intellectual application during the

entire summer. Unfortunately, the witnesses best qualified by knowledge to testify on this subject, the professors themselves, are disqualified by interest.

#### JEFFERSON'S CONSTITUTION FOR VIRGINIA.

WASHINGTON, July 28, 1890.

EARLY in May, 1776, a convention of "delegates from the counties and corporations in the Colony of Virginia" assembled at Williamsburgh—the legislative and administrative body that was to bridge the passage from a government under the King to a government of the people, republican in form and spirit. For more than a year the nominal head of the colony, Lord Dunmore, had been powerless except for mischief, winning for himself, by his injudicious efforts to enforce the rule of his royal master, the enmity, and even hatred, of the "good people" of the colony. For more than a year local committees, self-constituted, acting as revolutionary bodies, and therefore under no laws or general system, had exercised what functions of defence, and too often of offence, were deemed necessary by a majority of their members, governed only by the rules of self-preservation. From these local committees grew the Colonial Convention, convening without definite aim or purpose, and containing within itself a difference of opinion that promised a protracted contest on every question that involved a change in the social order of the colony. The general constitution and characteristics of the leaders of this Convention have been often described, and in a very satisfactory manner, by a Virginian, Hugh Blair Grigsby, whose sympathies and historical instinct were admirably adapted to sketch in broad outlines the personality of the session.

One circumstance, however, escaped his notice, as, indeed, it has that of every historian of Virginia, a circumstance at once interesting and picturesque—the fact that Jefferson prepared a constitution for the State and submitted it to the Convention. Having instructed its delegates to the Continental Congress to vote for independence of the Crown of Great Britain, the question of self-government naturally presented itself, for the Convention had expressly reserved to itself the "power of forming government for and the regulations of the internal concerns of each colony." The resolution for instructing the delegates on independence had resulted in a compromise, not being pointed enough for such as the Lees and Henry, and being too advanced for the Conservatives, who gave it their vote "for the sake of unanimity." The question of framing a new government awakened a difference of opinion on more than one point. Would it not be well, asked Ludwell Lee, to have the Continental Congress prepare a uniform plan for governing America, to be approved by the colonies? Jefferson wrote to Edmund Randolph to oppose the formation of a permanent constitution for Virginia until a convention could be chosen by the people for that special purpose. "He denied the power of the body, elected (as he conceived them) to be the agents for the management of the war, to exceed some temporary regimen." But Randolph and the gentlemen to whom he showed this letter—Pendleton, Nelson, and Mason—could not accept such a position. They, to use Randolph's words, "saw no distinction between the conceded power to declare independence and its necessary consequence, the fencing of society by the institution of government. Nor were they sure that to be backward in this act of sovereignty might

not imply distrust whether the rule had been wrested from the King."

This opinion carried the day, and the Colonial Convention at once set to work 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." From the 15th of May to the 24th of June a large and able committee was engaged in carrying these instructions into effect, and, after some amendments, on the 28th the first constitution or form of government for Virginia was unanimously adopted. It is known that the chief labor of framing the Constitution had fallen to George Mason, certainly one of the most competent members of the body. Col. Landon Carter, to whose opinion the greatest deference was shown, thought that "ambition had visibly seized so much ignorance all over the colony," and as a result the Convention abounded "with too many of the inexperienced creatures to navigate our bark on this dangerous coast." On the other hand, Patrick Henry, the leader of the popular element in the assemblage, complained of a want of associates of ability on his side of the question.

This complaint conveyed much meaning, for the social condition of the colony had given rise to two quite distinct factions, apart from the political difference that the Revolution had produced. Whigs and Tories were known, but the "good people"—that is, those who were opposed to the government of Parliament and the British Ministry—were divided among themselves quite as sharply as were ever the Whigs from the Tories. The large land owners formed an aristocracy, of great influence and of conservative views, while opposed to them were the so-called radicals and reformers, who, of more ardent nature, were intent upon introducing as great a revolution in the form of government for the colony as had been implied by the separation from English control. Henry complained that the aristocrats were strong in the committee appointed to frame a constitution, and that "my most esteemed republican form has many and powerful enemies." Each party had its printed argument: the one supported an anonymous tract sent to the Convention from Philadelphia with a strong endorsement from Carter Braxton; the other read with approval the "Thoughts on Government" written by John Adams.

Adams had addressed his pamphlet to George Wythe. It was Wythe who carried to the convention a sketch or outline of a constitution which Jefferson, then in Congress, prepared. This, wrote Jefferson in 1825,

"I sent to Mr. Pendleton, President of the Convention, on the mere possibility that it might suggest something worth incorporating into that before the Convention. He informed me afterwards by letter that he received it on the day on which the Committee of the Whole had reported to the House the plan they had agreed to; that that had been so long in hand, so disputed inch by inch, and the subject of so much altercation and debate, that they were worried with the contentions it produced, and could not, from mere lassitude, have been induced to open the instrument again; but that, being pleased with the Preamble to mine, they adopted it in the House by way of amendment to the Report of the Committee; and thus my preamble became tacked to the work of George Mason."

It is not a little curious that Jefferson did not retain among his papers a copy of this attempt of his at constitution-making, or that he should not have had enough pride in his bantling to make some reference to its nature. He was, as a rule, careful in such matters. Of the composition that made his reputation as a



writer before he entered Congress—the ‘Summary View’—he wrote out two copies, one of which was sent to Patrick Henry. Of the Declaration of Independence he made a number of manuscript copies and distributed them among his intimates. In 1783 he prepared a draft of a constitution for the State, and so proud of it was he, as “reaching all the great objects of public liberty,” that he printed it. His indifference to his earlier sketch is all the more noticeable as it allowed John Adams to pose as the mainstay of the Virginia Convention; for he claimed that it was his little pamphlet that influenced the Convention, and, while “amazed to find an inclination so prevalent throughout all the Southern colonies to adopt plans so nearly resembling that in the ‘Thoughts on Government,’” he was not a little elated that the “pride of the haughty must, I see, come down a little in the South.” He had felt not a little the arrogance of the Southern members in the first and second Congresses, but he knew well how essential it was to keep with them. The fact remains that for more than a century Jefferson’s draft has been lost, and it has only recently been discovered near Lexington—two copies of it, both in Jefferson’s MS., one with and the other wanting the preamble. Is it too great a stretch to conjecture that one, at least, was the identical manuscript that Wythe carried to Pendleton?

It would naturally be expected that Jefferson would favor a democratic constitution—one, that is, which embodied the idea that all powers rested with the people; yet his plan was less democratic than the instrument adopted by the Convention, for he would allow the people to participate directly only in the election of the lower house of the Assembly. All else was based upon a narrow foundation. The Senate was to be “appointed” by the House, and his first idea contemplated an appointment for life; but a second thought led him to make a term of service three years. The judges of the General Court and of the High Court of Chancery were to sit in the Senate, and be allowed to speak to a question, but they could not vote. The Executive, called “Administrator,” a Deputy, a Privy Council, and a Treasurer were all to hold their offices of the House of Representatives; but all other officers, civil and military, with two exceptions, were to be appointed by the Administrator, such appointment being subject to the negative of the Privy Council. The people (that is, the freeholders) were to elect annually the high sheriffs and coroners of counties.

The lower house of the Legislature in this way received all the privileges of appointment the King and Parliament possessed in the colonial system. All offices were then held at the gift of the King, and the Council was of royal appointment. The House of Burgesses alone was chosen by popular election, and its powers, save for annoyance and obstruction, were limited by the King’s instructions to the Governor—instructions that could not be enforced by the Governor without the tedious, uncertain, and often dangerous appeal to the King to interpose his veto to a measure contrary to his wishes. The fear of a strong executive of the royal order led Jefferson to deny to the Governor any veto on the acts of the Legislature, and it was due to Patrick Henry that the power to negative was granted by the Convention, as he very properly proved that the want of it would tend to make the Governor an independent and not a coördinate branch of power. Jefferson himself may have seen the danger of this centralization of power in the hands of a single house, the members of which were to be chosen annually, but, once chosen,

possessed the power to sit “so long as they should think the public service requires”; for he appears to have had some doubt on the manner of appointing the Administrator and his deputy, naming the House of Representatives tentatively, for the words are enclosed in brackets. Even he provided that the “legislative, executive, and judicial offices shall be kept for ever separate.” The actual constitution as adopted provided for a Senate composed of members elected once in four years from Senatorial districts; a House, chosen annually from each county; and with the two combined lay the appointment of Governor and Council, the judges of the Superior Courts, Auditors, Attorney-General, Treasurer, Register of the Land Office, and Delegates to Congress. That was more democratic than Jefferson’s idea.

The manner of electing Jefferson’s House—the body of kingly powers—is worthy of notice. In the session of 1769 the qualifications of a voter were a freehold estate, or fifty acres of unsettled land, or twenty-five acres where there was a house, or a city lot improved—provisions liberal enough to include nearly the entire manhood of the colony, where land was to be had almost for the asking. Jefferson wished to require “full age and sane mind,” a freehold estate in land, that for the country being decreased to twenty-five acres; and he also gave the suffrage to “all persons resident in the colony who shall have paid scot and lot to Government the last two years.” Not content with this, he would make every man in the colony a qualified voter. “Every person of full age, neither owning nor having owned [50] acres of land shall be entitled to an appropriation of [50] or to so much as shall make up what he owns or has owned to [50] acres, in full and absolute dominion, and no other person shall be capable of taking an appropriation.”

Having thus turned every man of full age and sane mind in the colony into a landholder and a voter, Jefferson passed to the question of representation, and here offered a distinct improvement upon the plan of the Convention. Among the complaints brought against the English Constitution (and its faults attracted at that time more attention than its virtues) was the inequality of representation in the British House of Commons. Yet the Convention provided for a representation of the counties in the lower house of Assembly quite as unequal as the British examples, for each county was to send two members without respect to the population it contained. Randolph explained the acceptance of this provision by saying “that the counties to the eastward of the Blue Ridge, in which the inequality was most glaring, were too numerous to be irritated, and it was tacitly understood that every body and individual came into the revolution with their rights, and was to continue to enjoy them as they existed under the former government.” Jefferson, on the other hand, would give a representative for every 400 freeholders, thus basing it upon population. The result of the retention of the old provision was that “nineteen thousand, 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.”

Two-thirds of either house constituted a quorum, and there was little limit to the powers or functions of the Assembly. Capital punishment was abolished save in cases of murder and of offences against military discipline; and a law for levying money could not remain in force longer than ten years from the time of its commencement. Beyond this the Assembly could legislate on any subject,

for it was the executive that was the object of Jefferson’s jealousy, and round which he sought to throw prohibitions and restrictions. The Administrator “shall possess the powers formerly held by the King,” save only that he could not dissolve, prorogue, or adjourn either house; he could not declare war or make peace, issue letters of marque or reprisal, raise or introduce armed forces, build armed vessels, forts, or strongholds; he could not coin money or regulate its value, or regulate weights and measures, or erect courts, offices, boroughs, corporations, fairs, markets, ports, beacons, light-houses, or sea marks; nor could he lay an embargo, nor prohibit the exportation of any commodity for a longer space than forty days; nor could he make denizens, pardon crimes, or remit fines or punishments, or create dignities or grant rights of precedence. All these powers or functions could be exercised by the Legislature alone. The Administrator was liable to action, though not to personal restraint, for private duties or wrongs, and all his acts were to be controlled by law. The want of a veto on the acts of the Assembly made him powerless to oppose what he might deem a dangerous policy, and would have rendered supreme what does in fact tend to become the most powerful element in a republican government, the Legislature.

There is much in this draft that does not properly belong to a constitution, much that was later the subject of special legislation in Virginia under Jefferson’s own direction. He would have abolished slavery to this extent: “No person hereafter coming into this country shall be held in slavery under any pretext whatever.” He would have abolished entails, and made all descents go “according to the laws of Gavelkind, save only that females shall have equal rights with males.” Seven years’ residence, or a declaration of an intention to such a residence, and a subscription to the fundamental laws of the commonwealth, would entitle a person to “all the rights of persons natural born.” Religious liberty was provided for; printing-presses should be free, “except so far as by commission of private injury they may give cause for private action.” There should be no standing army except in time of war, but the freeman was not to be debarred the use of arms “within his own lands or tenements.” Royal claims to wrecks, waifs, strays, treasure trove, mines, royal fish and royal birds were declared to be “usurpations on common right” and abolished. The judiciary system of the State was elaborately provided for, but the details of that branch need not be described. Finally, “no salaries shall be given to the Administrator, members of the legislative houses, judicial officers, privy councillors, or delegates to the American Congress”; but, should the Legislature so direct, the “reasonable expences” of these officers “for subsistence while acting in the duties of their office” might be borne by the public.

Such were the main features of the instrument which Jefferson devised for the government of Virginia. The details are of interest not only in themselves, but to an even greater degree for the light they throw upon a contemporary document, the authorship of which is still one of the unsolved problems. I have already mentioned a tract which appeared during the sessions of the Convention, and which had been sent from Philadelphia about the same time as Adams’s ‘Thoughts on Government.’ Little was known of its origin, but as it bore a strong recommendation from Carter Braxton, he was suspected of being its author, and came in for the blame that his ex-

pressions of doubtful Whiggism aroused. Yet this pamphlet embodied in its proposed constitution many of the features that Jefferson inserted in his draft. A lower house elected for three years, a Senate chosen for life by the House, a Governor, Treasurer, Secretary, and "other great officers of the State" elected by the lower house, judges to be appointed by the Governor, with the advice of his privy council, and all military and inferior civil officers to hold their appointments of the Governor—this was as narrow a system as that of Jefferson's, and as open to the objection of centralization. The one, however, was regarded by the Convention as an "aristocratic" programme, and Braxton received some pretty hard knocks for recommending it; yet Jefferson's was quite as aristocratic.

By comparing his Constitution of 1783 with that of 1776, it may easily be seen how great a stride Jefferson had taken in democracy. As the proposition of 1783 is included in his published works, it may be referred to and need not detain me here. A later proposition, a suggestion for a change in the State Constitution, appears never to have been noticed. It is without date, and Jefferson's hand-writing changed so little in the active years of his life as to furnish no clue to the period at which a memorandum may have been made. The paper on which this note was written is water-marked 1794, so it may be attributed to that period of leisure which followed his retirement from Washington's Cabinet, while he was nursing his sore grief over the monarchical tendencies of the Administration, and the growth of centralization that threatened to swallow up the individual States and erect an engine of oppression such as the world had never seen. With such an incubus resting upon him, it is not to be wondered at that he should have developed an almost extreme democratic remedy. I doubt if the like proposition has ever been seriously broached in a community that claims to be self-governed, or that is capable of exercising due judgment in matters of government. After providing for the election of a legislature, to consist of not less than 150 or more than 300 members, Jefferson makes this original proposition:

"The Legislature shall form one house only for the verification of their credentials, or for what relates to their privileges. For all other business they shall be separated by lot into two chambers, which shall be called [a and ω], on the first day of their session in every week; which separation shall be effected by presenting to the representatives from each county separately a number of lots equal to their own number, if it be an even one, or to the next even number above, if their number be odd, one-half of which lots shall be distinctly marked for the one chamber, and the other half for the other; and each member shall be, for that week, of the chamber whose lot he draws.

"Each chamber shall appoint a Speaker for the session, and it shall be weekly decided by lot between the two Speakers of which chamber each shall be for the ensuing week."

It is unfortunate for us that merely the bald proposition is made, without the interesting explanation of the reasons for the proposed change that Jefferson might have recorded. In the absence of such an explanation, it is difficult to conjecture his purpose, for this weekly shifting of members and speakers of two houses, elected by the same constituencies, would have introduced as great a novelty into the political system of Virginia as did Jefferson's famous *pèle-mêle* into the social system of Washington. The latter almost produced a diplomatic complication that war alone could solve; the former would have produced legislative anarchy that nothing but a reversion to the earlier Constitu-

tion could have cured. That he had some purpose must be conceded, for during his Presidency he generally sought to cover his policy by special amendments to the Constitution, as in the case of the Louisiana purchase, internal improvements by the national Government, and a national university. Yet there is nothing in the political condition of Virginia between 1794 and 1801 that could call for such a remarkable experiment in government, nor does the proposition appear to have been submitted to his friends. None the less, it was a genuine product of Jefferson's mind, and as such is essential to understand the progression of his political ideas.

WORTHINGTON C. FORD.

#### FURTHER IMPRESSIONS OF THE HOUSE OF COMMONS.

LONDON, July 23, 1890.

THE session of Parliament draws near its close. It has been in the main, and considering possibilities, a wasted session. That contempt or regardlessness of public opinion which disgraces the policy of the Government towards Ireland has infected their handling of British questions, and brought humiliation and lessened majorities. The really fine and well-intentioned men who back the Government, entangled in mazes of their leaders' devising, are often to be pitied. What may befall the other side of the House when (in the ascendant) their errors and shortcomings are exposed and followed up with the merciless and unyielding hostility that has been meted out to the present Government?

I do not propose, however, now considering general politics, but rather desire to take up the thread of previous remarks upon the life and constitution of the House of Commons. Subsequent experiences have only deepened my interest in the study. It is a democratic assembly in the best sense, often reminding me of the Society of Friends. In the long run a man takes his place according to his abilities and honesty of purpose, irrespective of his station or means. The size of London and the consequent freedom of London life doubtless contribute to this result. There is not much opportunity of comparing men except as they appear in the House. Moreover, the House is a sort of school of manners. Rude language or ungentlemanly demeanor is rare, the arrangements and the general bearing of its members are in accordance with the usages of good society, and yet the manners and customs in some respects, before they are understood, may appear brusque and cold. Your nearest friend there will brush past you in silence, the leader of your party will meet you without a look. You may sit down to write at a table next a man whom you have entertained at your home and not receive the slightest recognition. The speedy retirement of an old politician after a short trial of Parliamentary life, which once puzzled me, has lately been explained as having arisen from his inability to comprehend this usage and his resentment of it. It may be termed essentially English. It shocks at first. But you soon perceive that it really contributes towards members leading their own lives, as well as their political lives, in the House, and you find that, at meals, in the tea-room, the smoking-room, or on the terrace, and always if there is real occasion for intercourse, the old human nature is there.

Many a man who has been perhaps a lifelong advocate of a cause may have to guard himself against pique when he becomes aware that he is now nowhere in comparison with others who have recently brought higher abili-

ties than his to the conflict. And, perhaps more difficult still, he may have to be satisfied with but scant intercourse with some who sought information from him when they were first awakening to a great subject, and who, having accepted the light, now, in the course of the struggle, naturally and properly associate with those of their own intellectual calibre. The instances are few, and I believe will long continue so, in which any but men of university training can attain great permanent eminence in the government of the British Empire.

Whatever a man may have been in his own district or circle, on first entering the House he probably feels himself rather like a puppy thrown into water. He has to flod his own level anew, to sink or swim almost without pity and without help. One wisely conscious of really great abilities will recognize an unequalled opportunity for their use. The vain or self-sufficient, who have perhaps bartered means or principles for seats, will before long recognize that as vestrymen or guardians of the poor at home they were of more account, it must often be a rude awakening. To attain first place, power of common-sense debate, not necessarily of oratory, is essential. Nevertheless, the mediocre man who has offered his services or accepted service on principle, who has no desire to appear anything he is not, and who is more anxious for the triumph of right than for personal success, will perhaps, after experiencing a certain sense of humiliation, and after sounding the depths, eventually feel the ground under him and come to be satisfied with his own position as part of the great whole. Most men of feeling will have to acknowledge that in the first few months of their novitiate, seasons of discouragement alternate with periods of elation.

I have closely watched the Speaker and Mr. Courtney, the Chairman of Committees, and both win my admiration. Their position often requires the patience of Job, and that they generally show. The occasions upon which I have been struck with their forbearance have outnumbered those upon which they appear hasty or unfair; the guillotine of "order" comes down as mercilessly on the Cabinet Minister as on the unwary and inexperienced neophyte. If the one is excused, owing to the importance of the subject that has diverted him from the strict lines of debate, with the other the rules are stretched because of his inexperience. Opinions on both sides are keener than the occupant of the chair in checking a speaker. Apart from the action of the Government in their policy towards Ireland, I perceive no difference between the treatment of Irish members and that of members of the great British parties. The Irish whips, one of whom has, as Mr. Palfour's criminal, spent a considerable time in prison, are accorded their own convenient, handsomely furnished room. Whenever the Irish party meets in secret conclave, a large, well-appointed apartment is at its service. A presentation to Mr. and Mrs. O'Brien took place the other day in one of the grand committee-rooms. If Mr. Farnell desired to give a dinner in the House, the suite of refreshment rooms would, on an "off evening," doubtless be placed at his disposal, as they were upon a late occasion relegated to Mr. Matthews, the Home Secretary. It is, indeed, a remarkable illustration of the force of justice and persistence, and of the sense of fair play and respect for vigorous opponents innate in the English character, that the Irish party should attain their present position in the House. That position belies the assumption that they are a pack of unreliable scoundrels,